

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

ERICH M. MARTIN,

Appellant,

vs.

RAINA L. MARTIN,

Respondent.

Electronically Filed
SC NO: J1071021104:18 p.m.
DC NO: Elizabeth A. Brown
Clerk of Supreme Court

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1 **TRANS**

2 **ORIGINAL**

FILED

DEC 24 2020

Ann D. Sullivan
CLERK OF COURT

3
4
5 **EIGHTH JUDICIAL DISTRICT COURT**
6 **FAMILY DIVISION**
7 **CLARK COUNTY, NEVADA**
8

9 ERICH M. MARTIN,)
10 Plaintiff,) CASE NO. D-15-509045-D
11 vs.) DEPT. C
12 RAINA L. MARTIN,) APPEAL NO. 81810
13 Defendant.) **(SEALED)**
14

15 BEFORE THE HONORABLE REBECCA L. BURTON
DISTRICT COURT JUDGE

16 TRANSCRIPT RE: ALL PENDING MOTIONS

17 WEDNESDAY, OCTOBER 28, 2015

18 **APPEARANCES:**

19 THE PLAINTIFF: ERICH M. MARTIN
(Telephonically)
20 FOR THE PLAINTIFF: FRANCESCA M. RESCH, ESQ.
10000 W. Charleston Blvd., #110
Las Vegas, Nevada 89135
21 (702) 901-4800
22 THE DEFENDANT: NOT PRESENT
23 FOR THE DEFENDANT: RAMIR M. HERNANDEZ, ESQ.
7785 W. Sahara Ave., #200
Las Vegas, Nevada 89117
24 (702) 475-7964

1 LAS VEGAS, NEVADA

WEDNESDAY, OCTOBER 28, 2015

2 PROCEEDINGS

3 (THE PROCEEDINGS BEGAN AT 11:27:05 A.M.)

4

5 THE COURT: Good morning. We're here on case
6 D-15-509045-D, Erich Martin versus Raina Martin. And, Mr.
7 Martin, this is Judge Rebecca Burton in Las Vegas. Are you on
8 the phone?

9 THE PLAINTIFF: I am, ma'am.

10 THE COURT: Okay. You can hear us?

11 THE PLAINTIFF: Yes.

12 THE COURT: Okay. Great. Counsel, please state
13 your appearances.

14 MS. RESCH: Francesca Resch, bar number 13011,
15 appearing for Mr. Naimi. And my client is appearing
16 telephonically.

17 THE COURT: Okay. Great. Thank you.

18 MR. HERNANDEZ: Ramir Hernandez, bar number 13146,
19 on behalf of Raina Martin, Your Honor.

20 THE COURT: Okay. Thank you. Where are we?

21 MS. RESCH: Well, I believe that the decree has been
22 submitted to the Court. And so with that, I believe the order
23 to en -- the order to show cause as well as the motion to
24 enforce are both moot at this point. And I believe that's

1 where we stand.

2 MR. HERNANDEZ: Well, the only quest -- the only
3 issue we have left, Your Honor, is we're seeking attorney's
4 fees for having to file the motion to enforce and for having
5 to come here today because we signed a decree back in
6 September. We thought we were done.

7 And then I received a phone call from oppos --
8 opposing Counsel. And I try -- I called opposing Counsel, and
9 we spoke on the phone. And we stated that, you know, we were
10 wondering why the decree had not been signed. She informed me
11 that they were going to withdraw. I informed her that we were
12 going to file a motion to enforce the settlement, which is
13 what we did. And then after we filed that motion, Mr. Martin
14 finally signed the decree of divorce, Your Honor.

15 I included a supplemental exhibit which we filed on
16 -- on October 23rd where we listed our fees for having to file
17 the motion to enforce and for the, you know, post signature of
18 decree actions that we've taken. And we're seeking attorney's
19 fees in the amount of 16 -- \$1622, Your Honor.

20 THE COURT: And you're saying that's what -- that's
21 the amount of fees you have expended to -- to get the
22 signature on the decree --

23 MR. HERNANDEZ: Cor --

24 THE COURT: -- after you signed it?

1 MR. HERNANDEZ: Correct, Your Honor.

2 THE COURT: Is that what you're saying? Okay.

3 MS. RESCH: Well, one of the things that was not
4 mentioned in the motion is the main delay in signing the
5 decree of divorce was due to a scheduling issue wherein the
6 summer visitation that is the bulk amount of time that was
7 negotiated for our client to have the child was suddenly
8 thrown out the window because the child ended up being
9 enrolled in a year-round school. So the summer schedule was a
10 big issue. And that was one of the reasons that the whole --

11 THE COURT: Did that come up --

12 MS. RESCH: -- signature was delayed.

13 THE COURT: -- after the meeting with the settlement
14 master?

15 MS. RESCH: Yes, that came up after. We had further
16 negotiations after the settlement master, the settlement
17 conference, and after we reduced the settlement agreement to
18 to writing.

19 MR. HERNANDEZ: Your Honor, I spoke to Mr. Naimi
20 prior to that. And he told me that we were -- that -- that
21 they were done with their client, and that they were just --
22 we were just going to sign the decree, and that we were just
23 going to con -- to sign the decree as is and the parties could
24 work that out on their own.

1 I agree that that is an issue that was brought up,
2 but that did not preclude him from signing the decree. And
3 Mr. Naimi informed me that they were just -- and they were the
4 ones that prepared the decree, Your Honor. And this issue
5 came up before we signed the decree --

6 THE COURT: Just playing --

7 MR. HERNANDEZ: -- in September.

8 THE COURT: -- devil's advocate, but wouldn't that
9 -- isn't it prudent to get that taken care of instead of --

10 MR. HERNANDEZ: I -- I --

11 THE COURT: -- coming back to court?

12 MR. HERNANDEZ: -- understand, Your Honor. And from
13 my understanding, there was a breakdown of communications. I
14 -- I was willing to talk about it. But apparently, there was
15 a breakdown of communication between opposing side on it. And
16 my client shouldn't be punished, Your Honor, for signing a
17 decree which they presented, and which they prepared, and
18 which we signed, and which we in good faith waited for it to
19 be resolved. We're happy to discuss that issue, but my client
20 shouldn't be penalized and my firm shouldn't be penalized for
21 ex -- expending these extra costs.

22 THE COURT: Well, did -- and -- and I get -- was the
23 one that you signed, it hasn't been changed? That's the one
24 that's submitted to the Court, or was it changed since then?

1 MR. HERNANDEZ: No, Your Honor. That was the one
2 that was signed and submitted to the Court based on the
3 settlement documents, which we presented in our motion to
4 enforce.

5 THE COURT: That -- that did contain -- did it --
6 did that contain the -- the issue with the resolution of the
7 issue of the summer schedule?

8 MR. HERNANDEZ: No, it did not, Your Honor.

9 THE COURT: So that still is out there?

10 MR. HERNANDEZ: Potentially, Your Honor. But, you
11 know, the child's schedule could change at any point. In the
12 future, he could go back to a traditional school schedule.

13 THE COURT: Okay.

14 MR. HERNANDEZ: I spoke -- Mr. Naimi's office is
15 right next door to ours. So I've gone down there, and we've
16 talked about this. And you know, apparently, I've tried to
17 communicate this issue. We -- we were having an ice cream
18 social where we discussed this issue and it came up.

19 And I'd like to resolve this issue, Your Honor. But
20 at the end of the day, we agreed that we were just going to
21 sign the decree as is and move forward with it and the parties
22 could just resolve the issue on their own. That's what
23 Mr. Naimi and I came to an agreement on.

24 MS. RESCH: And based on that, as soon as we got the

1 signed and executed decree from opposing Counsel, we did
2 provide it to our client. And unfortunately, we did not
3 receive the signed copy from our client until October 20th.

4 THE COURT: All right. I want to go back and look
5 at the paperwork. I -- I'm not -- you know, when stuff does
6 ultimately get settled, that doesn't really leave a lot of
7 room for attorney fees. I'm going to take a look at it and
8 take it under submission, okay?

9 MR. HERNANDEZ: Very good, Your Honor.

10 THE COURT: All right. So you -- you've already
11 submitted your memorandum of costs or whatever it is that
12 you're --

13 MR. HERNANDEZ: I submitted a supplemental exhibit,
14 Your Honor, but I could prepare a Brunzell's factor of
15 memorandum if you would prefer that.

16 THE COURT: You know what, let me look at it before
17 you do that. I don't want to exacerbate fees, okay? So let
18 me look at it. If I do -- if I do decide that I'm going to go
19 that direction, then I would have you submit. And -- and I'll
20 give you the opportunity to respond, okay?

21 MS. RESCH: Okay. Then I do have an order to
22 withdraw prepared pursuant to our motion. But if you would
23 prefer me not to submit that to you now, I can hold off.

24 THE COURT: It's up to you.

1 MR. HERNANDEZ: We don't object to them withdrawing.
2 We didn't file an objection to them withdrawing, Your Honor.

3 MS. RESCH: I think -- Mr. Martin?

4 THE PLAINTIFF: Yes, ma'am?

5 MS. RESCH: Would you prefer --

6 THE COURT: You -- you -- I guess -- you've got a
7 couple of options. The other side is -- you've heard the
8 argument about attorney fees. And so --

9 THE PLAINTIFF: Yeah.

10 THE COURT: -- the argument -- so one of your
11 options is, is to make an offer on the attorney fees. Another
12 -- another option is, is to wait until the -- until I am able
13 to -- I want to look at it again -- wait till I, being the
14 Court, the Judge, and look at it again. I'm going to issue a
15 minute order about whether I'm going to award fees or not.

16 And in that case, there will be paperwork that needs
17 to be filed by the person requesting fees. And then you have
18 the opportunity to respond to that. You can either allow your
19 attorney to leave now. That will reduce attorney fees on your
20 end, but that would leave you with the obligation to com --
21 you know, file something in response if I decide there's going
22 to be fees awarded to file something in response to their
23 request for fees if you choose to do that. If your attorney
24 stays on board, then you're paying your attorney to do that

1 unless you see another --

2 THE PLAINTIFF: Can I have a --

3 THE COURT: -- option.

4 THE PLAINTIFF: -- moment to speak with you, Your
5 Honor?

6 THE COURT: Yes. Go ahead.

7 THE PLAINTIFF: With regards to all of this, I mean,
8 honestly, I can't even afford the attorney's fees for her. I
9 can barely afford -- I -- I'm going to have a hard time paying
10 off my own attorney fees because I'm out almost \$20,000 with
11 the (indiscernible) law group. With regards to like the setup
12 (indiscernible) the mediation, I -- I feel like that kind of
13 went completely the wrong way because there were several
14 things such as like the timeshares and like how --

15 THE COURT: Okay. But hold on.

16 THE PLAINTIFF: -- we would pay for --

17 THE COURT: You -- you -- whatever -- you have an
18 agreement, so we're not going to go back through that. I -- I
19 guess the issue is, you know, they're asking for fees because
20 -- say it again.

21 MR. HERNANDEZ: Your Honor, we had an agreement, and
22 Mr. Martin refused to sign it. Based on the conversations
23 with Counsel, it was our understanding he was not going to
24 sign it. They were going to withdraw. Therefore, we had to

1 file a motion to enforce in order to get the decree --

2 THE COURT: And then ultimately --

3 MR. HERNANDEZ: -- signed.

4 THE COURT: -- you ended up signing that very same
5 agreement without any changes to it. So that's the request
6 for fees, is that they were --

7 THE PLAINTIFF: I understand then.

8 THE COURT: -- they were stuck having to file a
9 motion to get you to sign the document.

10 THE PLAINTIFF: And -- and that -- and I didn't
11 realize that they hadn't been signed, and that's my fault. I
12 can -- I thought I had signed it and sent it back. And it's
13 -- that's an issue on my own, as far as like dealing with like
14 stuff that I'm tied to with regards to my workplace and
15 everything here.

16 THE COURT: Okay. Well --

17 THE PLAINTIFF: I accept that as my fault. But with
18 regards to the discussion with the timeshare, there was no
19 like any negotiations that came my way.

20 THE COURT: Yeah, but that's not part of the request
21 for fees. The fee is just simply having to do with getting
22 the order entered, that they had to file a motion to get your
23 signature done so that we can get this matter done. Because
24 this Court actually called, set this matter for hearing when

1 orders are sitting out there for a long time because we need
2 to get cases resolved. It's the Court's order to show cause
3 against the parties and their attorneys for not getting the
4 order done. And so the one --

5 THE PLAINTIFF: Yeah.

6 THE COURT: -- side --

7 THE PLAINTIFF: And -- and I never received
8 anything. Until all of a sudden, I had a court order that I
9 had to appear. And I didn't even realize that I hadn't signed
10 it. I'm -- I'm sorry.

11 THE COURT: Okay. But the question in front of you
12 right now is they're asking for \$1600 in fees. Either you can
13 make a proposal to pay all or some that makes the issue go
14 away, or you allow the Court to issue its minute order
15 deciding whether I'm going to award fees or not. In that
16 case, you either keep your lawyer on board to respond to that,
17 or you let her go today and deal with that yourself.

18 THE PLAINTIFF: I -- I can maybe make a payment for
19 \$400 for those, but there's nothing more that I can do for
20 that.

21 THE COURT: Are you willing to accept 400?

22 MR. HERNANDEZ: My client's not here, Your Honor,
23 and I -- I can't answer -- answer that question right now.

24 THE COURT: Okay. Do you want -- are you willing to

1 let your -- do you want the Court to sign the order allowing
2 your attorney to withdraw? That way you're not paying that
3 attorney anymore.

4 THE PLAINTIFF: Yeah, that's fine --

5 MS. RESCH: May I approach?

6 THE PLAINTIFF: -- Your Honor -- Your Honor, sorry.

7 THE COURT: Okay.

8 MS. RESCH: Is it all right if I sign it after you?

9 THE COURT: Yes.

10 MS. RESCH: Okay.

11 THE COURT: Go ahead.

12 MS. RESCH: Thank you, Your Honor.

13 THE COURT: Get it entered.

14 (COURT AND CLERK CONFER BRIEFLY)

15 THE COURT: So all right. So your attorney is
16 excused, and the Court's going to take under submission
17 whether or not I'm going to entertain attorney fees, okay?

18 THE PLAINTIFF: Got it then.

19 THE COURT: All right. So this hearing's clo --
20 over, done.

21 MS. RESCH: Thank you, Erich.

22 THE COURT: Over now. All right.

23 MR. HERNANDEZ: Thank you, Your Honor.

24 MS. RESCH: Thank you, Your Honor.

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(PROCEEDINGS CONCLUDED AT 11:38:40 A.M.)

* * * * *

ATTEST: I do hereby certify that I have truly and
correctly transcribed the digital proceedings in the
above-entitled case to the best of my ability.

Adrian Medrano

Adrian N. Medrano

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1 TRANS

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CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

ERICH M. MARTIN,)
)
Plaintiff,) CASE NO. D-15-509045-D
)
vs.) DEPT. C
)
RAINA L. MARTIN,) APPEAL NO. 81810
)
Defendant.) (SEALED)
)

BEFORE THE HONORABLE REBECCA L. BURTON
DISTRICT COURT JUDGE

TRANSCRIPT RE: ALL PENDING MOTIONS

TUESDAY, JUNE 16, 2020

APPEARANCES:

THE PLAINTIFF: ERICH M. MARTIN
(Telephonically)
FOR THE PLAINTIFF: JOHN T. KELLEHER, ESQ.
(Telephonically)
40 S. Stephanie St., #201
Las Vegas, Nevada 89012
(702) 384-7494

THE DEFENDANT: RAINA L. MARTIN
(Telephonically)
FOR THE DEFENDANT: RICHARD L. CRANE, ESQ.
(Telephonically)
3591 E. Bonanza Rd., #200
Las Vegas, Nevada 89110
(702) 438-4100

1 LAS VEGAS, NEVADA

TUESDAY, JUNE 16, 2020

2 PROCEEDINGS

3 (The following transcript contains multiple indiscernible due
4 to poor recording quality)

5 (THE PROCEEDINGS BEGAN AT 10:24:14 A.M.)

6

7 THE CLERK: Okay. We're on the record, Judge.

8 THE COURT: We're all ready to go?

9 THE CLERK: Yes.

10 THE COURT: We're on the record?

11 THE CLERK: Yes.

12 THE COURT: All right. Good morning. This is case
13 D-15-509045-D, Erich Martin versus Raina Martin.

14 MR. KELLEHER: Good morning, Your Honor. John
15 Kelleher, bar number 6012, on behalf of Mr. Martin, Your
16 Honor, who is present by video.

17 THE COURT: Okay. Thank you.

18 MR. CRANE: And good morning, Your Honor. Richard
19 Crane, 9536, on behalf of Defendant Raina Martin who is also
20 present via video.

21 THE COURT: All right. Thank you. All right. This
22 is yet another chapter in this very, very acrimonious matter
23 between these parties. We just -- I think this motion was
24 filed even before the order was entered from the last hearing

1 in December. And we now have a motion filed by Raina to
2 enforce.

3 We have a financial disclosure form that she has
4 filed. Erich has filed request to extend time to answer.
5 Then he did obtain the Court's permission for some more time.
6 Erich filed an opposition and countermotion. Erich's filed
7 exhibits. Erich's filed some more exhibits. I think he just
8 added another one to it. Erich's filed a financial disclosure
9 form. Did you receive that, Mr. Crane, the financial
10 disclosure form? Yes?

11 MR. CRANE: When was that filed, Your Honor?

12 THE COURT: June 9th.

13 MR. CRANE: I don't recall seeing it, but I -- I --
14 I'm -- I'm sure I can find it, Your Honor.

15 THE COURT: Okay. There wasn't proof of service on
16 there. There also wasn't pay stubs on it, which the Court
17 requires. Raina's filed a reply. Raina's filed exhibits.
18 Erich's filed a supplement. And the Court has reviewed all of
19 that. The Court has subject matter jurisdiction over the
20 case, personal jurisdiction over the parties, and child
21 custody subject matter jurisdiction over the child. I -- I
22 know that a lot of -- let's see.

23 Mom complains about a lot of errors that Dad had
24 made when he was representing himself. And I guess I just

1 want to remind Dad that if you are representing yourself, you
2 still have to follow the same rules. Mom's motion regarding
3 military retired pay. And I -- from the paperwork filed by
4 both parties, it looks like this is an issue that has not been
5 resolved. And this is an issue that arises out of the Howell
6 case and whether or not a contract that says that there's
7 going to be indemnification, whether that's enforceable or not
8 or whether it's preempted by federal law.

9 So I know that both of you have already provided
10 some case law from different appellate courts on that issues.
11 Did the two of you -- are you satisfied with that briefing, or
12 do you want the opportunity to provide any more briefing?
13 We'll start with Mr. Crane.

14 MR. CRANE: Yes, Your Honor. Yeah, I want to start
15 with just a little bit of housekeeping first. The -- the
16 supplement that was filed by Mr. Kelleher, as you all know
17 since you helped to write these rules, was in violation of
18 EDCR 5.509 because all it did was reargue the entire
19 opposition. The only thing that was in that that was actually
20 a viable argument in -- for a supplement was the argument
21 concerning the child visitation, child custody issues that
22 were brought up in our reply.

23 We realized that that's a very odd place to bring up
24 a -- a situation like that. But it was new information that

1 was brought to our attention that Erich's wife was -- it was
2 substantiated that Erich's wife was actually abusing the
3 child. And we don't have all of the information. All we have
4 is the report from CPS which we did provide to Mr. Kelleher.
5 We also provided it to the Court. I don't know if the Court
6 had a chance to review that. But the remaining information
7 that --

8 THE COURT: We -- I'm sorry --

9 MR. CRANE: -- is in --

10 THE COURT: -- Mr. Crane, review what? The CPS
11 records?

12 MR. CRANE: The CPS report, Your Honor.

13 THE COURT: No, the Court hasn't reviewed that yet.
14 Did you file --

15 MR. CRANE: Okay.

16 THE COURT: -- it?

17 MR. CRANE: No, we -- we did not file the CPS
18 report, Your Honor. What we did was we sent it to your law
19 clerk under cover letter. We provided a copy to Mr. Kelleher
20 so that he had it as well. But that report specifically says
21 that the abuse was substantiated against Erich's wife.

22 I'm sure that this is going to go on. And
23 obviously, the most important thing we want to talk about
24 today, even though our motion was about this military

1 retirement which is very important, but we want to protect the
2 child from any further abuse.

3 And it appears that it's ongoing. So we need -- we
4 need you to -- to step in here and protect the child at this
5 point, which you are authorized to do. And you know, you have
6 jurisdiction to enter an emergency order until CPS finally
7 resolves and reports out on this case.

8 THE COURT: Okay. What -- and actually, I was going
9 to get to that when I got to that part. And -- see -- Dad
10 raised the issue in the paperwork that he filed. He admitted
11 -- admitted that his wife has been -- that it was
12 substantiated and has indicated that of course there would be
13 no -- the child wouldn't -- not be left alone with his wife
14 until either the -- apparently, it's being challenged.

15 The determination by CPS is being challenged. So
16 either whether that is challenged or if the Court would add a
17 different one whether -- even if it's unsuccessfully
18 challenged, whether -- if she would take a parenting class
19 that's similar to our ABCs of parenting or triple P. I think
20 triple P is more age appropriate for this child I think who's
21 now 10 -- 9. Yeah, so whichever one is -- is more age
22 appropriate. And I know that they reside in different -- he
23 resides in a different state, Colorado; is that right?

24 MR. CRANE: That's correct --

1 THE COURT: Or some --
2 MR. CRANE: -- Your Honor.
3 MR. KELLEHER: Yeah.
4 THE COURT: So something that would be similar to
5 that, that is if they are -- are unable to -- that's if
6 they're unable to substantiate -- or attack -- set it aside.
7 Get the substantiation set aside. Would that be --
8 MR. CRANE: Well, we certainly --
9 THE COURT: -- sufficient (indiscernible)?
10 MR. CRANE: -- want to -- we certainly do want some
11 sort of remedial action taken, Your Honor, before she's
12 allowed to be around the child. I mean, Dad has supposedly
13 been taking care of the child already and has not protected
14 the child. And as such, what we would suggest is if
15 visitation is allowed at all, since every other month is
16 supposed to be in Nevada, that Dad exercise any visitation
17 that he has here in Nevada rather than sending the child to
18 Colorado where we have no way of knowing whether or not
19 they're following the Court's orders.
20 MR. KELLEHER: So respectfully --
21 THE COURT: (Indiscernible).
22 MR. KELLEHER: I'm sorry. If --
23 THE COURT: Go ahead --
24 MR. KELLEHER: If I --

1 THE COURT: -- Mr. Kelleher.

2 MR. KELLEHER: -- may, Your Honor, the -- the
3 original question that you asked, Your Honor, was, are we
4 satisfied with the briefing that was done in this case. Our
5 -- our response, Your Honor, is that we're satisfied with the
6 briefing in this case. Very briefly to address this issue of
7 some kind of supplement that was improper, I called Mr. -- I
8 called opposing Counsel, and I told him that I was going to be
9 coming into the case at the very last minute obviously because
10 of issues that were raised in a reply, which raises custodial
11 issues, which was not part of any of the briefing.

12 And I offered to have that hearing kicked enough --
13 a week or two so we could address those issues. But I
14 understand opposing Counsel said no to that, and then he
15 complained when we respond to it. So -- so respectfully, Your
16 Honor, I -- this is our position on -- on -- and I ask you to
17 -- to just give me a minute on this issue.

18 First of all, Your Honor, my client's wife has never
19 been in any trouble in her whole life, just four children I
20 believe of her own. She works at a -- a pediatric dental
21 office. Their son, the parties' son in this case, Your Honor,
22 has significant behavior issues. He's had detentions that
23 have been -- I think 30 or dozens of detentions over this last
24 year.

1 He came to my client with a host of complaints about
2 stepdad. My client called an attorney in Colorado and -- you
3 know, where they live, and said, well, this is what's going
4 on, what should I do. And they advised him to call CPS, which
5 he did.

6 The investigation apparently -- so he's told one
7 story to CPS about stepdad and what's going on there. Then
8 apparently CPS when interviewing him said that Mom that -- I'm
9 sorry, stepmom supposedly had struck him in some way. And
10 according to my client -- and I -- I looked at the CPS
11 records. It looks like they came from the CIA. They're like
12 Swiss cheese. You can barely read them. It -- they never
13 interviewed either my client or the stepmom about any such
14 incident. They just did a -- an internal substantiation, but
15 didn't remove any visitation, do -- didn't do anything else.

16 THE COURT: So Mr. Posen, Jeff Posen, is handling
17 that. He handles CPS cases. Our office doesn't do that
18 because it's somewhat of a conflict. So we believe that that
19 will very will be overturned.

20 In the meantime, what we're offering and what we're
21 saying to the Court is, look, my client is fine to have the
22 child interviewed by someone that's in the -- you know, that's
23 on the approved list. Dr. Paglini, Dr. Stephanie Holland is
24 fine with us to do that. Just as an extra, extra safety

1 precaution because their -- his son is out there enjoying his
2 time there now. My client's willing to say that, look, while
3 the visitation goes on, there will be nothing unsupervised
4 right now.

5 So I -- I -- you know, this punitive idea that, you
6 know, somehow we're going to return the child and there's
7 going to be visitation in Nevada, obviously the Court's
8 already rejected that in the past. And the Court has actually
9 admonished and punished Mom for refusing the visitation with
10 Father. And -- and we've been in court -- that's when I was
11 involved a number of years ago.

12 So respectfully, Your Honor, it's something that
13 there are no criminal charges that were ever pending, the
14 police weren't called, nothing like this at all. And my
15 client has a very reasonable explanation and says that their
16 son is now telling them repeatedly, well, I told my parents
17 that that's not what happened and tried to recant. I don't
18 obviously know -- I've never met this young man. I've never
19 spoken to him. But my client is fine to comply with whatever
20 orders. If the Court wants, you know, Dr. Holland to meet in
21 person and -- and talk to the -- you know, to this boy, we
22 have no problem with that.

23 So again, Your Honor, that's our position in the
24 case. Mom already has primary physical custody, right,

1 because Dad lives out of state, Dad was in the military, Dad
2 pays child support. So it's literally a visitation issue.
3 And my client would very much like to get to these behavior
4 issues. He's saying -- and -- and there seems to be evidence
5 that there is tremendous grade problems here in terms of his
6 scholastic issues and with these multiple, multiple
7 detentions. So that's our position on it, Your Honor. If you
8 have anymore questions to me about it, but that's -- that's
9 our position.

10 THE COURT: Mr. Crane?

11 MR. CRANE: Your Honor, if I may respond. If I may
12 respond. Thank you. This -- this highlights just how much
13 either Erich has not informed his lawyer of what's going on
14 here, or there's some sort of misrepresentation being made to
15 the Court. First and foremost, the Court recalls that there
16 was a behavioral order actually issued against Erich's wife at
17 the last hearing. There was a reason for that. And now we
18 know that it's even worse than what it was thought of at that
19 time. The various misrepresentations in the supplemental --

20 THE COURT: Hang on.

21 MR. CRANE: -- file --

22 THE COURT: Do you want to be specific? What
23 behavioral order? There was a lot of -- I've got a full page
24 of notes regarding orders that were made at that hearing, so.

1 MR. CRANE: Your -- Your Honor, I'll -- I'll -- I
2 don't have it up in front of me at the moment. I can
3 certainly -- I can certainly do that and -- and will do that,
4 but I'd rather go through some of the things that Mr. Kelleher
5 specifically said.

6 Specifically, he's talking about the child's
7 academic abilities, and he actually put into his briefing that
8 the child had Cs and Ds. I'm -- I'm looking at his report
9 card right now. The child has two Cs. The rest of them are
10 all Bs.

11 As far as his disciplinary, his attendance, he
12 missed four-and-a-half days of school this past school year
13 with three tardies. That's it. Other than that, this child
14 is -- is an above average student, and his highest grades are
15 in math, science, and social studies. So and those are all
16 above an 85 percent, which is above a B. There are no Ds on
17 here. So that was complete misrepresentation as to what's
18 going on with the child. The child is -- is doing very well.

19 Now as far as being concerned about the behavioral
20 issues -- issues with the child, back in 2018, the parties
21 agreed to put the child into therapy. After three or four
22 sessions, Dad calls and says you can't see this child anymore.
23 You're not allowed to do therapy with this child anymore.
24 Raina has asked repeatedly to have the child put into therapy,

1 and Dad says no, contrary to what is in the supplement. It's
2 Dad that's saying no, not Raina.

3 In fact, Dad did take the child one time to therapy
4 in Colorado, refused to tell Mom anything about it, refused to
5 tell Mom what the doctor actually said, did learn that there
6 was possibly a referral there, and he refused to say who the
7 doctor was referring the child to. This is a common
8 occurrence of when the child is out there that -- that Dad
9 refuses to tell Mom anything about what's going on with the
10 child.

11 This -- this child is -- is not safe in that
12 environment at the moment. And having a doctor here do a --
13 you know, basically an interview, we don't disagree that the
14 child should be interviewed at some point. But I certainly
15 would like to find out -- you know, have CPS's final report
16 because I think the doctor would want to see that as well. If
17 there are as there were allegations of punching in the
18 stomach, slapping in the face, things like that, that's not
19 the kind of thing that you send somebody --

20 THE COURT: (Indiscernible) --

21 MR. CRANE: -- to a class and they automatically --
22 excuse me --

23 THE COURT: You said --

24 MR. CRANE: -- Your Honor?

1 THE COURT: -- you -- you said you already have it,
2 the CPS report.

3 MR. KELLEHER: Yeah.

4 MR. CRANE: We have a -- we have a CPS report. I'll
5 give you a little timeline, Your Honor. The CPS report was
6 prompted by Erich making false allegations against my client's
7 domestic partner. And those were investigated in depth by not
8 only CPS, but by the Las Vegas Metropolitan Police Department
9 and the Henderson Police had all found that they were
10 unsubstantiated.

11 But in the process of doing that CPS investigation,
12 they discovered that Erich's wife was beating the kid. And in
13 a very short paragraph right at the very end, they say that
14 that abuse was substantiated. Now, we don't know if there's
15 anything else -- thing else going on in Colorado. We're going
16 to check. We're trying to get the records. It's not simple
17 to get stuff across state lines like that.

18 We're also going to be checking with CPS here to
19 find out if they're following up on it. We believe that the
20 Colorado DPS is deferring to Nevada because they have
21 jurisdiction over the child. And as such, we have to work
22 with them. But we don't know what else is going on here.

23 But the misrepresentations here about what's going
24 on are -- are, you know, terrible. We -- we can't -- we can't

1 let this stand. I mean, the claims in there that he's paid
2 what he owed, he hasn't paid half of what he's owed in the way
3 of the -- the dental care that you ordered at the last
4 hearing, the vision care --

5 THE COURT: Okay. I --

6 MR. CRANE: -- to which she paid for --

7 THE COURT: -- don't want to argue -- let -- let's
8 keep it contained.

9 MR. CRANE: All right.

10 THE COURT: We've already kind of taken this out of
11 order. So I don't want to start arguing the whole case right
12 now because I --

13 MR. KELLEHER: Your Honor --

14 MR. CRANE: Sure, Your Honor.

15 MR. KELLEHER: -- very respect --

16 THE COURT: I don't think we --

17 MR. KELLEHER: I'm sorry.

18 THE COURT: -- need to, but we --

19 MR. KELLEHER: Very respectfully, Your Honor, I
20 didn't complain -- I -- I don't -- you know, these strongman
21 arguments, I made no complaint about his attendance. I said
22 that he has behavior issues and multiple, multiple detentions.
23 The son was de -- was suspended in December of 2019 for
24 violence against another student. In our own --

1 THE COURT: Okay.

2 MR. KELLEHER: In -- in our --

3 THE COURT: Both -- both --

4 MR. KELLEHER: In --

5 THE COURT: Both parents seem to want this child in
6 counseling. So I don't understand --

7 MR. KELLEHER: Right.

8 THE COURT: -- why we're spending a whole lot of
9 time --

10 MR. KELLEHER: Exactly.

11 THE COURT: -- arguing --

12 MR. KELLEHER: The --

13 THE COURT: -- about this child --

14 MR. KELLEHER: Exactly.

15 THE COURT: -- needing counseling.

16 MR. KELLEHER: Exactly, Your Honor. And what we're
17 saying is simply this. My client didn't invent anything. The
18 -- the bottom line is the son came to him with stories. He
19 went to a lawyer. The lawyer is like, you've got to call CPS,
20 and that's what he did. And the -- and yet, CPS is relying on
21 other stories that were made without talking to my client or
22 his wife. Right.

23 So I -- I -- you know, what we're saying signature
24 that their son has some behavioral issues. Right. I don't

1 have his most final report card here. His father reports that
2 his grades aren't great. Right. So and that's -- and that's
3 what we said, that he has at least two Cs and his grades have
4 declined.

5 But in any case, Your Honor, we don't know why --
6 like, we're fine to have Dr. Holland take a look at it. As
7 far as CPS, Your Honor, the CPS case is closed. And the
8 reason we know that is because CPS sent a letter when they clo
9 -- when they close a case and the case is done, they send a
10 letter to the party that's -- that is under investigation.
11 And they said that it was substantiated.

12 So that means it's done. The case is done. My
13 client has hired Jeff Posen because there's a conflict in our
14 office. And Jeff Posen is filing an appeal of that -- of that
15 finding. So there is no -- CPS is not involved in this case.
16 It's done.

17 THE COURT: Is CP -- was it here or in Colorado?

18 MR. KELLEHER: No. CPS -- it -- it was -- it was
19 here in Nevada. That's what --

20 THE COURT: What --

21 MR. KELLEHER: -- we're saying is I -- right.

22 THE COURT: Okay.

23 MR. KELLEHER: Exactly.

24 THE COURT: But -- but the Court would like to see

1 the records because it makes a difference. I mean, was the
2 child beaten half to death? I mean, I suspect there would be
3 police charges. The police would be involved if that was --

4 MR. KELLEHER: Yeah, there's no poli --

5 THE COURT: Or was --

6 MR. KELLEHER: Yeah, respectfully, Your Honor --

7 THE COURT: -- there some tussle in trying to
8 restrain the child or discipline, and a fingernail scratched
9 the child or something, and that's how it got substantiated.
10 I mean, you know, we -- we -- I -- I don't know where this is.
11 Nobody is really giving me --

12 MR. KELLEHER: Right.

13 THE COURT: -- any (indiscernible) --

14 MR. KELLEHER: All I'm saying to Your Honor is -- is
15 the --

16 THE COURT: -- with regard to specifics.

17 MR. KELLEHER: -- is the records that you received
18 from opposing Counsel, those are the complete records from
19 CPS, although the Court -- this Honorable Court can get
20 records that are less redacted. As a judge, you can get less
21 redacted CPS records than what is provided to -- to the
22 parents or any other third party. All right.

23 THE COURT: Do -- do --

24 MR. KELLEHER: So --

1 THE COURT: Are both of them (indiscernible)?

2 MR. KELLEHER: -- with the allegation -- yeah.

3 Right. What the allegation was, Your Honor, which wasn't
4 denied, the allegation against stepdad was that he was
5 showering with the nine-year-old and that the nine-year-old
6 was uncomfortable with it.

7 CPS said that the showering went on, but it was only
8 one incident and didn't substantiate. The substantiation
9 against Mother, from my understanding -- or stepmother, I
10 apologize, stepmother, was that somehow she hit him and left a
11 mark over his eye. She flatly denies, and so does my client,
12 that she ever in any way struck him in any way, shape, or form
13 ever, period, end of discussion, and that they don't know why
14 CPS takes the word on one thing but not on another.

15 So I -- I don't know. Obviously, I don't know. But
16 my client is willing, right, to say while his visitation is
17 going on, there'd be nothing unsupervised. He advises me that
18 the behavior order -- and I don't have it right in front of
19 me, but I wasn't there for that court hearing because I was in
20 the case for about six or eight months -- is that it was just
21 a standard behavior order, and it was issued like against
22 everybody. It -- but it had nothing to do with any kind of
23 violence or claims of violence. It was just one of these
24 standard behavior orders that was out there.

1 So having said that, Your Honor, that's my
2 understanding of it. We're fine to have it -- the -- the --
3 their son in -- in therapy. According to my client, he was
4 fine to have a doctor -- a Dr. Harder out here as a therapist
5 so long as Dad could have his own therapist in Colorado when
6 he was out there visiting. And there was some kind of
7 disagreement about that. They -- they couldn't reach any --
8 there was no agreement to do that.

9 So I would represent to Your Honor that there might
10 be an advantage to having someone like Dr. Holland do it
11 because Dr. Holland actually lives in Colorado. But she
12 obviously then is doing in-person visits here now. The only
13 reason I know that is because I have a different case in a
14 different department, and she is seeing people in person at
15 this point. She was doing telemedicine prior to that. So
16 she's in a -- she's someone that would be a good option.

17 We're fine with Dr. Paglini to -- to get -- you
18 know, to look at this, but CPS has closed their case. They
19 substantiated. They sent my client's wife a letter, and
20 that's under appeal. There's no more CPS involved in the case
21 in any way, shape, or form here or anywhere else.

22 So that's where we're at, Your Honor. I -- I --
23 that's what we're representing to you. You could get somewhat
24 better records. I -- I -- how much better they would be, you

1 would -- you know, you would know best. But you get slightly
2 less redacted records than what they provide to us. So that
3 -- that's it. That's -- that's the case in terms of
4 (indiscernible).

5 THE COURT: In terms of unredacted, do you have any
6 -- the ones I get usually are redacted, too. Do you have any
7 objection to the Court pulling the CPS records?

8 MR. KELLEHER: No, absolutely not, Your Honor. No.

9 THE COURT: Okay. All right. All right. Let's let
10 Mr. Crane finish because I don't think you were finished on
11 this topic. I just kind of stopped you, Mr. Crane, because
12 you were going off into other areas. And I just wanted to
13 keep it isolated to this for -- for the moment.

14 MR. CRANE: I -- I agree with you, Your Honor,
15 concerning keeping it in order because there -- there is big
16 issues here. And you know, going back again to Mr. Kelleher's
17 claim on the un -- on supplement, if you listened carefully
18 when I first started, the only thing that he could
19 legitimately file a supplement on was this issue of the child
20 abuse that was substantiated by CPS.

21 He used the opportunity to completely reargue and
22 reoppose the motion. That is not allowed under the rule. The
23 rule says it has to be information that wasn't available at
24 the time of the filing of the opposition. And the only thing

1 that wasn't available at the time of the filing of the
2 opposition was the issue of this child abuse. We would have
3 accepted a supplement on that issue, and I told the Court
4 that, you know, that's the only thing that was legitimate.

5 But he didn't leave it there. He continued on. And
6 as this Court is aware, I know you -- you participate in the
7 drafting of these rules. There's a reason we have these
8 rules. And the reason is, is that we're not supposed to be
9 able to just keep filing more and more stuff, complicating the
10 case. And that's exactly what he's attempting to do here.

11 So dealing first with just the child issue, we
12 absolutely agree that the child needs to be in therapy. Our
13 suggestion is, is that Mom will provide three names to
14 Mr. Kelleher, they will select one of the three names, and the
15 child will go into therapy. The child resides primarily here.
16 He's not in Colorado all that time.

17 Dad will have complete access to any therapist here
18 in -- in Nevada to hear how things are going. He can
19 participate either personally when he's here or he can par --
20 participate telephonically or via telemedicine. We don't
21 care. But we want him to agree that he's going to select
22 somebody and allow the child to go.

23 Again, it was Dad that said, no, you can't do it
24 anymore. It wasn't Mom that said no. Mom has been trying for

1 the past two years and can't get him to agree. So now we've
2 got him to agree. We're -- we're suggesting that we'll
3 provide three names, he selects one, and that's the therapist.

4 THE COURT: Mr. Kelleher, is that okay? Do you
5 accept that?

6 MR. KELLEHER: Your Honor, my -- my client would
7 like to have a therapist out in Colorado as well.

8 THE COURT: I'm not going to have two therapists.
9 Because then we're going to get into what did the child said
10 to which therapist. I don't even know --

11 MR. KELLEHER: All right.

12 THE COURT: -- if you can even properly do that.
13 And the child's --

14 MR. KELLEHER: Then, Your Honor, we'd ask --

15 THE COURT: -- (indiscernible) --

16 MR. KELLEHER: -- we would ask have Dr. -- I'm --
17 I'm sorry, Your Honor. I didn't mean to cut you off. I
18 apologize. There's a -- there's like a delay and an echo. I
19 apologize.

20 THE COURT: Okay.

21 MR. KELLEHER: Your Honor, we would prefer then to
22 have someone that's court appointed like Dr. Holland do the
23 therapy. She obviously deals with high -- has dealt with high
24 conflict cases in the past, and she has an office both in --

1 from what I understand, she has an office in Colorado and --
2 but she's primarily here. And she's -- she specializes in
3 children. And she's obviously qualified. We're not asking to
4 change custody. We're trying to get to the bottom of what's
5 going on with their son.

6 So we would ask, Your Honor, that it be Dr. Holland
7 that would do it rather than go back and forth with three
8 names. They're not going to be covered by insurance anyway.
9 So with that, Your Honor, we -- we would ask that that be the
10 case.

11 MR. CRANE: Your Honor, again --

12 THE COURT: (Indiscernible) -- Dr. Holland?

13 MR. CRANE: Again, Your Honor, it doesn't go -- it
14 doesn't go back and forth. It's three names, pick one, and
15 that's it.

16 THE COURT: Do you have an objection --

17 MR. CRANE: We want --

18 THE COURT: -- specific objection to Dr. Holland?

19 MR. CRANE: Your Honor, I want to have an
20 opportunity to review. I'm not sure we've had issues with
21 Dr. Holland, but I'm not saying that she's wrong for the job.
22 But I want to talk to my client as well. We know that six
23 names were provided in April to -- to Erich, and he's -- he
24 has not responded to any of those names.

1 Dr. Holland's name may have been on that list. I
2 don't know. But the -- the bottom line is this is not a back
3 and forth thing. We provide three names, and it will be three
4 names of highly qualified individuals. And Mr. Kelleher can
5 then select one. I think that's perfectly reasonable.

6 THE COURT: I'm going to let the two attorneys
7 choose one. I'm not going to limit someone's selection to
8 what the one has pre-vetted and limit that way. I -- we have
9 two attorneys who've been practicing a very long time. You
10 know the professionals that are out there. And it -- is this
11 -- and -- and I guess is this for -- is this for a forensic
12 evaluation of this child, or is this for therapy for the
13 child? Kind of makes a difference as to which way we're
14 going.

15 MR. CRANE: Well, we're -- we're looking at it as
16 therapy Your Honor they're --

17 MR. KELLEHER: It's -- I'm -- I'm sorry.

18 MR. CRANE: -- to try to help the child. This is
19 not --

20 MR. KELLEHER: (Indiscernible).

21 THE COURT: (Indiscernible).

22 MR. CRANE: I'm sorry, this is not --

23 THE COURT: One --

24 MR. CRANE: -- to obtain --

1 THE COURT: One at a time, Mr. Crane. Mr. Crane.

2 MR. CRANE: This is not to obtain information, Your
3 Honor, so that they can use it in an -- in an appeal of a
4 substantiated abuse case. This is therapy for the child.
5 This is --

6 THE COURT: Okay.

7 MR. CRANE: -- strictly --

8 THE COURT: Thank --

9

10 MR. CRANE: -- for --

11 THE COURT: Thank --

12 MR. CRANE: -- helping --

13 THE COURT: Thank you.

14 MR. CRANE: -- the child.

15 THE COURT: Mr. Kelleher, which purpose did you want
16 to use it for?

17 MR. KELLEHER: Right. What we wanted it for, Your
18 Honor, was for therapy for the child in the context of what it
19 looks to me like is among the highest high conflict case I've
20 had in a long time. Right. This is a case that with one
21 child with custody resolved, and yet they're in court every --
22 very four or five months, that -- that appears.

23 So we think that it should be a therapist, not some
24 MFT off the list of your insurance providers that doesn't

1 really have any real experience dealing with these kinds of
2 issues. We're not trying to -- like I said, we haven't filed
3 a motion to change custody. That's not on the table. But we
4 think that a doctor -- could be Dr. Paglini. We think
5 Dr. Holland would be really good in a case like this.

6 Like I said, she doesn't rule in my favor on some of
7 the cases. We're not looking for a custody evaluation. We
8 think that a therapist that could help this child with
9 whatever's going on with him because there are behavior
10 issues. No question about that. There are behavior issues
11 with their son, plain and simple. We're not denying the
12 detentions or the suspensions or anything else.

13 So that's what we're asking the Court to do. And --
14 and we would -- and -- and I think it would make sense because
15 you have a doctor that just by happenstance is on the list,
16 but has -- but lives in Colorado, but is here most of the
17 time, from what I understand. So I -- I think that would make
18 sense, Your Honor. And then the therapy could take place in
19 both places potentially. So we would ask that you order
20 Dr. Holland to do it.

21 THE COURT: Does -- Colorado is a pretty big state.
22 Does -- are they in the same vicinity?

23 MR. KELLEHER: You know, that's a good question,
24 Your Honor. It would be within driving distance, I know that.

1 THE COURT: All right.

2 MR. KELLEHER: And -- and there's --

3 THE COURT: I'm going to give --

4 MR. KELLEHER: -- also telemedicine.

5 THE COURT: I'm -- I'm going to give Counsel the
6 opportunity to discuss these things with their client, to
7 discuss the cost, you know, all of that sort of thing,
8 availability of these folks to step in and start doing any
9 kind of therapy, all right? So I'm going to have Counsel then
10 -- I'm going to schedule Counsel back on the calendar at
11 9:00 o'clock on Thursday to see if you both agree to a name,
12 okay?

13 MR. KELLEHER: I'm -- I'm sorry, Your Honor. Can I
14 just --

15 THE COURT: Yeah, look on your calendar and see if
16 you're available at 9:00 o'clock on Thursday. If you're not,
17 we've got plenty of spots next week.

18 MR. CRANE: I'm available, Your Honor.

19 MR. KELLEHER: I would be available, Your Honor.
20 That's fine.

21 THE COURT: Okay. All right. It's just going to be
22 for a quick to find out whether you did or didn't choose
23 someone. I'm going to take some of these issues. I'm going
24 to put it to the side for now. I want to go back to the

1 military retirement. I have a very long list of issues. I
2 think I have something like -- as usual, this case has a lot.
3 I have 17 issues. Okay. So I'm going back to the military
4 retirement pay. This is a new issue. But I want to know,
5 I've got a couple approaches in mind. If you both want the
6 opportunity to fi -- provide any other briefing, I'll give you
7 that opportunity.

8 Otherwise, what I want each of you to do is to
9 submit a proposed order using the facts that are already on
10 the record and using the law that you've already provided, but
11 not providing additional law because I don't want to surprise
12 anyone.

13 So do each of -- do either of you have any
14 preference as to which way we do it? I don't know whether you
15 wanted to rebrief or have any further information. Again,
16 this is a new issue. And both of you have provided two, I
17 think, appellate court decisions, two appellate court
18 decisions.

19 MR. KELLEHER: No, Your Honor.

20 MR. CRANE: Your Honor, the only thing --

21 MR. KELLEHER: I'm -- I'm satisfied.

22 MR. CRANE: -- is that there was -- he's satisfied
23 with the brief, Your Honor. The only thing I say is that
24 Mr. Kelleher has brought up new cases, Nevada cases that he

1 says are relevant that I have not had an opportunity to oppose
2 and to show that they are not relevant and that they do not
3 apply to this case. And that's a good portion of the
4 argument. And that Howell doesn't apply to this situation
5 either because it was not the question that was before the
6 Supreme Court.

7 THE COURT: So you're asking -- do you want to file
8 the reply to theirs? Is that what you're asking to do?

9 MR. CRANE: I would do at least -- I would -- if --
10 if the Court doesn't take an oral argument on this one, then I
11 absolutely must -- must file a -- a reply to that brief, if
12 the Court doesn't strike it for being in violation of 5.509.

13 THE COURT: Okay. Hold on.

14 MR. CRANE: The --

15 THE COURT: I'm not going to strike it. It's an
16 important issue. It's new. Okay. I -- I am going to -- I --
17 I would have wanted -- if they didn't -- hadn't have addressed
18 it, I would have asked for briefing anyway. Okay. I want
19 this issue to be briefed. So I'm going to let you file the
20 reply because the new information was late. So I'm going to
21 give you the opportunity to file a reply. Okay? And you
22 can --

23 MR. CRANE: Thank you, Your Honor.

24 THE COURT: -- have (indiscernible) to file a reply.

1 MR. CRANE: Two weeks is enough time, Your Honor.

2 THE COURT: Two weeks? Okay. And let me see.
3 Today's the 16th. So two weeks would be the 30th. All right.
4 And then the Court will take it under submission after that.
5 Is that -- no one wants to file anything else?

6 MR. KELLEHER: Your Honor, will you entertain no
7 oral argument on today, then?

8 THE COURT: Yeah, I don't want oral argument on it
9 if I'm going to get further briefing, okay? Because I don't
10 want to hear it more and then hear it again --

11 MR. KELLEHER: Well --

12 THE COURT: -- and again.

13 MR. KELLEHER: Well, the only problem with that,
14 Your Honor, unless we do it that way, I mean, that there is
15 things that I can put in there about this issue about whether
16 you can contract around or not right in the Howell decision.
17 So I --

18 THE COURT: Right.

19 MR. KELLEHER: -- I don't know if you're going to
20 re-read the Howell decision or --

21 THE COURT: Well, I do intend to re-read the -- I
22 intend to read all of the cite -- the -- the law that both of
23 you have cited. I just want to make certain that both of you
24 were -- which way it was that you wanted to go forward on it.

1 So Mr. Crane wants to file a reply. I think it's appropriate
2 because he just received the -- the information from
3 Mr. Kelleher's office. So he's got two weeks to do that. If
4 you want an opportunity then to argue, I can put it on the
5 calendar on July 2nd at --

6 MR. KELLEHER: Well, you --

7 THE COURT: -- 11:00.

8 MR. KELLEHER: -- know what, it's fine. If you --
9 if you just take it under submission, you're going to re-read
10 the -- the Howell decision because it --

11 THE COURT: Yeah.

12 MR. KELLEHER: -- addresses that contract issue.
13 Then you don't -- then we don't need to take up any more of
14 the Court's time.

15 THE COURT: Okay. All right. Are you satisfied
16 with that, Mr. Crane?

17 MR. CRANE: I am, Your Honor.

18 THE COURT: Okay. All right. Perfect. All right.
19 So we've got that. I -- so many of the rest of the issues is
20 I'm going to start -- except for this new issue about the
21 child. So many of these other issues really do feel like deja
22 vu, okay, because I've -- I've heard ad nauseam some of these
23 things from these parties. All right. So first off, Mom's
24 motion to enforce the dental insurance. Dad claims he paid in

1 a lump sum. So is Mom denying that Dad paid in a lump sum?
2 MR. CRANE: Yes, Your Honor.
3 THE COURT: Okay. Dad, do you have a receipt --
4 MR. CRANE: Dad paid --
5 THE COURT: -- proof of payment?
6 MR. CRANE: Dad paid -- Dad paid 41 -- \$41. He owed
7 85.02.
8 MR. KELLEHER: No, Your Honor. I -- I --
9 THE PLAINTIFF: Your Honor, (indiscernible).
10 MR. KELLEHER: You know what, respectfully, Your
11 Honor, we -- may I -- may I, Your Honor?
12 THE COURT: I -- I just know -- I want the short
13 answer to my question. Did you pay the full amount, and do
14 you have proof of payment?
15 MR. KELLEHER: Yes, Your Honor. We -- he did pay
16 the full amount, and we would have -- we would have a receipt.
17 But respectfully, Your Honor, our complaint is that they need
18 to send a schedule of arrears in. Right. They didn't do a
19 schedule of arrears.
20 And -- and, you know, and obviously opposing party,
21 I -- I understand that they like to be a stickler for the
22 rules. Fair enough. They need to file -- they need to file a
23 schedule of arrears. I shouldn't have to be in court like --
24 and the Court shouldn't have to be in this situation of --

1 THE COURT: I know. Mr. --
2 MR. KELLEHER: -- like going down through --
3 THE COURT: Mr. Kelleher --
4 MR. KELLEHER: -- twelve dollars --
5 THE COURT: -- that was certainly -- that -- that
6 actually was going to be my -- my next point. What -- what I
7 wanted to know is if there was an issue. Okay. If there's --
8 if there's not an issue, then we're done. If there is an
9 issue, then yeah, there isn't a schedule of arrears, should
10 you follow one. Is -- is that what he's seeking?
11 MR. KELLEHER: And -- and res -- right. And
12 respectfully, Your Honor, we -- we did -- we gave them to
13 Venmo receipt showing that he paid it. And then we get an
14 objection saying that -- or -- or he gets an objection saying
15 oh, those -- all of the exhibits are, quote-unquote,
16 adulterated. But like, it made no sense as to what that even
17 meant. And there's no schedule of arrears. And it's not fair
18 to the Court because it'll show the receipt that shows exactly
19 that he paid all of this medical insurance in a lump sum.
20 It's like -- I think it's like \$3.50 a month. Like --
21 THE COURT: All right. Mr. --
22 MR. CRANE: Your Honor --
23 THE COURT: Mr. Crane, I -- I mean, it is a
24 legitimate point. I didn't -- that was one of my notes. I

1 don't know how much it is.

2 MR. CRANE: And -- and, Your Honor?

3 THE COURT: Is that --

4 MR. CRANE: Your Honor, we -- we certainly could do
5 that. Your last hearing, you ordered him to make the payment.
6 When we filed the motion, he paid nothing. He did not pay
7 anything until after the motion was filed. So there was no
8 schedule of arrears filed because you had already told him to
9 make the payment. And the payment she -- he was told exactly
10 how much the payment was, and he decided that that was too
11 much. And he paid \$41 --

12 THE COURT: Hold --

13 MR. CRANE: -- and some cents.

14 THE COURT: Hold on, Mr. Crane. What I want to know
15 is, is you -- can you make reference to a specific sum certain
16 in an order? But I'm so confused --

17 MR. CRANE: No, Your Honor.

18 THE COURT: -- as to what is owed. Nobody made --

19 MR. CRANE: I can do --

20 THE COURT: -- reference to an amount --

21 MR. CRANE: I can do a --

22 THE COURT: -- of money that was owed.

23 MR. CRANE: Now -- now that he has --

24 THE COURT: So a receipt --

1 MR. CRANE: -- actually --
2 THE COURT: -- doesn't do --
3 MR. CRANE: -- responded --
4 THE COURT: -- me any good.
5 MR. CRANE: Correct. And, Your Honor, I can
6 certainly do a schedule of arrears and submit that as -- along
7 with our reply that we're submitting, showing that he's not
8 paid what this Court ordered him to pay which was a hundred
9 percent of the cost. And we'll do a complete breakdown and
10 show exactly what he's supposed to pay, and he paid \$41. He
11 won't deny that because the Venmo receipt says that.
12 THE COURT: Okay.
13 MR. CRANE: And that's not what was owed.
14 THE COURT: But have -- have we resolved the glasses
15 issue? Dad paid \$50 toward the last glasses purchase?
16 MR. CRANE: Your Honor, yes. He did pay \$50 towards
17 -- again, he paid \$50 towards the last pair of glasses. The
18 child has needed three pairs in the past year. Not four --
19 THE COURT: All right. Mr. Crane, I --
20 MR. CRANE: -- like Mr. Kelleher said.
21 THE COURT: -- I have to have -- I -- I have to have
22 schedule of arrears.
23 MR. CRANE: And --
24 THE COURT: I have to have receipts.

1 MR. CRANE: And we can do that, too.

2 THE COURT: I have to have a sum certain.

3 MR. CRANE: We can do that too, Your Honor. Again,
4 at the time that we filed the motion, he paid nothing. You
5 had ordered him to pay \$50. He had not paid it.

6 THE COURT: Okay. I know.

7 MR. CRANE: That was a very clear order.

8 THE COURT: But when you come to court and you say
9 -- but when you come to court and you say he's not paid, and
10 he said yes I did, here's my \$50 from the one parent, how do I
11 know? I don't have anything that shows, here's my three
12 receipts. I've got in passing she said three. Both of these
13 people are bringing up things from a long time ago. So I
14 don't know whether those other glasses were purchased, you
15 know, back in 2005 or when they were purchased. So that's why
16 it's --

17 MR. CRANE: We --

18 THE COURT: -- important.

19 MR. CRANE: We certainly can -- we certainly can do
20 that. Again, at the time of the filing of the motion, he owed
21 \$50, and he hadn't paid it.

22 THE COURT: Okay.

23 MR. CRANE: He paid it --

24 THE COURT: I'm going to end up having --

1 MR. CRANE: -- after the filing of the motion.

2 THE COURT: I'm going to end up putting this on
3 status check because I'm not going to take all of these things
4 under submission --

5 MR. KELLEHER: Right.

6 THE COURT: -- because that's going to require the
7 Court to write a very long order. Okay. I want Counsel to,
8 you know, compare notes and see if these things are done and
9 follow up. Okay. The -- it -- it appears, Mr. Kelleher, that
10 your client has withdrawn the request for some kind of
11 contempt on October?

12 MR. KELLEHER: That's correct, Your Honor. What he
13 wants is the compensatory time for the -- for the spring
14 break.

15 THE COURT: For the spring break. Okay. All right.
16 Because my understanding --

17 MR. KELLEHER: We're not --

18 THE COURT: -- was that we have --

19 MR. KELLEHER: -- asking for -- you know, I have
20 explained to my client, look, we don't want to put Mom in
21 jail. I think we want the time made up. She -- apparently or
22 according to my client, there was an agreement like we were
23 doing with a lot of cases in the middle of the coronavirus.
24 We said, look, we weren't going to fly someone out in the

1 middle of a stay-at-home order, but that he would get that
2 compensatory time --

3 THE COURT: I --

4 MR. KELLEHER: -- you know --

5 THE COURT: I understand.

6 MR. KELLEHER: -- in the summer.

7 THE COURT: I -- I --

8 MR. KELLEHER: Yeah.

9 THE COURT: -- get it.

10 MR. KELLEHER: That --

11 THE COURT: And I --

12 MR. KELLEHER: That's it.

13 THE COURT: -- think that's reasonable. What I want
14 to remind Dad, I want to take the opportunity to remind Dad
15 because we went through this ad nauseam at the last hearing in
16 October -- I mean, in December. If -- if he forfeits his
17 time, that's not make-up.

18 MR. KELLEHER: No, I understand that, Your Honor.
19 And they -- and he didn't forfeit the time. There was --
20 there were emails, which I believe you have in a -- in a huge
21 packet, back and forth that he just wanted the time to be made
22 up because they weren't supposed to be flying. Everyone's on
23 lockdown. And my understanding there's --

24 THE COURT: And not --

1 MR. KELLEHER: -- an agreement --

2 THE COURT: -- not spring break. I'm talking about
3 October. October, he said he wasn't going to take it.

4 MR. KELLEHER: Right. I --

5 THE COURT: So that's not make-up time. Okay. And
6 that's all -- the only point I wanted to make is that he's
7 asked yet again for make-up for something he forfeited, and he
8 can't do that. The --

9 MR. KELLEHER: Right.

10 THE COURT: -- spring break he has a point. So --

11 MR. KELLEHER: Right.

12 THE COURT: -- Mr. Crane, is there any specific
13 reason why Dad shouldn't be made up his -- the time that he
14 missed for spring break because of COVID? We're doing that
15 with most cases here.

16 MR. CRANE: Yeah, absolutely not, Your Honor. In
17 fact, my client has been trying to work with him on it, and
18 this is a nonissue as far as we're concerned.

19 THE COURT: Okay.

20 MR. KELLEHER: Okay.

21 THE COURT: Good. Let's get that scheduled. We
22 have -- summer is upon us. We're already in the middle of
23 June. So I don't want you to keep bickering about it until
24 summer is all gone, and now we've lost the opportunity to --

1 MR. KELLEHER: Can I --
2 THE COURT: -- at least to have --
3 MR. KELLEHER: Can I ask my client, right, can we
4 just add 10 days to whatever he gets this summer? Would that
5 work?
6 MR. CRANE: Ten days?
7 MR. KELLEHER: You had him a week --
8 THE PLAINTIFF: I would --
9 MR. KELLEHER: -- plus --
10 THE PLAINTIFF: -- agree with that.
11 MR. KELLEHER: -- both weekends.
12 THE COURT: Well --
13 MR. KELLEHER: I'm sorry?
14 THE COURT: -- however many days spring break is.
15 MR. KELLEHER: Yeah, you have a week. They have
16 five days plus both weekends. I know my kids love spring
17 break. So it's one, two, five -- it's nine. It's nine days.
18 MR. CRANE: I'll discuss that with my client, Your
19 Honor, and we'll -- we'll have that discussion. And we can
20 discuss that on Thursday as well.
21 MR. KELLEHER: Well --
22 THE COURT: No.
23 MR. KELLEHER: -- respectfully, Your Honor --
24 THE COURT: We're not going to --

1 MR. KELLEHER: -- can you just go --
2 THE COURT: -- discuss it on Thursday at -- well,
3 because we're -- we're --
4 MR. KELLEHER: Right.
5 THE COURT: -- we don't have -- this isn't being --
6 MR. KELLEHER: Right.
7 THE COURT: -- set for an hour hearing. Okay?
8 MR. CRANE: I understand.
9 THE COURT: By Friday --
10 MR. CRANE: It's -- it's --
11 THE COURT: -- by 5:00.
12 MR. CRANE: They're both -- it's a simple
13 (indiscernible) --
14 THE COURT: By Friday at 5:00 o'clock, Counsel are
15 to have affirmed whatever time it is that Mom's going to have.
16 And again, I'm going to set it for a status check. So if
17 that's left over, then I guess I'll deal with that at the
18 status check.
19 Dad's motion for contempt for joint legal custody,
20 all this stuff about the schools, the optometrist, the
21 dermatologist, the ENT, this is the kind of stuff we keep
22 going around and around and around about. I do like
23 (indiscernible) her suggestion. Each party has until Friday
24 at 5:00 to provide a list to the other party on

1 OurFamilyWizard of all healthcare providers with the date and
2 time of the next appointment. Okay.

3 Neither parent -- this is in this Court's standard
4 joint legal custody language, although the parties have their
5 own. But I'm adding it to theirs. Neither party may take the
6 child to a nonemergency healthcare appointment without advance
7 notice to the other party.

8 And when I say advanced notice, I mean as soon as
9 you make that appointment, the next thing you're to do is to
10 go on OurFamilyWizard and tell the other parent about the
11 parent -- about the appointment so that if they can, they have
12 the opportunity to -- to attend and participate.

13 It's always better -- and I know it's probably
14 unrealistic in this case where the parents live out of state.
15 But it's always better when the parents can be there at the
16 same time to ask questions and whatnot with doctors so that --
17 or whoever the professional is so that we don't have he said,
18 she said about what the professional said if that can be
19 accomplished. Okay. And if that's the case, then only the
20 parents are to be there. We're not going to take significant
21 others because those -- the significant others in this case
22 seem to be a real thorn in each other's side.

23 Okay. Schools, if school zone changes for whatever
24 reason, Mom must immediately tell Dad because Dad has the

1 option and the legal right to explore different schools.

2 Okay. Just, it's not automatically by zone.

3 It's automatically by zone if you're not going to
4 explore private schools for whatever reason or, you know, I
5 don't know, charter schools or -- or whatever. But it -- it
6 doesn't just automatically go by Mom's school zone. Okay.

7 Dad still has the legal right to know what the
8 school change is going to be and to be able to weigh in on
9 that if he thinks that Mom moved into an area where the school
10 is not a very good one, and he can maybe find an alternative.
11 He's got that right. So Mom does need to let him know as soon
12 as the school zone changes.

13 Dad's motion to -- Dad violated the behavior -- oh,
14 yeah. Mom's domestic partner violated the behavior order.
15 Well, Mom's domestic partner is not a party to the behavior
16 order. You know, the Court's not at all impressed, by the
17 way, by stepdad making some -- contacting the other parent in
18 this case where there's been so much litigation to contact and
19 make an offer to terminate parental rights.

20 That really is -- and so that would just -- I
21 can think of no other reason to make that -- reach out and
22 make that offer than to inflame the other side. Okay. So I'm
23 not impressed with that. Stop it. Stop it. I think I
24 already -- I think that was the reason why we had -- why the

1 Court had made the behavior order was because -- well, I had
2 -- I've seen my note from that hearing. The Court has no
3 jurisdiction over third parties. The Court has jurisdiction
4 over the parties. Okay.

5 When stepdad starts that by -- or Mom's domestic
6 partner starts that by saying, well, she doesn't know I'm
7 doing this. I'm suspect for that because everything Mom
8 writes says we. So if they're we and they're a couple, I'm
9 sure she probably knows he might have done this. Okay.

10 So please don't. Both of you stop throwing gasoline
11 on this, okay, with your significant others. Please stop.
12 That's why we addressed it the last time. I'm not going to
13 find anybody in contempt, though, because he's not a party to
14 the proceeding. Not impressed.

15 Dad's motion to reverse the sealed case. Dad as a
16 party, he's entitled to all the documents he needs. So the
17 Court's not going to reverse the fact that the case is sealed.
18 Mom's motion for no contact with stepmom, okay, we get back to
19 this issue. Look, I'm going to look at the CPS records. You
20 know, they're -- again, it makes a huge difference whether Mom
21 was -- you know, whether the child got beat to death or
22 whether it was like a scratch above his eye kind of thing. So
23 I'm satisfied with the Mom's not to be -- stepmom is not to be
24 left alone. Okay.

1 But I'm going to wait. I'm going to see what the
2 CPS records say. I'm going to get those right away, and I'll
3 let Counsel know on Thursday when we have our phone
4 conference. If -- if it is just like a mark under the eye and
5 there seems to be some explanation for that, I want to see why
6 they substantiated it. Sometimes they substantiate or
7 unsubstantiate for reasons that seem very odd to me. So I
8 want to take a look at that.

9 And meanwhile, the Court does say that if stepmom
10 takes a class equivalent to ABCs or triple P, whatever is age
11 appropriate for this child, then it would be appropriate to
12 then resume contact. We already resolved the -- well, we're
13 going to resolve the issue of therapy. The parties agree to
14 that. Mom's motion for -- somebody brought up child custody
15 or maybe that was Dad -- on a child custody evaluation.
16 That's --

17 MR. KELLEHER: We -- we are --

18 THE COURT: -- denied. The --

19 MR. KELLEHER: Yeah, we don't need a --

20 THE COURT: You don't have a --

21 MR. KELLEHER: -- child custody evaluation.

22 THE COURT: -- motion to modify. Okay. There was
23 no motion to modify custody. You just want --

24 MR. KELLEHER: Yeah, we're -- we're not ask -- I --

1 THE COURT: -- (indiscernible) --

2 MR. KELLEHER: Right.

3 THE COURT: Got it. Okay. If stepdad is taking
4 showers with this nine-year-old boy, he needs to stop it,
5 okay? I don't know whether it's true or not. But if he is,
6 stop it. It's not appropriate. It's not -- this child is not
7 his son. It's not appropriate.

8 Hey, everybody's going to pay their own fees. This
9 go-around retirement issue is a novel issue. I don't find
10 that anybody is being in bad faith or anybody has a frivolous
11 position here. Okay. We just again have acrimony -- high
12 levels of acrimony between these two people. So we'll have a
13 telephone conference then with Counsel about the therapy and
14 about the CPS records. And so whether or not -- when's Dad's
15 next time to visit?

16 MR. KELLEHER: I'm sorry, Dad has his time now.

17 THE COURT: Oh, he's got the child right now?

18 MR. KELLEHER: Right. That's why we're asking if we
19 can just extend out nine days on the spring -- on the -- on
20 the vacation because he's got him already. So rather than
21 bring him back, you know, or he can just extend the nine days.
22 That's why we're asking.

23 THE COURT: Okay. Is -- is Dad working?

24 MR. KELLEHER: My -- my understanding, Your Honor,

1 is that my client is retired from the military, but I don't
2 know if he has other employment.

3 THE COURT: Well --

4 MR. KELLEHER: Yeah, I have no --

5 THE COURT: -- he's making over \$11,000 a month
6 working some -- for somebody.

7 MR. KELLEHER: Yeah, again, right. I -- I
8 apologize. I didn't review his FDF. You can ask him, Your
9 Honor.

10 THE COURT: Okay. So I want to know who's watching
11 this child then if he says there's going to be no contact
12 between stepmom and child -- or no unsupervised contact.
13 Who's watching the child?

14 THE PLAINTIFF: Your -- Your Honor, I have one of my
15 neighborhood friends that have kids watching him while I'm at
16 work. And then I -- my days are fairly short because I also
17 have the ability for remote work. So it should be a nonissue,
18 and I get to see him -- I'm -- I'm back --

19 THE COURT: No.

20 THE PLAINTIFF: -- either like --

21 THE COURT: It is an issue.

22 THE PLAINTIFF: -- 2:30, 2:00 o'clock.

23 THE COURT: It's not a nonissue. Please tell me who
24 the --

1 THE PLAINTIFF: I -- I --
2 THE COURT: -- name of the person is.
3 THE PLAINTIFF: Her name is Sherry (ph).
4 THE COURT: Sherry what?
5 THE PLAINTIFF: Soulier.
6 THE COURT: Pardon me?
7 THE PLAINTIFF: Soulier.
8 THE COURT: Do -- spell it.
9 THE PLAINTIFF: S-o-u-l-i-e-r.
10 THE COURT: S-o-u-l-i-e-r, is that correct? She's a
11 neighbor of yours?
12 THE PLAINTIFF: Yeah. Yes, Your Honor.
13 THE COURT: She's watching the child when you're at
14 work, or you're otherwise unavailable to be there personally
15 with him, right?
16 THE PLAINTIFF: Correct, Your Honor.
17 THE COURT: Okay. So this child is -- will not be
18 left alone with your wife until this issue gets resolved; is
19 that correct?
20 THE PLAINTIFF: Completely, Your Honor. I have no
21 issue with that.
22 THE COURT: Okay. And I believe that that's it for
23 today. We're going to have a status check to put all these
24 odds and ends and things. And, let me see, about July 2nd at

1 10:00. Does that work, or 11:00? Actually, let's do 11:00.
2 MR. KELLEHER: I'm sorry, can I just -- I really --
3 THE COURT: Sure.
4 MR. KELLEHER: -- appreciate the opportunity. I'm
5 sorry, did you say July 11th?
6 THE COURT: No, I said July 2nd (indiscernible).
7 MR. KELLEHER: Oh, I apologize. July 2nd.
8 THE COURT: Yeah, that -- I -- it's next to the
9 holiday day weekend. So if you can't make it, I understand.
10 MR. KELLEHER: No, Your Honor. I could -- I -- I
11 don't know about opposing Counsel. Did you say at 9:00 in the
12 morning?
13 THE COURT: No, at 11:00. 11:00 o'clock.
14 MR. KELLEHER: I could -- I could do that, Your
15 Honor.
16 THE COURT: Okay.
17 MR. CRANE: I actually have another hearing in
18 Department P at that time, Your Honor.
19 THE COURT: Okay. All right. Let's find another
20 time. I was looking for a time where I can squeeze in a
21 little bit more than just 15 minutes.
22 MR. CRANE: I'm open the rest of that day.
23 THE COURT: Yeah, well --
24 MR. KELLEHER: Yeah, I -- I wish, Your Honor. It

1 looks like --

2 THE COURT: The Court's not.

3 MR. KELLEHER: I'm sorry.

4 THE COURT: How about July 6th, then, on the Monday

5 at 10:00?

6 MR. CRANE: That works for me, Your Honor.

7 MR. KELLEHER: I'm sorry, Your Honor, that -- that

8 for whatever reason has like three hearings all bunched up.

9 So there's no way.

10 THE COURT: The -- the 7th at 9:00 -- or 9:00 --

11 actually, the 7th at 9:30?

12 MR. KELLEHER: And I'm sorry, I've got -- I -- I --

13 and I -- you know what's happened, Your Honor, I know it's

14 probably with everybody is that because everything is pushed

15 like that -- that first few weeks of July is like a -- a

16 madhouse. It's a hearing. How -- is it possible --

17 THE COURT: Okay. How about the 11th on July 13th?

18 That'll give you --

19 MR. KELLEHER: July 11th --

20 THE COURT: -- time to resolve all this stuff

21 anyway. July 13th at 11:00.

22 MR. KELLEHER: I'm sorry --

23 MR. CRANE: I'm -- I'm in your courtroom just before

24 that. So that works fine for me, Your Honor.

1 THE COURT: Perfect.

2 MR. KELLEHER: That'll be fine, Your Honor. I have
3 a 10 -- I have a -- a 10:30, but that's like just a -- like
4 kind of a status -- and that shouldn't -- well, it's Judge
5 Moss, and she's wonderful. But sometimes she runs behind. So
6 I want to let --

7 THE COURT: As I'm running now.

8 MR. KELLEHER: Yeah. I'm just trying to like --
9 because I don't -- how -- how about the following day? Would
10 that work?

11 THE COURT: How about -- you know what? I have -- I
12 have Thursday at 10:00 o'clock the 16th, and I have a whole
13 hour at 10:00.

14 MR. KELLEHER: That'll be fine --

15 MR. CRANE: I'm good --

16 MR. KELLEHER: -- Your Honor.

17 MR. CRANE: I'm good on the 16th, Your Honor.

18 MR. KELLEHER: I'm sorry, July 16th?

19 THE COURT: Yes.

20 MR. KELLEHER: That'll be fine. That'll be great.

21 THE COURT: Okay. All right. You got it. We'll
22 block that whole one out so we have -- so you can get the rest
23 of these odds and ends resolved. All right?

24 MR. KELLEHER: So I --

1 MR. CRANE: July six --
2 MR. KELLEHER: --, I apologize, Your Honor.
3 MR. CRANE: July -- July 16th --
4 MR. KELLEHER: Jul -- July --
5 MR. CRANE: -- at 10:00 a.m., Your Honor?
6 MR. KELLEHER: Okay.
7 THE COURT: July 16th at 10:00 o'clock.
8 MR. CRANE: Great. Thank you, Your Honor.
9 THE COURT: Okay?
10 MR. KELLEHER: And then, Your Honor --
11 THE COURT: Mr. --
12 MR. KELLEHER: -- are -- are --
13 THE COURT: -- Crane, I'm going to have you prepare
14 the order from today. You have two weeks to get it to
15 Mr. Kelleher who has two weeks to sign it off. And I will
16 talk to you on then -- whatever it was, Thursday. I'll talk
17 to you just about the CPS and about the therapist.
18 MR. KELLEHER: And then respectfully, Your Honor,
19 have you made a ruling then just so my client can make airline
20 reservations, whatever he's doing, with the spring break? Is
21 that resolved then so it's -- it's supervised -- it's on -- no
22 -- no --
23 THE COURT: Apparently, it's not, so you all talk
24 about it, okay?

1 MR. CRANE: We have till 5:00 p.m. on Friday, John,
2 to discuss that.

3 MR. KELLEHER: Okay.

4 THE COURT: Okay? All right.

5 MR. KELLEHER: All right.

6 THE COURT: Thank you.

7 MR. KELLEHER: Thank you.

8 THE COURT: Bye.

9 MR. CRANE: Thank you for your time, Your Honor.

10 MR. KELLEHER: Thank you, Your Honor.

11 (PROCEEDINGS CONCLUDED AT 11:16:20 A.M.)

12 * * * * *

13 ATTEST: I do hereby certify that I have truly and
14 correctly transcribed the digital proceedings in the
15 above-entitled case to the best of my ability.

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17 

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19 _____
Adrian N. Medrano

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FILED

DEC 24 2020

EIGHTH JUDICIAL DISTRICT COURT

CLERK OF COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

ERICH M. MARTIN,) CASE NO. D-15-509045-D
Plaintiff,) DEPT. C
vs.) NV SUPREME CT. APPEAL NO. 81810
RAINA L. MARTIN,)
Defendant.) SEALED

FINAL BILLING FOR TRANSCRIPTS

The office of Transcript Video Services filed transcripts for Kathleen A. Wilde, Esq., on December 24, 2020 for the following proceedings in the above-captioned case:

JUNE 2, 2015; OCTOBER 28, 2015; SEPTEMBER 22, 2016
JANUARY 12, 2017; JUNE 16, 2020

Original transcript and one copy were requested.

The transcript total is 204 pages, for a final cost of \$536.09. A deposit in the amount of \$375.00 was received on November 25, 2020. The balance of \$161.09 was paid on December 24, 2020 directly to Verbatim Reporting and Transcription.

DATED this 24th day of December, 2020.

Maria Balagtas

Maria Balagtas, Legal Office Assistant II
Transcription Video Services

Balance of Paid in Full Check # CC# 20-2317 CASH CLERK

Received by: *Kathleen Wilde* this 30th day of December, 2020.

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT

EIGHTH JUDICIAL DISTRICT COURT - TRANSCRIPT VIDEO SERVICES
601 N. Pecos Road, Las Vegas, Nevada 89101 (702) 455-4

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FILED
DEC 24 2020

Sharon L. Johnson
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

ERICH M. MARTIN,) CASE NO. D-15-509045-D
Plaintiff,) DEPT. C
vs.) NV SUPREME CT. APPEAL NO. 81810
RAINA L. MARTIN,)
Defendant.) SEALED

RECEIPT OF COPY

RECEIPT OF COPY of Transcripts and Certification of the
following proceeding in the above-captioned case:

JUNE 2, 2015; OCTOBER 28, 2015; SEPTEMBER 22, 2016
JANUARY 12, 2017; JUNE 16, 2020

Were filed December 24, 2020 for Kathleen A. Wilde, Esq.,
is hereby acknowledged this 30th day of December, 2020.

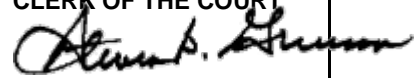
BY *Kathleen Wilde*
Kathleen A. Wilde, Esq.
10001 Park Run Drive
Las Vegas, NV. 89145

EIGHTH JUDICIAL DISTRICT COURT - TRANSCRIPT VIDEO SERVICES
601 N. Pecos Road, Las Vegas, Nevada 89101 (702) 455-4977

RA001828

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1 NOTC

2 DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 ERICH M. MARTIN,

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Plaintiff,

v.

CASE NO. D-15-509045-D

DEPT NO. Q

RAINA L. MARTIN,

Defendant.

NOTICE OF RESCHEDULING OF HEARING

TO: ALL PARTIES AND/OR THEIR COUNSEL OF RECORD

Please be advised that the date and time of a hearing set before the **Honorable Rebecca Burton**, has been changed due to reassignment of case. The hearing presently scheduled for January 11, 2021, at 10:00 AM, has been rescheduled to **January 12, 2021, at 10:00 AM**, before the **Honorable Bryce C. Duckworth**, in Department Q.

Please be advised that counsel/pro se litigants will receive an e-mail approximately one (1) week prior to the new hearing date which will provide a Blue Jeans Link for that hearing.

HONORABLE BRYCE C. DUCKWORTH

By /s/ Kimberly Weiss
Kimberly Weiss
Judicial Executive Assistant
Department Q

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the above file-stamped date, I caused a copy of the foregoing
3 **Notice of Rescheduling of Hearing** to be:

4 ☒ E-Served pursuant to NEFCR 9 on, or placed in the folder(s) located in the
5 Clerk's Office of, the following attorneys:

6 Chad Clement, Esq.

7 Marshal Willick, Esq.

8
9 ☐ E-Served pursuant to NEFCR 9 on, or mailed postage prepaid, addressed to,
10 the following litigants in Proper Person:

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14 /s/ Kimberly Weiss
15 Kimberly Weiss
16 Judicial Executive Assistant
17 Department Q
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ORDR

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Attorney for Defendant

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING: 11/3/2020
TIME OF HEARING: 9:00 am

ORDER FROM THE NOVEMBER 3, 2020, HEARING

This matter came on for a hearing at the above date and time before the Honorable Rebecca Burton, District Court Judge, Family Division. Defendant, Raina Martin, was present by video and was represented by and through her attorney, Richard L. Crane, Esq., of the WILICK LAW GROUP, and Plaintiff, Erich Martin, was present by video and represented by and through his attorney, Kathleen A. Wilde of MARQUIS AURBACH COFFING.

The Court, having reviewed the pleadings and papers and filed herein and entertaining argument from both sides, made the following findings and orders as follows:

THE COURT HEREBY FINDS:

1. The Court has subject matter jurisdiction over this case, personal jurisdiction over the parties and child custody subject matter jurisdiction.¹
2. If a Stay is to preserve the *Status Quo* then it would be not needed because Erich would still be making the monthly payments to Raina. That is the *Status Quo*, that is the Order of the Court.²
3. The *Decree of Divorce* is the *Status Quo* that Erich is trying to change. The Court enforced the *Decree of Divorce* and Erich has appealed the Court's enforcement.³
4. The Court has reviewed NRAP 8(c) and went through the factors and the object of the appeal. The Court finds that the object of the appeal ^{if a stay is not granted -(RLB)} for a few months might be defeated, but, the Court is not persuaded that the value of the appeal would be significantly reduced if Erich continued to make a few months of payments. In the big picture what we're looking at is the possibility of forty years or more of these payments.⁴
5. That real object of this appeal is that these payments will go on for many years.⁵
6. Neither party is going to suffer irreparable or serious injury if the stay is denied or the stay is granted.⁶

¹Time Stamp 9:03:06 - 9:03:17

²Time Stamp 9:03:23 - 9:03:39

³Time Stamp 9:03:40 - 9:03:49

⁴Time Stamp 9:03:59 - 9:04:37

⁵Time Stamp 9:04:54 - 9:05:10

⁶Time Stamp 9:05:12 - 9:05:31

- 1 7. \$20,000 is not an unreasonable estimate as to the benefits payable during the
2 pendency of the appeal.⁷ She will -(RLB)
- 3 8. The consequences to Raina are greater because her income is smaller. ~~They~~¹¹
4 have to pay out funds to maintain her position while paying attorney's fees.
5 She'll have to pay out funds to obtain her judgment.⁸
- 6 9. Erich can better afford to pay out funds to obtain his judgment after the fact,
7 if we're looking to collect monies after the fact.⁹
- 8 10. Covid has really made everybody's income uncertain. There is a lot less
9 predictability. Erich recently lost his job in March of 2020, I know Raina's
10 income has been reduced because of her ~~production~~ ^{reduction} -(RLB) of hours caused by Covid
11 so, there are some collection issues there, in that regard.¹⁰
- 12 11. Concerning whether Erich will likely prevail, the Court would like to think it's
13 reasoning is sound, of course, recognizing that the issue is unresolved. Again,
14 the Court did expect that this appeal would occur.¹¹
- 15 12. The Court didn't make the decision it did off the top of it's head. It spent a
16 considerable amount of time doing legal research and reviewing the law. The
17 last cases that the Court cited were from a couple of months ago or less.¹²
- 18 13. NRCP 62(d)(2) states a party is entitled to a stay by providing a bond.¹³
- 19
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22 ⁷Time Stamp 9:05:57 - 9:06:03

23 ⁸Time Stamp 9:06:03 - 9:06:14

24 ⁹Time Stamp 9:06:16 - 9:06:23

25 ¹⁰Time Stamp 9:06:37 - 9:07:07

26 ¹¹Time Stamp 9:07:09 - 9:07:24

27 ¹²Time Stamp 9:07:25 - 9:07:48

28 ¹³Time Stamp 9:08:00 - 9:08:06

- 1 14. The Court is inclined to grant the stay, but require Erich to pay however he
2 wishes to do that.¹⁴
- 3 15. The Court likes Raina's idea of Erich continuing to pay the monthly payments
4 into an attorney's trust account. That is a good reasonable approach.¹⁵
- 5 16. ~~I think that really is a good approach to it.~~ Because then we won't have any
6 over payments or under payments and we're not going to have collection issues
7 at the end of the day and the funds are there.¹⁶
- 8 17. The Court would like confirmation going from Ms. Wilde to Mr. Crane that
9 those monthly payments are being made.¹⁷
- 10 18. The Court did go through the factors about a bond and will put its thoughts
11 about the matter on the record.¹⁸
- 12 19. The Collection Process is not complex but it would be easier for Erich than it
13 would be for Raina, ~~but the Court does take note of that issue, as it was the~~
14 ~~Court involved when there was the spousal support issue.~~¹⁹
- 15 20. The time to obtain collection is going to depend on how cooperative everybody
16 is. If it would be enforced, then of course there will be a motion and there's
17 going to be a hearing and there's going to be a potential trial and arguments
18 about how much the money is going to be, although that's probably not likely
19 and there's not likely to be an appeal from that but that's always possible.²⁰
- 20

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22 ¹⁴Time Stamp 9:16:51 - 9:16:58

23 ¹⁵Time Stamp 9:17:00 - 9:17:10

24 ¹⁶Time Stamp 9:17:20 - 9:17:33

25 ¹⁷Time Stamp 9:17:11 - 9:17:20

26 ¹⁸Time Stamp 9:17:33 - 9:17:45

27 ¹⁹Time Stamp 9:17:47 - 9:18:07

28 ²⁰Time Stamp 9:18:07 - 9:18:28

21. Again, collections might be difficult on both sides just because of Covid.²¹
22. We have two professionals here. A dental hygienist and a retired military member who is in a management position now. We have two professionals who make very nice incomes and neither party is destitute by any means. They are fortunate to have the jobs that they do and to make the incomes that they are in light of Covid right now when a lot of people are hurting.²²
23. The Court is going to require the monthly payment be made. That will avoid any additional costs. The monthly payment makes sense and will be sitting there, then there will be no collection issues at the end of the day.²³
24. Erich needs to go ahead and pay the arrearages already reduced to judgment.²⁴
25. The Court really wants Erich to begin making payments toward that judgment. Counsel is to talk about that and come up with a reasonable payment in addition to the regular monthly payment to start paying on that judgment. The Court would like it paid in no less than a year. You can use that as a kind of rule of thumb there but I want counsel to talk about it.²⁵
26. If he wants to pay for a bond he can but it will be the \$20,000 that's been requested because that is a reasonable amount.²⁶
27. In considering the *Motion* for attorney's fees, the Court takes into consideration both parties financial circumstances. Even though Nevada follows the American rule which means everyone pays their own legal fees, the Court recognizes that Erich's income currently is about three times as high as

²¹Time Stamp 9:18:28 - 9:18:37

²²Time Stamp 9:18:36 - 9:19:05

²³Time Stamp 9:19:05 - 9:19:28

²⁴Time Stamp 9:20:17 - 9:20:42

²⁵Time Stamp 9:22:26-9:22:56

²⁶Time Stamp 9:22:56 - :9:23:11

1 Raina's income but Raina's expenses are reduced by her domestic partner and
2 his very large income.²⁷

3 28. When you balance out the household incomes, they are fairly equivalent.
4 They are not wildly apart. The Court realizes that Raina's domestic partner is
5 not obligated to pay anything for these proceeding.²⁸

6 29. The Court is granting the stay and it would be appropriate because of the very
7 large disparity of incomes between the two parties who are part of this process
8 to have Erich contribute something toward Raina's attorney's fees because this
9 is all, at the end of the day, going to effect her greater financially, who makes
10 less money than Erich does. She has been effected by Covid more than Erich
11 who is still making his full time income. Raina has reduced income.²⁹

12 30. The Court is not inclined to grant all of the attorney fees.³⁰ The Court does not
13 want anybody being destitute by this, but Erich should pay something so he
14 will contribute \$5,000 to her attorney's fees.³¹

15 31. The Court does want him to pay the \$5,000. He has 30 days to get that done.³²

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23 ²⁷Time Stamp 9:25:31 - 9:26:00

24 ²⁸Time Stamp 9:26:19 - 9:26:32

25 ²⁹Time Stamp 9:26:39 - 9:27:29

26 ³⁰Time Stamp 28:16 - 9:28:22

27 ³¹Time Stamp 9:28:53 - 9:29:05

28 ³²Time Stamp 9:30:35 - 9:30:44

IT IS HEREBY ORDERED:

1. The Stay is granted as long as Erich either makes the ordered monthly payments of \$845.43, plus any applicable cost of living adjustment, during the pendency of the appellate proceedings to an Attorney's Trust Fund or if he purchases a supersedeas bond of \$20,000.
2. Erich's attorney is to provide the monthly account statement to Raina's attorney within five days of the payment where the monies were deposited.
3. If Erich decides to make the monthly payments as described above, the \$5,918.01 in arrears already reduced to judgment shall also be deposited into the same account as the monthly payments. This amount will continue to accumulate statutory interest until deposited.
4. If Erich purchases a supersedeas bond of \$20,000, the \$5,918.01 in arrears already reduced to judgment is still due and will continue to accumulate statutory interest.
5. Raina's request for attorney's fees is granted. Erich is to contribute \$5,000 to her attorney's fees.

6. The \$5,000 is due within 30 days from the date of the hearing.

DATED this _____ day of _____, 2020.

Dated this 31st day of December, 2020



9FA 342 8532 734 **DISTRICT COURT JUDGE**
Rebecca L. Burton
District Court Judge

Dated this 21 day of December, 2020
Respectfully Submitted By:

Dated this _____ day of _____, 2020
Approved as to Form and Content
By:

WILLICK LAW GROUP

MARQUIS AURBACH COFFING

//s//Richard L. Crane, Esq.

****SIGNATURE REFUSED****

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Erich M Martin, Plaintiff

CASE NO: D-15-509045-D

7 vs.

DEPT. NO. Department C

8 Raina L Martin, Defendant.
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/31/2020

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint**COURT MINUTES**

January 12, 2021

D-15-509045-D Erich M Martin, Plaintiff
vs.
Raina L Martin, Defendant.

January 12, 2021 10:00 AM All Pending Motions

HEARD BY: Duckworth, Bryce C.**COURTROOM:** Courtroom 21**COURT CLERK:** Gabriella Konicek**PARTIES:**

Erich Martin, Plaintiff, Counter Defendant, Chad Clement, Attorney, not present
present
Nathan Martin, Subject Minor, not present
Raina Martin, Defendant, Counter Claimant, Marshal Willick, Attorney, not present
present

JOURNAL ENTRIES

- Defendant's Motion to Modify Child Support and to Reprimand Erich for His Failure to Follow Provisions...Opposition to Motion to Modify Child Support and to Reprimand Erich For His Failure to Follow Custody Provisions and Countermotion for Modification of Orders Regarding Julie Martin, Admonishment Against Inactivity, and for Attorney's Fees...Reply to Opposition to Motion to Modify Child Support and to Reprimand Erich for His Failure to Follow Child Custody Provisions and Opposition to Countermotion for Modification of Orders Regarding Julie Martin, Admonishment Against Incivility, and for Attorney's Fees.

Plaintiff/Dad, Defendant/Mom, Ms. Wilde, Mr. Crane and Mr. Johnson all present by video.

The Court noted a child support modification review is appropriate as the Decree of Divorce was entered in 2015.

Discussion regarding Dad's income, the new calculation of child support, Dad's disability income in

PRINT DATE:	02/09/2021	Page 1 of 3	Minutes Date:	January 12, 2021
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

addition to his regular income.

Mr. Crane represented Dad is intending to conceal his income as he is not claiming his Veteran Affairs (VA) Disability income. Mr. Crane further represented Dad's income should be approximately \$15,000 a month and minor child's healthcare being at no cost through Tricare. Mr. Crane argued Dad claims he spends hundreds of dollars on minor child's expenses however; Mom has never received any of this money.

Ms. Wilde agrees the child support issue is merely a calculation matter. Ms. Wilde further stated Dad's income being closer to \$14,000 a month plus the reduction of the health insurance offset. Ms. Wilde represented Dad does not want to put minor child at risk for travel during the Covid-19 pandemic for visitation and confirmed there are other minor children living in Dad's home.

The Court noted the June 2020 Financial Disclosure Form (FDF) was lacking payroll attachments as opposed to the most recent FDF reflecting \$2,363.00 in paychecks. Mr. Crane argued Dad's most recent FDF does not include his VA disability money which is separate from his Combat Related Special Compensation (CRSC).

Discussion regarding discovery and VA disability pay being completely separate from CRSC pay as Mr. Crane has extensively researched and litigated the issue.

COURT stated its FINDINGS and ORDERED the following:

1. Court finds that Dad's monthly income to be used in the calculation of Child Support is \$13,022.16. CHILD SUPPORT OBLIGATION from Dad to Mom shall be set at \$1,317 per month effective December 2020 forward. Said amount shall be due on/or before the first of every month.
2. DISCOVERY regarding the VA Disability Pay issue is open as of the January 12, 2021, and shall remain OPEN FOR SIXTY (60) DAYS.
3. The Parties shall BEAR their own attorney's fees.
4. The Court welcomes a BEHAVIOR ORDER language within today's order.
5. All prior order shall remain STATUS QUO.

Mr. Crane shall prepare the order, Ms. Wilde is to review and sign off.

PRINT DATE:	02/09/2021	Page 2 of 3	Minutes Date:	January 12, 2021
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

INTERIM CONDITIONS:

FUTURE HEARINGS:

PRINT DATE:	02/09/2021	Page 3 of 3	Minutes Date:	January 12, 2021
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

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Attorney for Defendant

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: Q

DATE OF HEARING: 1/12/2021
TIME OF HEARING: 10:00 am

ORDER FROM THE JANUARY 12, 2021, HEARING

This matter came on for a hearing at the above date and time before the Honorable Bryce Duckworth, District Court Judge, Family Division. Defendant, Raina Martin, was present by video and was represented by and through her attorney, Richard L. Crane, Esq., of the WILLICK LAW GROUP, and Plaintiff, Erich Martin, was present by video and represented by and through his attorney, Kathleen A. Wilde of MARQUIS AURBACH COFFING.

The Court, having reviewed the pleadings and papers filed herein and entertaining argument from both sides, made the following findings and orders:

THE COURT HEREBY FINDS:

1. This case is appropriate to be heard by the District Court as the issues raised are ancillary to the issues brought up on appeal.
2. Mr. Crane represented that CRSC pay is always accompanied by VA Disability Pay. The Court asked Mr. Martin directly if he was receiving VA Disability pay in addition to his CRSC pay. Mr. Martin replied that he was not receiving any VA disability pay.
3. Based on Mr. Martin's response, the Court finds that the Plaintiff's monthly income to be used in the calculation of Child Support is \$13,022.16.
4. Based on Mr. Crane's request, discovery will be opened on the issue of VA Disability Pay.
5. Should Discovery result in there being VA Disability Pay that was not disclosed on the Plaintiff's Financial Disclosure Form, the amount of child support shall be recalculated appropriately.
6. The Court does not have its own standard Behavioral Order Language, but will accept any added and stipulated language.
7. Any previous financial Orders made by this Court's predecessor are still considered due and enforceable under the Court's contempt powers.
8. As the Child Support is up for review based on over three years having passed, attorney's fees will not be awarded to either party.

IT IS HEREBY ORDERED:

1. As of November 18, 2020, Child Support is set at \$1,317 per month. Erich is to transmit the full amount to Raina on the first of every month. ~~After the 5th, any payments not made by then shall be considered late and interest shall be applied.~~
2. Discovery regarding the VA Disability Pay issue is open as of the January 12, 2021, and shall remain open for 60 days.

3. The Parties shall bear their own attorney's fees.

4. Mr. Crane is to draft the Order from today's hearing. Ms. Wilde is to review as to form and content.

DATED this ____ day of _____, 2021.

Dated this 26th day of January, 2021


DISTRICT COURT JUDGE

Dated this 22nd day of January, 2021
Respectfully Submitted By:

WILLICK LAW GROUP

// s // Richard L. Crane, Esq.

MARSHAL S. WILLICK, ESQ.
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Attorneys for Defendant

P:\wp19\MARTIN,R\DRAFTS\00477161.WPD\jj

Dated this ____ day of _____, 2021
Approved as to Form and Content
By:

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MARQUIS ALTBACH CUFFING
Bryce C. Duckworth
District Court Judge

Signature Refused

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Attorneys for Plaintiff

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Erich M Martin, Plaintiff

CASE NO: D-15-509045-D

7 vs.

DEPT. NO. Department Q

8 Raina L Martin, Defendant.
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 1/26/2021

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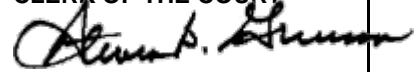
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10

11 **DISTRICT COURT**
12 **FAMILY DIVISION**
13 **CLARK COUNTY, NEVADA**
14

15 **ERICH MARTIN,**
16 **Plaintiff,**

17 **vs.**

18 **RAINA MARTIN,**
19 **Defendant.**

CASE NO: D-15-509045-D
DEPT. NO: Q

20 **NOTICE OF ENTRY OF ORDER FROM THE NOVEMBER 3, 2020,**
21 **HEARING**

22 **TO: ERICH MARTIN, Plaintiff.**

23 **TO: KATHLEEN A. WILDE, ESQ., Attorney for Plaintiff.**

24 **PLEASE TAKE NOTICE** that an *Order from the November 3, 2020, Hearing*
25 was duly entered in the above action on the 31st day of December, 2020, a true and

26 *****

27 *****

28 *****

correct copy of which is attached herein.

DATED this 28th day of January, 2021.

WILLICK LAW GROUP

// s // Richard L. Crane, Esq.

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Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Attorneys for Defendant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 28th day of January, 2021, I caused the above and foregoing document to be served as follows:

☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system.

☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.

☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.

☐ by hand delivery with signed Receipt of Copy.

☐ by First Class, Certified U.S. Mail.

To the person(s) listed below at the address, email address, and/or facsimile number indicated:

CHAD F. CLEMENT, ESQ.
KATHLEEN A. WILDE, ESQ.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney for Plaintiff

/s/Justin K. Johnson

An Employee of the WILICK LAW GROUP

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Attorney for Defendant

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING: 11/3/2020
TIME OF HEARING: 9:00 am

ORDER FROM THE NOVEMBER 3, 2020, HEARING

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THE COURT HEREBY FINDS:

1. The Court has subject matter jurisdiction over this case, personal jurisdiction over the parties and child custody subject matter jurisdiction.¹
2. If a Stay is to preserve the *Status Quo* then it would be not needed because Erich would still be making the monthly payments to Raina. That is the *Status Quo*, that is the Order of the Court.²
3. The *Decree of Divorce* is the *Status Quo* that Erich is trying to change. The Court enforced the *Decree of Divorce* and Erich has appealed the Court's enforcement.³
4. The Court has reviewed NRAP 8(c) and went through the factors and the object of the appeal. The Court finds that the object of the appeal ^{if a stay is not granted -(RLB)} for a few months might be defeated, but, the Court is not persuaded that the value of the appeal would be significantly reduced if Erich continued to make a few months of payments. In the big picture what we're looking at is the possibility of forty years or more of these payments.⁴
5. That real object of this appeal is that these payments will go on for many years.⁵
6. Neither party is going to suffer irreparable or serious injury if the stay is denied or the stay is granted.⁶

¹Time Stamp 9:03:06 - 9:03:17

²Time Stamp 9:03:23 - 9:03:39

³Time Stamp 9:03:40 - 9:03:49

⁴Time Stamp 9:03:59 - 9:04:37

⁵Time Stamp 9:04:54 - 9:05:10

⁶Time Stamp 9:05:12 - 9:05:31

- 1 7. \$20,000 is not an unreasonable estimate as to the benefits payable during the
2 pendency of the appeal.⁷ She will -(RLB)
- 3 8. The consequences to Raina are greater because her income is smaller. ~~They~~¹¹
4 have to pay out funds to maintain her position while paying attorney's fees.
5 She'll have to pay out funds to obtain her judgment.⁸
- 6 9. Erich can better afford to pay out funds to obtain his judgment after the fact,
7 if we're looking to collect monies after the fact.⁹
- 8 10. Covid has really made everybody's income uncertain. There is a lot less
9 predictability. Erich recently lost his job in March of 2020, I know Raina's
10 income has been reduced because of her ~~production~~ ^{reduction} -(RLB) of hours caused by Covid
11 so, there are some collection issues there, in that regard.¹⁰
- 12 11. Concerning whether Erich will likely prevail, the Court would like to think it's
13 reasoning is sound, of course, recognizing that the issue is unresolved. Again,
14 the Court did expect that this appeal would occur.¹¹
- 15 12. The Court didn't make the decision it did off the top of it's head. It spent a
16 considerable amount of time doing legal research and reviewing the law. The
17 last cases that the Court cited were from a couple of months ago or less.¹²
- 18 13. NRCP 62(d)(2) states a party is entitled to a stay by providing a bond.¹³
- 19
20
21

22 ⁷Time Stamp 9:05:57 - 9:06:03

23 ⁸Time Stamp 9:06:03 - 9:06:14

24 ⁹Time Stamp 9:06:16 - 9:06:23

25 ¹⁰Time Stamp 9:06:37 - 9:07:07

26 ¹¹Time Stamp 9:07:09 - 9:07:24

27 ¹²Time Stamp 9:07:25 - 9:07:48

28 ¹³Time Stamp 9:08:00 - 9:08:06

- 1 14. The Court is inclined to grant the stay, but require Erich to pay however he
2 wishes to do that.¹⁴
- 3 15. The Court likes Raina's idea of Erich continuing to pay the monthly payments
4 into an attorney's trust account. That is a good reasonable approach.¹⁵
- 5 16. ~~I think that really is a good approach to it.~~ Because then we won't have any
6 over payments or under payments and we're not going to have collection issues
7 at the end of the day and the funds are there.¹⁶
- 8 17. The Court would like confirmation going from Ms. Wilde to Mr. Crane that
9 those monthly payments are being made.¹⁷
- 10 18. The Court did go through the factors about a bond and will put its thoughts
11 about the matter on the record.¹⁸
- 12 19. The Collection Process is not complex but it would be easier for Erich than it
13 would be for Raina, ~~but the Court does take note of that issue, as it was the~~
14 ~~Court involved when there was the spousal support issue.~~¹⁹
- 15 20. The time to obtain collection is going to depend on how cooperative everybody
16 is. If it would be enforced, then of course there will be a motion and there's
17 going to be a hearing and there's going to be a potential trial and arguments
18 about how much the money is going to be, although that's probably not likely
19 and there's not likely to be an appeal from that but that's always possible.²⁰
- 20

21
22 ¹⁴Time Stamp 9:16:51 - 9:16:58

23 ¹⁵Time Stamp 9:17:00 - 9:17:10

24 ¹⁶Time Stamp 9:17:20 - 9:17:33

25 ¹⁷Time Stamp 9:17:11 - 9:17:20

26 ¹⁸Time Stamp 9:17:33 - 9:17:45

27 ¹⁹Time Stamp 9:17:47 - 9:18:07

28 ²⁰Time Stamp 9:18:07 - 9:18:28

21. Again, collections might be difficult on both sides just because of Covid.²¹
22. We have two professionals here. A dental hygienist and a retired military member who is in a management position now. We have two professionals who make very nice incomes and neither party is destitute by any means. They are fortunate to have the jobs that they do and to make the incomes that they are in light of Covid right now when a lot of people are hurting.²²
23. The Court is going to require the monthly payment be made. That will avoid any additional costs. The monthly payment makes sense and will be sitting there, then there will be no collection issues at the end of the day.²³
24. Erich needs to go ahead and pay the arrearages already reduced to judgment.²⁴
25. The Court really wants Erich to begin making payments toward that judgment. Counsel is to talk about that and come up with a reasonable payment in addition to the regular monthly payment to start paying on that judgment. The Court would like it paid in no less than a year. You can use that as a kind of rule of thumb there but I want counsel to talk about it.²⁵
26. If he wants to pay for a bond he can but it will be the \$20,000 that's been requested because that is a reasonable amount.²⁶
27. In considering the *Motion* for attorney's fees, the Court takes into consideration both parties financial circumstances. Even though Nevada follows the American rule which means everyone pays their own legal fees, the Court recognizes that Erich's income currently is about three times as high as

²¹Time Stamp 9:18:28 - 9:18:37

²²Time Stamp 9:18:36 - 9:19:05

²³Time Stamp 9:19:05 - 9:19:28

²⁴Time Stamp 9:20:17 - 9:20:42

²⁵Time Stamp 9:22:26-9:22:56

²⁶Time Stamp 9:22:56 - :9:23:11

1 Raina's income but Raina's expenses are reduced by her domestic partner and
2 his very large income.²⁷

3 28. When you balance out the household incomes, they are fairly equivalent.
4 They are not wildly apart. The Court realizes that Raina's domestic partner is
5 not obligated to pay anything for these proceeding.²⁸

6 29. The Court is granting the stay and it would be appropriate because of the very
7 large disparity of incomes between the two parties who are part of this process
8 to have Erich contribute something toward Raina's attorney's fees because this
9 is all, at the end of the day, going to effect her greater financially, who makes
10 less money than Erich does. She has been effected by Covid more than Erich
11 who is still making his full time income. Raina has reduced income.²⁹

12 30. The Court is not inclined to grant all of the attorney fees.³⁰ The Court does not
13 want anybody being destitute by this, but Erich should pay something so he
14 will contribute \$5,000 to her attorney's fees.³¹

15 31. The Court does want him to pay the \$5,000. He has 30 days to get that done.³²

16 *****

17 *****

18 *****

19 *****

20 *****

21

22

23 ²⁷Time Stamp 9:25:31 - 9:26:00

24 ²⁸Time Stamp 9:26:19 - 9:26:32

25 ²⁹Time Stamp 9:26:39 - 9:27:29

26 ³⁰Time Stamp 28:16 - 9:28:22

27 ³¹Time Stamp 9:28:53 - 9:29:05

28 ³²Time Stamp 9:30:35 - 9:30:44

IT IS HEREBY ORDERED:

1. The Stay is granted as long as Erich either makes the ordered monthly payments of \$845.43, plus any applicable cost of living adjustment, during the pendency of the appellate proceedings to an Attorney's Trust Fund or if he purchases a supersedeas bond of \$20,000.
2. Erich's attorney is to provide the monthly account statement to Raina's attorney within five days of the payment where the monies were deposited.
3. If Erich decides to make the monthly payments as described above, the \$5,918.01 in arrears already reduced to judgment shall also be deposited into the same account as the monthly payments. This amount will continue to accumulate statutory interest until deposited.
4. If Erich purchases a supersedeas bond of \$20,000, the \$5,918.01 in arrears already reduced to judgment is still due and will continue to accumulate statutory interest.
5. Raina's request for attorney's fees is granted. Erich is to contribute \$5,000 to her attorney's fees.

6. The \$5,000 is due within 30 days from the date of the hearing.

DATED this _____ day of _____, 2020.

Dated this 31st day of December, 2020



9FA 342 8532 734 **DISTRICT COURT JUDGE**
Rebecca L. Burton
District Court Judge

Dated this 21 day of December, 2020
Respectfully Submitted By:

Dated this _____ day of _____, 2020
Approved as to Form and Content
By:

WILLICK LAW GROUP

MARQUIS AURBACH COFFING

//s//Richard L. Crane, Esq.

****SIGNATURE REFUSED****

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Attorneys for Plaintiff

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Erich M Martin, Plaintiff

CASE NO: D-15-509045-D

7 vs.

DEPT. NO. Department C

8 Raina L Martin, Defendant.
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 12/31/2020

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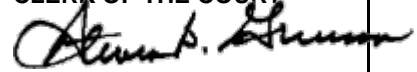
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Lennie Fraga	lfraga@maclaw.com
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7 Phone (702) 438-4100; Fax (702) 438-5311
8 email@willicklawgroup.com
9 Attorney for Defendant
10

11 **DISTRICT COURT**
12 **FAMILY DIVISION**
13 **CLARK COUNTY, NEVADA**
14

15 **ERICH MARTIN,**
16 **Plaintiff,**

17 **vs.**

18 **RAINA MARTIN,**
19 **Defendant.**

CASE NO: D-15-509045-D
DEPT. NO: Q

20 **NOTICE OF ENTRY OF ORDER FROM THE JANUARY 12, 2021,**
21 **HEARING**

22 **TO: ERICH MARTIN, Plaintiff.**

23 **TO: KATHLEEN A. WILDE, ESQ., Attorney for Plaintiff.**

24 **PLEASE TAKE NOTICE** that an *Order from the January 12, 2021, Hearing*
25 was duly entered in the above action on the 26th day of January, 2021, a true and

26 *****

27 *****

28 *****

correct copy of which is attached herein.

DATED this 28th day of January, 2021.

WILLICK LAW GROUP

// s // Richard L. Crane, Esq.

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Attorneys for Defendant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 28th day of January, 2021, I caused the above and foregoing document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system.
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.
- ☐ by hand delivery with signed Receipt of Copy.
- ☐ by First Class, Certified U.S. Mail.

To the person(s) listed below at the address, email address, and/or facsimile number indicated:

CHAD F. CLEMENT, ESQ.
KATHLEEN A. WILDE, ESQ.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney for Plaintiff

/s/Justin K. Johnson

An Employee of the WILICK LAW GROUP

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ORDR

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email@willicklawgroup.com
Attorney for Defendant

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: Q

DATE OF HEARING: 1/12/2021
TIME OF HEARING: 10:00 am

ORDER FROM THE JANUARY 12, 2021, HEARING

This matter came on for a hearing at the above date and time before the Honorable Bryce Duckworth, District Court Judge, Family Division. Defendant, Raina Martin, was present by video and was represented by and through her attorney, Richard L. Crane, Esq., of the WILICK LAW GROUP, and Plaintiff, Erich Martin, was present by video and represented by and through his attorney, Kathleen A. Wilde of MARQUIS AURBACH COFFING.

The Court, having reviewed the pleadings and papers filed herein and entertaining argument from both sides, made the following findings and orders:

THE COURT HEREBY FINDS:

1. This case is appropriate to be heard by the District Court as the issues raised are ancillary to the issues brought up on appeal.
2. Mr. Crane represented that CRSC pay is always accompanied by VA Disability Pay. The Court asked Mr. Martin directly if he was receiving VA Disability pay in addition to his CRSC pay. Mr. Martin replied that he was not receiving any VA disability pay.
3. Based on Mr. Martin's response, the Court finds that the Plaintiff's monthly income to be used in the calculation of Child Support is \$13,022.16.
4. Based on Mr. Crane's request, discovery will be opened on the issue of VA Disability Pay.
5. Should Discovery result in there being VA Disability Pay that was not disclosed on the Plaintiff's Financial Disclosure Form, the amount of child support shall be recalculated appropriately.
6. The Court does not have its own standard Behavioral Order Language, but will accept any added and stipulated language.
7. Any previous financial Orders made by this Court's predecessor are still considered due and enforceable under the Court's contempt powers.
8. As the Child Support is up for review based on over three years having passed, attorney's fees will not be awarded to either party.

IT IS HEREBY ORDERED:

1. As of November 18, 2020, Child Support is set at \$1,317 per month. Erich is to transmit the full amount to Raina on the first of every month. ~~After the 5th, any payments not made by then shall be considered late and interest shall be applied.~~
2. Discovery regarding the VA Disability Pay issue is open as of the January 12, 2021, and shall remain open for 60 days.

3. The Parties shall bear their own attorney's fees.
4. Mr. Crane is to draft the Order from today's hearing. Ms. Wilde is to review as to form and content.

DATED this ____ day of _____, 2021.

Dated this 26th day of January, 2021


DISTRICT COURT JUDGE

Dated this 22nd day of January, 2021
Respectfully Submitted By:

WILLICK LAW GROUP

// s // Richard L. Crane, Esq.

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Attorneys for Defendant

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Dated this ____ day of _____, 2021
Approved as to Form and Content
By:

A78 3BB B21C BEB6
MARQUIS ALTBACH CUFFING
Bryce C. Duckworth
District Court Judge

Signature Refused

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(702) 382-0711; Fax (702) 382-5816
Attorneys for Plaintiff

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Erich M Martin, Plaintiff

CASE NO: D-15-509045-D

7 vs.

DEPT. NO. Department Q

8 Raina L Martin, Defendant.
9

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Suzanne Boggs	sboggs@maclaw.com

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208

Steven D. Grierson

FDF

Name: Erich Martin
Address: 19325 W. 94th Ave
Arvada, CO 80007
Phone: (970) 775-3952
Email: emartin2617@gmail.com
Attorney for _____
Nevada State Bar No. _____

Eighth Judicial District Court
Clark County, Nevada

<u>Erich Martin</u> Plaintiff, vs. <u>Raina Martin</u> Defendant.	Case No. <u>D-15-509045-D</u> Dept. <u>Q</u>
--	---

GENERAL FINANCIAL DISCLOSURE FORM

A. Personal Information:

1. What is your full name? (first, middle, last) Erich Matthew Martin
2. How old are you? 40
3. What is your date of birth? 12/30/1980
4. What is your highest level of education? Bachelor's of Science

B. Employment Information:

1. Are you currently employed/ self-employed? (☒ check one)
☐ No
☒ Yes If yes, complete the table below. Attached an additional page if needed.

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)
March 2020		Manager	M-F	8am-4pm

2. Are you disabled? (☒ check one)

☐ No

☒ Yes

If yes, what is your level of disability? 100%

What agency certified you disabled? US Army

What is the nature of your disability? Combat Related Disability

C. Prior Employment: If you are unemployed or have been working at your current job for less than 2 years, complete the following information.

Prior Employer: US Army Date of Hire: 7/13/1999 Date of Termination: 7/31/2019
Reason for Leaving: Retired from 20 years active duty service.

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending _____ my gross year to date pay is _____.

B. Determine your Gross Monthly Income.

Hourly Wage

	×		=	\$0.00	×	52	=	\$0.00	÷	12	=	\$0.00
Hourly Wage		Number of hours worked per week		Weekly Income		Weeks		Annual Income		Months		Gross Monthly Income

Annual Salary

\$142,201.84	÷	12	=	\$11,850.15
Annual Income		Months		Gross Monthly Income

C. Other Sources of Income.

Source of Income	Frequency	Amount	12 Month Average
Annuity or Trust Income			
Bonuses			
Car, Housing, or Other allowance:			
Commissions or Tips:			
Net Rental Income:			
Overtime Pay			
Pension/Retirement:			
Social Security Income (SSI):			
Social Security Disability (SSD):			
Spousal Support			
Child Support			
Workman's Compensation			
Other: Disability	Monthly	\$5,245.04	\$5,245.04
Total Average Other Income Received			\$5,245.04

Total Average Gross Monthly Income (add totals from B and C above)	\$17,095.19
--	-------------

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support (automatically deducted from paycheck)	1,317.00
2.	Federal Health Savings Plan	
3.	Federal Income Tax	575.52
4.	Health Insurance Amount for you: _____ For Opposing Party: _____ For your Child(ren): \$220.00	220.00
5.	Life, Disability, or Other Insurance Premiums	400.00
6.	Medicare	154.88
7.	Retirement, Pension, IRA, or 401(k)	450.00
8.	Savings	
9.	Social Security	662.22
10.	Union Dues	
11.	Other: (Type of Deduction) Disability Payments to Raina	856.29
Total Monthly Deductions (Lines 1-11)		4,635.91

Business/Self-Employment Income & Expense Schedule**A. Business Income:**

What is your average gross (pre-tax) monthly income/revenue from self-employment or businesses?
\$ 0.00

B. Business Expenses: Attach an additional page if needed.

Type of Business Expense	Frequency	Amount	12 Month Average
Advertising			
Car and truck used for business			
Commissions, wages or fees			
Business Entertainment/Travel			
Insurance			
Legal and professional			
Mortgage or Rent			
Pension and profit-sharing plans			
Repairs and maintenance			
Supplies			
Taxes and licenses (include est. tax payments)			
Utilities			
Other:			
Total Average Business Expenses			0.00

Personal Expense Schedule (Monthly)

A. Fill in the table with the amount of money you spend each month on the following expenses and check whether you pay the expense for you, for the other party, or for both of you.

Expense	Monthly Amount I Pay	For Me <input type="checkbox"/>	Other Party <input type="checkbox"/>	For Both <input type="checkbox"/>
Alimony/Spousal Support				
Auto Insurance	700.00			
Car Loan/Lease Payment	700.00			
Cell Phone	400.00			
Child Support (not deducted from pay)	246.00		<input checked="" type="checkbox"/>	
Clothing, Shoes, Etc...	1,000.00			
Credit Card Payments (minimum due)	3,000.00			
Dry Cleaning	35.00			
Electric	110.00			
Food (groceries & restaurants)	2,000.00			
Fuel	500.00			
Gas (for home)	120.00			
Health Insurance (not deducted from pay)				
HOA	75.00			
Home Insurance (if not included in mortgage)	200.00			
Home Phone				
Internet/Cable	290.00			
Lawn Care				
Membership Fees	35.00			
Mortgage/Rent/Lease	4,200.00			
Pest Control				
Pets	50.00			
Pool Service				
Property Taxes (if not included in mortgage)	383.00			
Security	100.00			
Sewer	50.00			
Student Loans				
Unreimbursed Medical Expense	300.00			
Water	200.00			
Other: Attorney's Fees	1,500.00			
Total Monthly Expenses	16,194.00			

Household Information

- A. Fill in the table below with the name and date of birth of each child, the person the child is living with, and whether the child is from this relationship. Attached a separate sheet if needed.

	Child's Name	Child's DOB	Whom is this child living with?	Is this child from this relationship?	Has this child been certified as special needs/disabled?
1 st	Nathan Martin	08/24/10	Raina	Yes	No
2 nd	Kaylie Chambers	04/07/04	Me	No	No
3 rd	Makahl Chambers	07/13/05	Me	No	No
4 th	Dylan Chambers	09/08/08	Me	No	No

- B. Fill in the table below with the amount of money you spend each month on the following expenses for each child.

Type of Expense	1 st Child	2 nd Child	3 rd Child	4 th Child
Cellular Phone		60.00	60.00	
Child Care				
Clothing	100.00	250.00	250.00	250.00
Education	75.00	125.00	125.00	125.00
Entertainment	150.00	150.00	150.00	150.00
Extracurricular & Sports	50.00	835.00	210.00	85.00
Health Insurance (if not deducted from pay)				
Summer Camp/Programs	100.00			
Transportation Costs for Visitation	200.00	100.00	100.00	100.00
Unreimbursed Medical Expenses		80.00		
Vehicle		135.00		
Other:				
Total Monthly Expenses	675.00	1,735.00	895.00	710.00

- C. Fill in the table below with the names, ages, and the amount of money contributed by all persons living in the home over the age of eighteen. If more than 4 adult household members attached a separate sheet.

Name	Age	Person's Relationship to You (i.e. sister, friend, cousin, etc...)	Monthly Contribution
Julie Martin	47	Wife	\$ 0.00

Personal Asset and Debt Chart

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line	Description of Asset and Debt Thereon	Gross Value	Total Amount Owed	Net Value	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.		\$	- \$	= \$ 0.00	
2.		\$	- \$	= \$ 0.00	
3.		\$	- \$	= \$ 0.00	
4.		\$	- \$	= \$ 0.00	
5.		\$	- \$	= \$ 0.00	
6.		\$	- \$	= \$ 0.00	
7.		\$	- \$	= \$ 0.00	
8.		\$	- \$	= \$ 0.00	
9.		\$	- \$	= \$ 0.00	
10.		\$	- \$	= \$ 0.00	
11.		\$	- \$	= \$ 0.00	
12.		\$	- \$	= \$ 0.00	
13.		\$	- \$	= \$ 0.00	
14.		\$	- \$	= \$ 0.00	
15.		\$	- \$	= \$ 0.00	
Total Value of Assets (add lines 1-15)		\$ 0.00	- \$ 0.00	= \$ 0.00	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line #	Description of Credit Card or Other Unsecured Debt	Total Amount owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Attorney's Fees	\$ 70,000.00	Erich Martin
2.	Loan	\$ 18,000.00	Erich Martin
3.	Credit Card	\$ 11,135.00	Erich Martin
4.	Car Loans	\$ 26,931.01	Erich Martin
5.	CPS Attorney Fees	\$ 5,000.00	Erich Martin
6.		\$	
Total Unsecured Debt (add lines 1-6)		\$ 131,066.01	

CERTIFICATION

Attorney Information: Complete the following sentences:

1. I (have/have not) have _____ retained an attorney for this case.
2. As of the date of today, the attorney has been paid a total of \$ 9000.00 on my behalf.
3. I have a credit with my attorney in the amount of \$ _____.
4. I currently owe my attorney a total of \$ 10,000.00.
5. I owe my prior attorney a total of \$ 3,500.00.

IMPORTANT: Read the following paragraphs carefully and initial each one.

EMM I swear or affirm under penalty of perjury that I have read and followed all instructions in completing this Financial Disclosure Form. I understand that, by my signature, I guarantee the truthfulness of the information on this Form. I also understand that if I knowingly make false statements I may be subject to punishment, including contempt of court.

EMM I have attached a copy of my 3 most recent pay stubs to this form.

N/A I have attached a copy of my most recent YTD income statement/P&L statement to this form, if self-employed.

N/A I have not attached a copy of my pay stubs to this form because I am currently unemployed.

/s/ Erich Matthew Martin
Signature

February 4th, 2021
Date

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **GENERAL FINANCIAL DISCLOSURE FORM** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 10th day of February, 2021. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

Richard L Crane	richard@willicklawgroup.com
Matthew H. Friedman, Esq.	mfriedman@fordfriedmanlaw.com
Justin Johnson	Justin@willicklawgroup.com
Tracy McAuliff	tracy@fordfriedmanlaw.com
Christopher B. Phillips, Esq.	cphillips@fordfriedmanlaw.com
Reception Reception	email@willicklawgroup.com
Gary Segal, Esq.	gsegal@fordfriedmanlaw.com
"Samira C. Knight, Esq. " .	Samira@tklawgroupnv.com
Samira Knight	Samira@TKLawgroupnv.com
Tarkanian Knight	Info@Tklawgroupnv.com

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A


An employee of Marquis Aurbach Coffing

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

CRSC PAY STATEMENT

STATEMENT EFFECTIVE DATE Nov 19, 2020		PAYMENT DATE DEC 01, 2020	SSN ***-**-3860
RETIREE'S NAME AND ADDRESS		HOW TO CONTACT US	
PLEASE REMEMBER TO NOTIFY DFAS IF YOUR ADDRESS CHANGES ERICH M MARTIN 19325 W 94TH AVE ARVADA CO 80007-0000 PAYMENT ADDRESS DIRECT DEPOSIT		Defense Finance and Accounting Service US Military Retirement Pay 8899 E 56th Street Indianapolis, IN 46249-1200 COMMERCIAL (216) 522-5955 TOLL FREE 1-800-321-1080 TOLL FREE FAX 1-800-469-6559 myPay https://myPay.dfas.mil	
PAYMENT INFORMATION		ENTITLEMENT INFORMATION	
CRSC Amount	2,363.96	CRSC Debt Balance	0.00
CRSC Debt Deduction	0.00	Branch of Military Service	ARMY
CRSC Garnishment Deduction	970.59	Garnishment Being Withheld	YES
CRSC Net Pay	1,393.37		
THE DVA OR YOUR BRANCH OF SERVICE PROVIDED THE FOLLOWING			
CRSC Special Monthly Compensation Code	00		
Unemployable	NO		
Combat Related Disability %	90		
Purple Heart %			
CRSC Start Date	SEP 01, 2019		
Special Monthly Compensation Start Date			
REMARKS			

CRSC PAY STATEMENT

STATEMENT EFFECTIVE DATE Dec 11, 2020		PAYMENT DATE DEC 31, 2020	SSN ***-**-3860
RETIREE'S NAME AND ADDRESS		HOW TO CONTACT US	
<p>PLEASE REMEMBER TO NOTIFY DFAS IF YOUR ADDRESS CHANGES</p> <p>ERICH M MARTIN 19325 W 94TH AVE ARVADA CO 80007-0000</p> <p>PAYMENT ADDRESS DIRECT DEPOSIT</p>		<p>Defense Finance and Accounting Service US Military Retirement Pay 8899 E 56th Street Indianapolis, IN 46249-1200</p> <p>COMMERCIAL (216) 522-5955 TOLL FREE 1-800-321-1080 TOLL FREE FAX 1-800-489-6569</p> <p>myPay https://myPay.dfas.mil</p>	
PAYMENT INFORMATION		ENTITLEMENT INFORMATION	
<p>CRSC Amount 2,394.18</p> <p>CRSC Debt Deduction 0.00</p> <p>CRSC Garnishment Deduction 972.71</p> <p>CRSC Net Pay 1,421.47</p>		<p>CRSC Debt Balance 0.00</p> <p>Branch of Military Service ARMY</p> <p>Garnishment Being Withheld YES</p>	
THE DVA OR YOUR BRANCH OF SERVICE PROVIDED THE FOLLOWING			
CRSC Special Monthly Compensation Code		00	
Unemployable		NO	
DVA Disability %		100	
Combat Related Disability %		90	
Purple Heart %			
CRSC Start Date		SEP 01, 2019	
Special Monthly Compensation Start Date			
REMARKS			

CRSC PAY STATEMENT

STATEMENT EFFECTIVE DATE Jan 21, 2021		PAYMENT DATE FEB 01, 2021	SSN ***-**-3860
RETIREE'S NAME AND ADDRESS		HOW TO CONTACT US	
<p>PLEASE REMEMBER TO NOTIFY DFAS IF YOUR ADDRESS CHANGES</p> <p>ERICH M MARTIN 19325 W 84TH AVE ARVADA CO 80007-0000</p> <p>PAYMENT ADDRESS DIRECT DEPOSIT</p>		<p>Defense Finance and Accounting Service US Military Retirement Pay 8899 E 56th Street Indianapolis, IN 46249-1200</p> <p>COMMERCIAL (216) 522-5955 TOLL FREE 1-800-321-1080 TOLL FREE FAX 1-800-469-6559</p> <p>myPay https://myPay.dfas.mil</p>	
PAYMENT INFORMATION		ENTITLEMENT INFORMATION	
CRSC Amount	2,394.18	CRSC Debt Balance	0.00
CRSC Debt Deduction	0.00	Branch of Military Service	ARMY
CRSC Garnishment Deduction	972.71	Garnishment Being Withheld	YES
CRSC Net Pay	1,421.47		
THE DVA OR YOUR BRANCH OF SERVICE PROVIDED THE FOLLOWING			
CRSC Special Monthly Compensation Code	00		
Unemployable	NO		
DVA Disability %	100		
Combat Related Disability %	90		
Purple Heart %			
CRSC Start Date	SEP 01, 2019		
Special Monthly Compensation Start Date			
REMARKS			



DEPARTMENT OF VETERANS AFFAIRS
810 Vermont Ave NW
Washington, D.C. 20420

February 04, 2021

Erich Matthew Martin
19325 W 94th Ave
Arvada, CO 80007

In Reply Refer to:
xxx-xx-3860
27/eBenefits

Dear Mr. Martin:

This letter is a summary of benefits you currently receive from the Department of Veterans Affairs (VA). We are providing this letter to disabled Veterans to use in applying for benefits such as state or local property or vehicle tax relief, civil service preference, to obtain housing entitlements, free or reduced state park annual memberships, or any other program or entitlement in which verification of VA benefits is required. Please safeguard this important document. This letter is considered an official record of your VA entitlement.

Our records contain the following information:

Personal Claim Information

Your VA claim number is: xxx-xx-3860

You are the Veteran.

Military Information

Your most recent, verified periods of service (up to three) include:

Branch of Service	Character of Service	Entered Active Duty	Released/Discharged
Army	Honorable	July 13, 1999	July 31, 2019

(There may be additional periods of service not listed above.)

VA Benefit Information

You have one or more service-connected disabilities:	Yes
Your combined service-connected evaluation is:	100%
Your current monthly award amount is:	\$3823.57
The effective date of the last change to your current award was:	December 01, 2020
You are considered to be totally and permanently disabled due solely to your service-connected disabilities:	Yes
The effective date of when you became totally and permanently disabled due to your service-connected disabilities:	August 01, 2019

RA001881

You should contact your state or local office of Veterans' affairs for information on any tax, license, or fee-related benefits for which you may be eligible. State offices of Veterans' affairs are available at <http://www.va.gov/statedva.htm>.

How You Can Contact Us

- If you need general information about benefits and eligibility, please visit us at <https://www.ebenefits.va.gov> or <http://www.va.gov>.
- Call us at 1-800-827-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 1-800-829-4833.
- Ask a question on the Internet at <https://iris.custhelp.va.gov>.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl J Rawls".

Cheryl J Rawls
Assistant Deputy Under Secretary for Field Operations
Office of Outreach and Stakeholder Engagement

Earnings Statement

Advice Date: 12/31/2020
Advice Number: 0048589292
Batch Number: 000000006081

ERICH MARTIN
10325 W 94TH AVE
ARVADA CO 80007

Earnings	Units	Amount
Regular Wages	80.00	5,310.00

Tax Deductions: Federal	
Withholding Tax	278.61-
EE Social Security Tax	328.54-
EE Medicare Tax	76.83-

Tax Deductions: Colorado	
Withholding Tax	219.00-
Additional Deductions	
Spouse Life Insurance	1.89-
*Medical EE pre-tax	265.50-
*Vision EE pre-tax	141.60-

Total Net Pay	3,998.03
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Payment Method	Amount
Direct Deposit	3,998.03

Your federal taxable wages 4,902.90

***Excluded from Federal Taxable Wages**

PO BOX 200000
DENVER CO 80200
Cost Center: 16208200

Earnings Statement

Advice Date: 01/15/2021
Advice Number: 0049389330
Batch Number: 000000006132

ERICH MARTIN
19325 W 94TH AVE
ARVADA CO 80007

Earnings	Units	Amount	Payment Method	Amount
Regular Wages	80.00	5,310.00	Direct Deposit	3,998.03
Tax Deductions: Federal			Your federal taxable wages	4,902.90
Withholding Tax		278.61-	*Excluded from Federal Taxable Wages	
EE Social Security Tax		328.54-		
EE Medicare Tax		76.83-		
Tax Deductions: Colorado				
Withholding Tax		219.00-		
Additional Deductions				
Spouse Life Insurance		1.89-		
*Medical EE pre-tax		265.50-		
*Vision EE pre-tax		141.60-		
Total Net Pay		3,998.03		

2021 National Defense Annual Compensation Statement

January 15, 2021

Erich Martin
Manager

Dear Erich,

Our total rewards strategy is designed to attract and retain high performing talent with a philosophy of setting compensation based on an individual's skills, experience, contribution, prevailing market and economic conditions, and internal equity.

As a result of the recent Annual Compensation Review, your annualized Salary will be increased to \$142,201.80 effective January 29, 2021.

Sincerely,



Jeff Kirtland
Sr. Mgr.

NO. 00000000000000000000
KUBARK 10000000000000000000
Cost Center: 16200200

Earnings Statement

Advice Date: 01/29/2021
Advice Number: 0050739791
Batch Number: 000000006173

ERICH MARTIN
19325 W 94TH AVE
ARVADA CO 80007

Earnings	Units	Amount
Regular Wages	80.00	5,925.07
Tax Deductions: Federal		
Withholding Tax		513.38-
EE Social Security Tax		546.39-
EE Medicare Tax		99.08-
Tax Deductions: Colorado		
Withholding Tax		226.00-
Additional Deductions		
Spouse Life Insurance		1.89-
*Medical EE pre-tax		265.50-
*Vision EE pre-tax		141.60-
Total Net Pay		4,131.23

Payment Method	Amount
Direct Deposit	4,131.23

Your federal taxable wages 5,517.97
*Excluded from Federal Taxable Wages

Kathleen A. Wilde

From: Erich Martin <emartin2617@gmail.com>
Sent: Wednesday, February 10, 2021 1:02 PM
To: Kathleen A. Wilde
Subject: Re: [External] Motion for voluntary increase of child support and updated financial disclosure form [IWOV-iManage.FID1122036]
Attachments: image001.jpg

Kathleen,

I concur with these documents and ask that you sign and file on my behalf, please.

Respectfully,

Erich

On Wed, Feb 10, 2021, 12:12 PM Kathleen A. Wilde <kwilde@maclaw.com> wrote:

My office is getting ready to finalize the motion for voluntary increase of child support and related relief. Since the motion involves financial issues, we will also file the February 4, 2021, Financial Disclosure Form that you prepared. Please double-check both items for accuracy and let me know if you have any changes.



Kathleen A. Wilde, Esq.

10001 Park Run Drive

Las Vegas, NV 89145

t | 702.207.6065

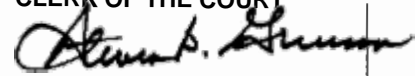
f | 702.382.5816

kwilde@maclaw.com

maclaw.com

209

209



Marquis Aurbach Coffing
Chad F. Clement, Esq.
Nevada Bar No. 12192
Kathleen A. Wilde, Esq.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
cclement@maclaw.com
kwilde@maclaw.com
Attorneys for Erich M. Martin

DISTRICT COURT—FAMILY DIVISION

CLARK COUNTY, NEVADA

Erich M. Martin,

Plaintiff,

Case No.: D-15-509045-D

Dept. No.: Q

vs.

**** Hearing Requested ****

Raina L. Martin,

Defendant.

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT PRIOR TO THE SCHEDULED HEARING DATE.

**MOTION FOR VOLUNTARY INCREASE OF CHILD SUPPORT,
DISCONTINUATION OF DISCOVERY, AND ATTORNEY'S FEES**

Plaintiff Erich M. Martin ("Erich"), by and through his attorneys of record, Chad F. Clement, Esq. and Kathleen A. Wilde, Esq., of the law firm Marquis Aurbach Coffing, hereby files the instant Motion for Voluntary Increase of Child Support, Discontinuation of Discovery, and Attorney's Fees ("Motion").

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1 This Motion is made and based upon the pleadings and papers on file herein, the
2 following points and authorities, and any argument allowed by the Court at the time of hearing.

3 Dated this 10th day of February, 2021.

4 MARQUIS AURBACH COFFING

5 By: /s/ Kathleen A. Wilde

6 Chad F. Clement, Esq.
7 Nevada Bar No. 12192
8 Kathleen A. Wilde, Esq.
9 Nevada Bar No. 12522
10 10001 Park Run Drive
11 Las Vegas, Nevada 89145
12 Attorneys for Erich M. Martin

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 **I. INTRODUCTION**

15 In the last three months, Erich's gross monthly income has been tumultuous. In early
16 December 2020, the Department of Veterans Affairs sent Erich a letter indicating that his
17 benefits would be reduced and that previously issued payments would be garnished. After Erich
18 questioned the change, the Department sent a letter on January 25, 2021, indicating that its
19 previous determination was made in error. Accordingly, his benefits should be reinstated with
20 the 1.3% cost of living adjustment that went into effect in December 2020. At the end of
21 January, Erich also received a raise following an "Annual Compensation Review" at his job.¹
22 So, Erich's gross monthly income has, happily, increased since the January 12, 2021, hearing
23 when the Court set an updated child support obligation.

24 Erich intends to pay child support on the basis of his updated gross monthly income.
25 Although the increase should be agreeable to everyone involved, Raina Martin ("Raina")²
26 *rejected* a proposed stipulation because Erich did not agree to pay more of her attorney fees.
27 Within minutes of rejecting the stipulation, Raina also served Erich with three sets of written

28 ¹ See **Exhibit 1**, letter from Jeff Kirtland.

² As noted in other filings, no disrespect is meant by referring to the parties by their first names. Instead, given that most of the parties have the last name Martin, it is simply less confusing to use first names.

1 discovery requests aimed at proving that Erich “lied” in his filings.

2 Erich maintains that prolonged, contentious discovery benefits no one, especially in light
3 of his willingness to pay increased child support. Accordingly, the dual purpose of the instant
4 motion is to (1) update Erich’s child support obligation to reflect his current gross monthly
5 income and (2) put an end to Raina’s needless fishing expedition. As an added deterrent to
6 senseless waste, Erich also seeks a modest award of attorney’s fees if Raina continues to advance
7 discovery and/or litigation regarding child support.

8 **II. RELEVANT FACTS AND PROCEDURAL HISTORY**

9 On November 5, 2015, the Court signed a Decree of Divorce (the “Decree”) which
10 granted a divorce on the basis of irreconcilable differences. The Decree provided, in relevant
11 part, that the parties will share legal custody of their minor son, Nathan, though Raina has
12 primary physical custody of Nathan.

13 As the non-custodial parent, Erich is indisputably obligated to pay child support.
14 Recently, in November 2020, Raina moved the Court to increase child support based on changes
15 to Erich’s income. Although Raina’s motion included allegations that were objectionable, Erich
16 agreed that an increase in child support was appropriate. Along with his response to Raina’s
17 motion, Erich submitted a Financial Disclosure Form which listed his gross income as
18 \$12,983.96 (\$10,620 for Erich’s salary and \$2,363.96 for combat related special compensation
19 (“CRSC”).

20 The gross income listed in Erich’s December 2020 Financial Disclosure Form was
21 notably lower than the income listed in his June 2020 Financial Disclosure Form. Although
22 Raina and her counsel insisted the decrease was the product of dishonesty, the difference was
23 attributable to four things. First, because the motion practice centered on child support, Erich did
24 not include the income that his new wife, Julie, contributes to the family. Second, Erich’s June
25 2020 Form was prepared without the assistance of counsel and includes obvious typos / errors.
26 Third, the income listed for Erich’s employment switched from an hourly calculation to a salary-
27 based calculation. Fourth, and most importantly, Erich learned in early December 2020 that the
28 Department of Veterans Affairs had deemed him ineligible to receive certain benefits and would

1 be moving forward with a garnishment of previously distributed benefits. See letter dated
2 December 4, 2020, attached hereto as **Exhibit 2**.

3 During a hearing on January 12, 2021, the Court entertained argument regarding Erich's
4 gross monthly income. Based on the documentation before it, the Court calculated child support
5 based on a gross monthly income of \$13,022.16 for a total of \$1,317.00 per month effective
6 December 2020. In light of Mr. Crane's representations regarding CRSC pay and veteran's
7 disability benefits, the Court also granted Raina's verbal request for discovery regarding "the VA
8 Disability Pay issue." A written order followed on January 26, 2021, with notice of entry on
9 January 28, 2021.

10 After the hearing, both parties began investigating Erich's disability benefits. On January
11 15, 2021, Raina filed a Notice of Intent to Serve Subpoena Duces Tecum which included an
12 exhaustive request for records from the Department of Veterans Affairs. Specifically, the
13 subpoena requested:

- 14 1. Any and all records pertaining to Mr. Erich Martin's rated disability and any benefits he is receiving as a result
15 of a Veterans Administration disability. Actual medical records do not have to be produced as a result of this
16 request.
- 17 2. Please provide an accounting of payments made from the Veterans Administration to Mr. Erich Martin from
18 the date he was deemed eligible for disability payments through January 1, 2021.
- 19 3. Please include an affidavit or declaration from the custodian of records attesting to the accuracy of the
20 information provided and that the produced documents are a complete and accurate copy of those in the
21 official file of Erich Martin.
- 22 4. Any other information not detailed above affecting the amount of Erich Martin's disability pay from the
23 Veterans Administration.

24 Erich also contacted the Department. On January 25, 2021, the Department of Veterans
25 Affairs sent a letter to Erich in response to his inquiry. In the letter, the Department conveyed
26 that the reduction in his benefits was an error:

27 This is an update that we have corrected an error made by the Debt Management the office of
28 Veterans' affairs. Your monetary compensation has been appropriately updated and amended
with the backdate of January 01, 2021 per our accounting office. Please see the enclosure for
the information regarding this matter.

See **Exhibit 3**.

1 On January 28, 2021, Erich's counsel electronically served Raina's counsel with a copy
2 of the letter and an offer to stipulate to increased child support of \$1,515 per month. *See Exhibit*
3 *4*. In an effort to promote efficiency, counsel also included a proposed stipulation and order
4 which would address the issue at minimal cost to the parties.

5 On February 1, 2021, Raina's counsel rejected the proposed stipulation. *See Exhibit 5*.
6 Literally two minutes after doing so, Raina then served Erich with three sets of written discovery
7 requests, which included thirty-three requests for admission, seven interrogatories, and seven
8 requests for production of documents. Many of the written discovery requests well exceed the
9 scope of discovery allowed in the Order from the January 12, 2021, hearing. For example, the
10 requests for production of documents requested "all proof of income statements provided to the
11 mortgage lender that financed your most recent home purchase." In addition, the interrogatories
12 sought exhaustive, confidential information regarding *all* of Erich's accounts (including joint
13 accounts) at financial institutions, including:

- 14 (a) The name and address of the bank or financial institution;
- 15 (b) The account number;
- 16 (c) The date the account was opened;
- 17 (d) The date the account was closed (if appropriate);
- 18 (e) The name the account is held under;
- 19 (f) The source of monies placed in the account; and

20
21 The discovery requests also duplicated the information stated in Erich's Financial Disclosure
22 Forms as well as the information that was requested directly from the Department of Veterans
23 Affairs.

24 Because child support is a statutory, straight-forward matter, the instant motion seeks a
25 voluntary increase of support so the parties do not need to embark on a cost – and pointless –
26 discovery expedition.

27 ///

28 ///

III. STATEMENT REGARDING EDCR 5.501

As stated in Erich's December 10, 2020, Opposition / Counter-motion, Erich and his counsel firmly believe in approaching issues with courtesy, professionalism, and common-sense. To this end, the January 28, 2021, letter with corresponding stipulation attempted to address and resolve the concerns that Raina raised regarding Erich's gross income.

Unfortunately, Raina's February 1, 2021, response conveyed that Raina and/or her counsel are more concerned with vindictiveness and attorney's fees.

Nevertheless, before filing the instant motion, Erich's counsel reached out to Raina's counsel to encourage a private resolution. Again, these efforts were not fruitful. Although Raina's counsel acknowledged "we can see how you came up with your numbers," counsel maintained that the documentation regarding Erich's gross income from insufficient.

IV. LEGAL ARGUMENT

A. **CHILD SUPPORT SHOULD BE ORDERED IN AN UPDATED AMOUNT OF \$1,529.99 PER MONTH.**

Under NAC 425.140, child support is calculated on the basis of the non-custodial parent's gross income. Gross income is defined broadly in NAC 425.025 to include wages as well as veterans' benefits. In this case, Erich's gross monthly income is **\$17,095.19** (\$11,850.15 salary and \$5,245.04 disability/CRSC).³ In calculating child support, however, the applicable number is actually **\$16,249.76** because of the \$845.43⁴ that Erich must pay to Raina each month for "indemnification."

Based on Erich's gross monthly income, his baseline support obligation is as follows:

- 16% of the first \$6,000 = \$960.00
- 8% of the next \$4,000 = \$320.00
- 4% of the last \$6,249.76 = \$249.99

³ See February 10, 2021, Financial Disclosure Form, on file herein.

⁴ Technically, the indemnification payment increased to \$856.29 after January 2021 because of Erich's cost of living adjustment. Because \$1,529.99 is the number Erich used in his proposed stipulation, the technical difference of 43 cents (\$10.86 x 4%) is not worth the potential for confusion.

1 For a total of **\$1,529.99**. See NAC 425.140(1).

2 Thus, while the Court's previous child support calculation was accurate in light of the
3 gross income that applied in January 2021, Erich submits that the correct amount beginning in
4 February 2021 is \$1,529.99. And, because the parties were unable to reach a stipulation
5 regarding child support, Erich submits that the Court should enter an order for the updated
6 amount to ensure that Nathan receives the support to which he is entitled.

7 **B. DISCOVERY REGARDING "THE VA DISABILITY PAY ISSUE" OR**
8 **OTHER ASPECTS OF ERICH'S INCOME IS UNNECESSARY.**

9 Courts have inherent authority to amend, correct, reconsider or rescind previous orders.
10 See, e.g., *Tener v. Babcock*, 97 Nev. 369, 370, 632 P.2d 1140, 1140 (1981); *Trail v. Faretto*, 91
11 Nev. 401, 403, 536 P.2d 1026, 1027 (1975); see also EDCR 2.24; *Sussex v. Turnberry/MGM*
12 *Grand Towers, LLC*, 2011 WL 4346346, at *2 (D. Nev. Sept. 15, 2011) (opining that the Court
13 has "inherent procedural power to reconsider, rescind, or modify an interlocutory order for cause
14 seen by it to be sufficient"). It is also well-established that courts have significant discovery
15 when it comes to discovery. See, e.g., *Club Vista Fin. Servs. v. Eighth Judicial Dist. Court*, 128
16 Nev. 224, 228, 276 P.3d 246, 249 (2012); *Maheu v. Eighth Judicial District Court*, 88 Nev. 26,
17 43, 493 P.2d 709, 719 (1972).

18 Here, the Court was warranted in allowing discovery due to the parties' disagreement
19 regarding Erich's veterans' benefits. Indeed, Erich did not oppose Raina's verbal request for
20 discovery during the January 12, 2021, hearing because Mr. Crane made a valid point that CRSC
21 and VA disability benefits typically are interconnected.

22 Discovery is no longer needed, however, because Erich proposed stipulated child support
23 in an amount *greater* than what Raina requested in November 18, 2020, motion.⁵ Although the
24 Court did *not* order discovery regarding Erich's salary, the instant motion even *volunteers* a
25 greater monthly obligation which reflects the raise that Erich received effective January 29,

26
27 ⁵ It is telling that Raina requested \$1,512.88 whereas Erich calculated an updated obligation of \$1,515.00.
28 After all, a difference of less than \$3 suggests that the source of the parties' disagreement – namely, the
amount of VA benefits – has been fully addressed.

1 2021. Because child support is statutory, a correct calculation requires only application of NAC
2 425.140(1) to Erich's gross monthly income. In turn, Erich's current gross income is supported
3 by the pay stubs and other documentation attached to his February 2021 Financial Disclosure
4 Form. As such, there is no colorable reason for the parties to expend resources on prolonged
5 discovery.

6 Erich anticipates that Raina will advance the same two arguments from her February 1,
7 2021 letter. Neither argument has merit.

8 With respect to Erich's alleged dishonesty, the January 25, 2021, letter from the
9 Department of Veterans Affairs cleared up any questions regarding "VA Disability Pay issue."
10 Indeed, while it is unclear how or why the mistake occurred, the January 25, 2021, letter coupled
11 with the December 4, 2020, letter confirms that the issue was not attributable to Erich. Instead,
12 the Department of Veterans Affairs simply made a mistake, as is, unfortunately, fairly common
13 for the Department.

14 Concerns as to "dishonesty" also do not warrant the fishing expedition that Raina seeks.
15 After all, the goal of the permitted discovery was simply to resolve the "VA Disability Pay
16 issue." This goal was accomplished when the Department corrected its error. Accordingly,
17 revisiting over a year's worth of disclosures and all aspects of Erich's finances with the hope of
18 achieving a Perry Mason moment has little to do with ensuring that proper child support is paid.

19 Raina's point regarding attorney's fees is also puzzling. Presumably, her goal is to
20 recover the attorney's fees incurred in motion practice relating to child support. But rather than
21 entering into a stipulation that would put an end to the attorney's fees, Raina apparently wants to
22 incur *more* fees by conducting exhaustive discovery and filing *another* motion regarding child
23 support. In other words, Raina is chasing the attorney fees that were denied in the Court's order
24 from the January 12, 2021, hearing by racking up significantly greater attorney fees.
25 Alternatively, perhaps Raina's goal is simply to increase the fees that Erich must pay his counsel
26 without regard for the cost to herself?

27 Regardless of the motive, racking up attorneys' fees and costs through continued
28 discovery is senseless. As demonstrated above, the controversy which necessitated discovery

1 has now been resolved. Although nit-picking or wasting an ex-spouse's resources may be
2 cathartic to some, such practices are incompatible with the behavior that is expected in court
3 proceedings (and civilized life in general). And, to make matters worse, the pending discovery
4 requests from Raina are likely to lead to even more disagreement, motion practice, and wasted
5 resources.

6 Thus, the discovery allowed in the order from the January 12, 2021, hearing should be
7 discontinued. In the event outstanding discovery requests are pending when the Court considers
8 this matter, responses to such requests should also be excused.

9 **C. ATTORNEY'S FEES ARE WARRANTED IF RAINA CONTINUES TO**
10 **PURSUE NEEDLESS DISCOVERY AND LITIGATION.**

11 Family Courts in the Eighth Judicial District Court have discretion to award attorney's
12 fees pursuant to NRS 125.040, NRS 18.010, and EDCR 7.60. Under NRS 125.040(c), the Court
13 has significant discretion to "require either party to pay moneys necessary to assist the other
14 party in "carry[ing] on or defend[ing] such suit." NRS 125.040 is generally a need based,
15 discretionary standard that centers on the parties' respective circumstances. By contrast, NRS
16 18.010(2) and EDCR 7.60 sanction groundless, frivolous, or vexatious litigation that needlessly
17 wastes the Court's limited resources. *See Bower v. Harrah's Laughlin, Inc.*, 125 Nev. 470, 493,
18 215 P.3d 709, 726 (2009); *see also In re 12067 Oakland Hills, Las Vegas, Nevada 89141*, 134
19 Nev. 799, 804, 435 P.3d 672, 677 (Nev. Ct. App. 2018); *Bobby Berosini, Ltd. v. People for the*
20 *Ethical Treatment of Animals*, 114 Nev. 1348, 1354, 971 P.2d 383, 387 (1998)).

21 Here, during EDCR 5.505 discussions, Raina indicated that she will request attorney's
22 fees in responding to the instant motion. Erich has little reason to doubt this representation since
23 Raina typically includes a request for attorney's fees with all of her filings. In an attempt to get
24 ahead of this issue, Erich respectfully submits that attorney's fees should be awarded to him if
25 any fees are awarded at all.

26 After all, the entire discussion regarding increased child support began when Raina filed
27 a motion without even attempting to meet and confer regarding the issue. Although Erich has
28 never opposed paying the child support that is due under the law, Raina endeavored to create a

1 controversy by tacking on a request for attorney's fees and untrue "behavioral concerns" that did
2 not warrant the Court's attention. Then, after Erich got to the bottom of the "VA Disability Pay
3 issue," Raina rejected the stipulation which proposed child support in an amount *greater* than
4 what Raina originally proposed. In doing so, Raina cited to her ongoing desire to charge Erich
5 for her attorney fees.

6 To make matters worse, Raina propounded discovery requests that do little to address the
7 "VA Disability Pay issue." Aside from requests that were wholly off-topic, the requests seek
8 information that is duplicative of the comprehensive subpoena that the Department of Veterans
9 Affairs already acknowledged. The combative tone of the discovery requests, like the February
10 1, 2021, letter from counsel, also conveys that Raina's motives are purely punitive and not
11 intended to resolve a legitimate dispute. Accordingly, in the event Raina continues to push for
12 needless discovery and litigation, an award of Erich's attorney fees is appropriate under NRS
13 125.040, NRS 18.010, and EDCR 7.60.

14 With respect to the financial considerations that the Court must assess under *Miller v.*
15 *Wilfong*, 121 Nev. 619, 623-24, 119 P.3d 727, 730 (2005), the exponential increase in litigation
16 coupled with monies due to Raina (both individually and for Nathan) account for a significant
17 portion of Erich's income. Indeed, while Erich is more fortunate than many people, Erich
18 continues to suffer from serious health issues and is the main provider for his family of five. As
19 the Court is aware, Erich is also responsible for the following:

- 20 • Child support - \$1,317 a month, with a likely increase to \$1,500+ a month;
- 21 • Fees pendente lite to Raina - \$5,000;
- 22 • Six months' arrears to be fully deposited by November 2021 - \$5,918.01;
- 23 • Monthly indemnification to Raina - \$845.43 every month with a 1.3% cost of living
24 increase that became effective January 2021;
- 25 • Outstanding attorneys' fees for Marquis Aurbach Coffing - \$17,500.

26 Accordingly, an award of fees is warranted to combat the expenses of needless litigation so that
27 Erich is afforded his day in court without total destruction of his already precarious finances.
28 *See Sargeant v. Sargeant*, 88 Nev. 223, 227, 495 P.2d 618, 621 (1972) (stating that parties in a

1 divorce action should "be afforded [their] day in court without destroying [their] financial
2 position" and that they "should be able to meet [their] adversary in the courtroom on an equal
3 basis").

4 Further, while the *Brunzell* factors are less than ideal for an ongoing family law dispute,
5 the qualities of Erich's counsel, their reasonable hourly rates, and the work actually performed
6 easily support an award of fees. See *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455
7 P.2d 31, 33 (1969). Although supplemental briefing with counsel's declaration and attorney fee
8 invoices would be necessary to accurately address the work done and the result, defending
9 against unreasonable demands and excessive discovery is important, time-intensive work.

10 Thus, if attorney's fees are an inevitable part of all proceedings before the Court -- as
11 Raina seemingly maintains -- Erich sees no reason why he should not recover reasonable fees for
12 the prolonged, needless litigation of a straight-forward child support assessment. And, to this
13 end, this Court should exercise its discretion to award attorney's fees to Erich in the event that
14 Raina continues to waste everyone's time and resources.

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1 **V. CONCLUSION**

2 For the foregoing reasons, Erich submits that child support should be set at \$1,529.99
3 beginning in February 2021. Because there is no longer a colorable dispute regarding the VA
4 Disability Pay issue, the Court should also rescind its previous order allowing limited discovery.
5 In the event of continued discovery and/or litigation regarding child support, the Court should
6 also consider granting a modest award of attorney's fees to Erich to compensate him for the
7 needless waste of resources.

8 Dated this 10th day of February, 2021.

9
10 MARQUIS AURBACH COFFING

11 By /s/ Kathleen A. Wilde

12 Chad F. Clement, Esq.
13 Nevada Bar No. 12192
14 Kathleen A. Wilde, Esq.
15 Nevada Bar No. 12522
16 10001 Park Run Drive
17 Las Vegas, Nevada 89145
18 Attorneys for Erich M. Martin


CERTIFICATE OF SERVICE

I hereby certify that the foregoing **MOTION FOR VOLUNTARY INCREASE OF CHILD SUPPORT, DISCONTINUATION OF DISCOVERY, AND ATTORNEY'S FEES** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 10th day of February, 2021. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:⁶

Richard L Crane	richard@willicklawgroup.com
Matthew H. Friedman, Esq.	mfriedman@fordfriedmanlaw.com
Justin Johnson	Justin@willicklawgroup.com
Tracy McAuliff	tracy@fordfriedmanlaw.com
Christopher B. Phillips, Esq.	cphillips@fordfriedmanlaw.com
Reception	email@willicklawgroup.com
Gary Segal, Esq.	gsegal@fordfriedmanlaw.com
"Samira C. Knight, Esq." .	Samira@tklawgroupnv.com
Samira Knight	Samira@TKLawgroupnv.com
Tarkanian Knight	Info@Tklawgroupnv.com

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A


An employee of Marquis Aurbach Coffing

⁶ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

Exhibit 1

2021 National Defense Annual Compensation Statement

January 15, 2021

Erich Martin
Manager

Dear Erich,

Our total rewards strategy is designed to attract and retain high performing talent with a philosophy of setting compensation based on an individual's skills, experience, contribution, prevailing market and economic conditions, and internal equity.

As a result of the recent Annual Compensation Review, your annualized Salary will be increased to \$142,201.80 effective January 29, 2021.

Sincerely,



Jeff Kirtland
Sr. Mgr.

Exhibit 2



**Department of
Veterans Affairs**

PO BOX 25126
DENVER CO 80225

December 04, 2020

In Reply Refer To:

File Number: 3860
E M MARTI

Erich Martin
19325 W 94th Ave
Arvada, CO 80007

This is a notification to you that our records indicate you are no longer eligible to receive monetary compensation from the office of Veterans' affairs. This is based on your election to participate in the Combat Related Special Compensation (CRSC) program. We have notified the Defense Finance and Accounting Services (DFAS) to begin garnishment of previous payment. Future payments of \$3774.50 will be suspended as per our accounting office.

DEPARTMENT OF VETERANS AFFAIRS

Exhibit 3



PO BOX 25126
DENVER CO 80225

January 25, 2021

In Reply Refer To:

File Number: 3860

E M MARTI

Erich Martin
19325 W 94th Ave
Arvada, CO 80007

This is an update that we have corrected an error made by the Debt Management the office of Veterans' affairs. Your monetary compensation has been appropriately updated and amended with the backdate of January 01, 2021 per our accounting office. Please see the enclosure for the information regarding this matter.

DEPARTMENT OF VETERANS AFFAIRS

Enclosures
IRIS VA Reply

VA FORM
MAY 2010 22-8335a

RA001906



Recently you requested assistance from VA. Below is our response.

Thank you for allowing us to be of service to you.

Response By Dept of Veterans Affairs (01/25/2021)

Dear Mr. Erich Martin

This is in response to your inquiry to the Department of Veterans Affairs (VA) dated January 22, 2021.

Thank you for your service to our country.

Debt Management incorrectly sent out correspondence on December 03, 2020. We apologize for the inconvenience this may have caused. You do not have any processes with regards to any debts, currently. That may change, however, please liaise with DFAS for further information about service-related debts.

If you are receiving military (active duty) pay, military retirement pay, or SBP (Survivors Benefits Plan) payments, please contact Defense Finance and Accounting Service (DFAS). DFAS provides the payment of these benefits for current and retired U.S. Armed Forces servicemembers and their survivors. The following web site will provide you the information necessary to contact DFAS: <http://www.dfas.mil/customerservice.html>

DFAS Contact Information:

(800) 321-1080 to speak with a customer service representative; or

(888) 332-7411 (for myPay account assistance)

The DFAS website home page is located at: <http://www.dfas.mil/>

The mailing addresses and fax numbers for DFAS annuitant pay and retired pay are located at: <http://www.dfas.mil/retiredmilitary/about/aboutus/customer-service.html>

The mailing address for DFAS Annuitant Pay is:

Defense Finance and Accounting Service

U.S. Military Annuitant Pay

8899 E 56th Street

RA001907

Indianapolis IN 46249-1300

Annuitant Pay Fax: 800-982-8459

The mailing address for DFAS Retired Pay is:

Defense Finance and Accounting Service

U.S. Military Retired Pay

8899 E 56th Street

Indianapolis IN 46249-1200

Retired Pay Fax: 800-469-6559

Thank you for contacting us. If you have questions or need additional help with the information in our reply, please respond to this message or see our other contact information below.

National Inquiry Response Center

MC

How to Contact VA:

Online:

www.va.gov

By phone:

(800) 827-1000

(844) MyVA311 (698-2311)

Telecommunications Device for the Deaf (TDD) 711

By mail:

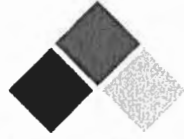
Department of Veterans Affairs

Claims Intake Center

PO Box 5235

Janesville, WI 53547-5235

Exhibit 4



MARQUIS AURBACH
COFFING

DIRECT LINE: (702) 207-6065
DIRECT FAX: (702) 382-5816
EMAIL: KWILDE@MACLAW.COM

ALBERT G. MARQUIS
PHILLIP S. AURBACH
AVECE M. HIGBEE
TERRY A. COFFING
SCOTT A. MARQUIS
JACK CHEN MIN JUAN
CRAIG R. ANDERSON
TERRY A. MOORE
GERALDINE TOMICH
NICHOLAS D. CROSBY
TYE S. HANSEEN
DAVID G. ALLEMAN
CODY S. MOUNTEER
CHAD F. CLEMENT
CHRISTIAN T. BALDUCCI

JARED M. MOSER
MICHAEL D. MAUPIN
KATHLEEN A. WILDE
JACKIE V. NICHOLS
RACHEL S. TYGRET
JORDAN B. PEEL
JAMES A. BECKSTROM
COLLIN M. JAYNE
ALEXANDER K. CALAWAY
SUSAN E. GILLESPIE

JOHN M. SACCO [RET.]
LANCE C. EARL
WILLIAM P. WRIGHT
BRIAN R. HARDY
JENNIFER L. MICHELI
OF COUNSEL

January 28, 2021

Via electronic service

Richard L. Crane, Esq.
Willick Law Group
359 E. Bonanza Road, Suite 200
Las Vegas, NV 89110

Re: Updated VA Compensation and child support calculation
Erich Martin v. Raina Martin; Case No. D-15-509045-D
Our File No. 16211-1

Dear Mr. Crane:

On January 12, 2021, counsel appeared before Judge Duckworth to address Mr. Martin's updated child support obligations. During that hearing, you were particularly skeptical of Mr. Martin's representations that his CRSC / disability benefits had been reduced. The Court accepted, however, that \$13,022.16 is an accurate gross monthly income for purposes of calculating child support.

Despite the nasty allegations directed toward my colleague and my client, my office shared your concern that the reduction in benefits was atypical. After some investigation, we received the attached letter from the Department of Veterans Affairs which states that the previous reduction was in error. The letter thus confirms that Mr. Martin's gross income, as stated in his submissions to the Court was accurate at the time. However, now that the Department of Veterans Affairs is correcting the mistake, the updated gross income for my client will increase by \$2,842.98 per month.

With this adjustment, my client's monthly child support obligation should be \$1,515.00. As you know, child support is subject to a straight forward calculation. So, I used the previous gross monthly income (\$13,022.16) plus the corrected benefits (\$2,842.98) to reach a gross monthly income of \$15,875.14. In turn, under NAC 425.140(1), the calculation is as follows:

- First \$6,000 at 16% = \$960
- \$6,000 to \$10,000 at 8% = \$320
- \$5,875.14 (above \$10,000) at 4% = \$235

Richard L. Crane, Esq.
January 28, 2021
Page 2

Based on the foregoing, I submit that discovery and/or litigation regarding Mr. Martin's gross income should be unnecessary. Accordingly, I have attached for your consideration a proposed stipulation and order which would efficiently update the Court and my client's child support obligations.

I look forward to working with you to address this issue and your anticipated cooperation.

Sincerely,

MARQUIS AURBACH COFFING

A handwritten signature in black ink that reads "Kathleen Wilde". The script is cursive and fluid.

Kathleen A. Wilde, Esq.

KAW

CC: Mr. Justin Johnson, Ms. Rachel Tygret, Mr. Erich Martin.

Attachments: (1) VA letter dated January 25, 2021; (2) Proposed stipulation and order.



PO BOX 25126
DENVER CO 80225

January 25, 2021

In Reply Refer To:

File Number:

Erich Martin

E M MARTI

This is an update that we have corrected an error made by the Debt Management the office of Veterans' affairs. Your monetary compensation has been appropriately updated and amended with the backdate of January 01, 2021 per our accounting office. Please see the enclosure for the information regarding this matter.

DEPARTMENT OF VETERANS AFFAIRS

Enclosures
IRIS VA Reply



Recently you requested assistance from VA. Below is our response.

Thank you for allowing us to be of service to you.

Response By Dept of Veterans Affairs (01/25/2021)

Dear Mr. Erich Martin

This is in response to your inquiry to the Department of Veterans Affairs (VA) dated January 22, 2021

Thank you for your service to our country.

Debt Management incorrectly sent out correspondence on December 03, 2020. We apologize for the inconvenience this may have caused. You do not have any processes with regards to any debts, currently. That may change, however, please liaise with DFAS for further information about service-related debts.

If you are receiving military (active duty) pay, military retirement pay, or SBP (Survivors Benefits Plan) payments, please contact Defense Finance and Accounting Service (DFAS). DFAS provides the payment of these benefits for current and retired U.S. Armed Forces servicemembers and their survivors. The following web site will provide you the information necessary to contact DFAS: <http://www.dfas.mil/customerservice.html>

DFAS Contact Information:

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Defense Finance and Accounting Service

U.S. Military Annuitant Pay

8899 E 56th Street

RA001913

Indianapolis IN 46249-1300

Annuitant Pay Fax: 800-982-8459

The mailing address for DFAS Retired Pay is:

Defense Finance and Accounting Service

U.S. Military Retired Pay

8899 E 56th Street

Indianapolis IN 46249-1200

Retired Pay Fax: 800-469-6559

Thank you for contacting us. If you have questions or need additional help with the information in our reply, please respond to this message or see our other contact information below.

National Inquiry Response Center

MC

How to Contact VA:

Online:

www.va.gov

By phone:

(800) 827-1000

(844) MyVA311 (698-2311)

Telecommunications Device for the Deaf (TDD) 711

By mail:

Department of Veterans Affairs

Claims Intake Center

PO Box 5235

Janesville, WI 53547-5235

Marquis Aurbach Coffing

Chad F. Clement, Esq.

Nevada Bar No. 12192

Kathleen A. Wilde, Esq.

Nevada Bar No. 12522

10001 Park Run Drive

Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

cclement@maclaw.com

kwilde@maclaw.com

*Attorneys for Erich M. Martin***DISTRICT COURT—FAMILY DIVISION****CLARK COUNTY, NEVADA**

Erich M. Martin,

Plaintiff,

vs.

Raina L. Martin,

Defendant.

Case No.: D-15-509045-D

Dept. No.: Q

STIPULATION AND ORDER REGARDING CHILD SUPPORT

Plaintiff Erich M. Martin, by and through his counsel of record, Marquis Aurbach Coffing, and Defendant Raina L. Martin, by and through her counsel of record, the Willick Law Group, hereby stipulate and agree as follows:

1. In the Order From the January 12, 2021 Hearing the Court held that Erich Martin's monthly obligation for child support shall be \$1,317 per month effective December 2020.

2. In the Order, the Court calculated child support based on Erich Martin's gross monthly income of \$13,022.16.

3. On January 25, 2021, the Department of Veterans Affairs issued a letter to Erich Martin which stated that the previous reduction to his benefits noted in a December 3, 2020, letter was in error.

4. The January 25, 2021, letter also indicates that Erich Martin's full benefits will be reinstated

1 5. In light of the correction from the Department of Veterans Affairs, the parties
2 agree that Erich Martin's gross monthly income is or will soon be \$15,875.14.

3 6. Based on the formula stated in NAC 425.140(1), the parties agree that child
4 support should be set at \$1,515.00 per month, effective December 2020.

5 Dated this ____ day of January, 2021

Dated this ____ day of January, 2021

6 **MARQUIS AURBACH COFFING**

WILICK LAW GROUP

7
8 By: _____

By: _____

9 Chad F. Clement, Esq.
10 Nevada Bar No. 12192
11 Kathleen A. Wilde, Esq.
12 Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
*Attorneys for Plaintiff,
Erich M. Martin*

Marshal S. Willick, Esq.,
Nevada Bar No. 2515
Richard L. Crane, Esq.,
Nevada Bar No. 9536
3591 E. Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
*Attorneys for Defendant, Raina L.
Martin*

13 **ORDER**

14 **IT IS ORDERED** that the parties' stipulation shall be the Order of this Court; and

15 **IT IS FURTHER ORDERED** that effective December 2020, Erich Martin shall pay
16 \$1,515.00 per month for support of the parties' minor child.

17 Dated this ____ day of _____, 2021.

18
19
20 _____
DISTRICT COURT JUDGE

21
22 Respectfully submitted by:

23 **MARQUIS AURBACH COFFING**

24 By: _____

25 Chad F. Clement, Esq.
26 Nevada Bar No. 12192
27 Kathleen A. Wilde, Esq.
28 Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff, Erich M. Martin

Exhibit 5

WILICK LAW GROUP

A DOMESTIC RELATIONS & FAMILY LAW FIRM
3591 EAST BONANZA ROAD, SUITE 200
LAS VEGAS, NV 89110-2101
PHONE (702) 438-4100 • FAX (702) 438-5311
WWW.WILICKLAWGROUP.COM

ATTORNEYS

MARSHAL S. WILICK *†‡❖
TREVOR M. CREEL
LORIE K. COLE ❖
DARCY L. BOWER

* ALSO ADMITTED IN CALIFORNIA (INACTIVE)
† FELLOW, AMERICAN ACADEMY OF MATRIMONIAL LAWYERS
‡ FELLOW, INTERNATIONAL ACADEMY OF FAMILY LAWYERS
❖ NEVADA BOARD CERTIFIED FAMILY LAW SPECIALIST
* BOARD CERTIFIED FAMILY LAW TRIAL ADVOCATE
BY THE NATIONAL BOARD OF TRIAL ADVOCACY



LEGAL ASSISTANTS

DEISY MARTINEZ-VIERA
MARY STEELE
BRENDA GRAGEOLA
JUSTIN K. JOHNSON
VICTORIA JAVIEL
MALLORY YEARGAN
KRISTINA M. MARCUS

FIRM ADMINISTRATOR

FAITH FISH

E-MAIL ADDRESSES:

(FIRST NAME OF INTENDED RECIPIENT)@WILICKLAWGROUP.COM

February 1, 2021

Kathleen A. Wilde, Esq.
MARQUIS AURBACH COFFING
10001 park Run Drive
Las Vegas, Nevada 89145

Re: *Martin v. Martin*, Case # D-15-509045-D
Sent via e-serve only

Dear Ms. Wilde:

I am in receipt of your letter dated January 28.

Unfortunately, the offer does not resolve all of the issues and leaves open the question as to whether your client lied to the Judge at the January 12, hearing. This also implicates attorney's fees which you did not address in your letter. As such, your offer to settle is rejected.

You will note, that additional discovery has been sent to your office. We expect responses in the next thirty days. Once all discovery has been produced as requested, we will re-notice our *Motion* as required by the Court.

Sincerely,
WILICK LAW GROUP

// s // Richard L. Crane, Esq.
Richard L. Crane, Esq.

cc: Ms. Raina Martin

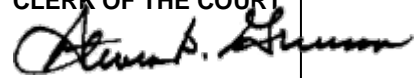
P:\wp19\MARTIN R CORRESPOND\00480531 WPD

210

210

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
2/11/2021 8:36 AM
Steven D. Grierson
CLERK OF THE COURT



Erich M Martin, Plaintiff
vs.
Raina L Martin, Defendant.

Case No.: D-15-509045-D
Department Q

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion for Voluntary Increase of Child Support, Discontinuation of Discovery, and Attorney's Fees in the above-entitled matter is set for hearing as follows:

Date: March 23, 2021
Time: 9:00 AM
Location: Courtroom 21
Family Courts and Services Center
601 N. Pecos Road
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Desiree Darris
Deputy Clerk of the Court

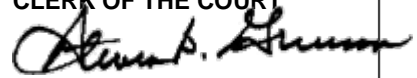
CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Desiree Darris
Deputy Clerk of the Court

211

211



Marquis Aurbach Coffing
 Chad F. Clement, Esq.
 Nevada Bar No. 12192
 Kathleen A. Wilde, Esq.
 Nevada Bar No. 12522
 10001 Park Run Drive
 Las Vegas, Nevada 89145
 Telephone: (702) 382-0711
 Facsimile: (702) 382-5816
 cclement@maclaw.com
 kwilde@maclaw.com
Attorneys for Erich M. Martin

DISTRICT COURT—FAMILY DIVISION**CLARK COUNTY, NEVADA**

Erich M. Martin,

Plaintiff,

Case No.: D-15-509045-D

Dept. No.: Q

vs.

Raina L. Martin,

Defendant.

EX PARTE APPLICATION FOR AN ORDER SHORTENING TIME

COMES NOW, Plaintiff Erich M. Martin ("Erich"), by and through his attorneys of record, Chad F. Clement, Esq. and Kathleen A. Wilde, Esq., of the law firm Marquis Aurbach Coffing, and hereby submits his Ex Parte Application for Order Shortening Time which would expedite consideration of Erich's Motion for Voluntary Increase of Child Support, Discontinuation of Discovery, and Attorney's Fees.

This Application is made in accordance with EDCR 2.26 and is based upon the attached declaration of counsel as well as the pleadings and papers on file herein

Dated this 11th day of February, 2021.

MARQUIS AURBACH COFFINGBy: /s/ Kathleen A. Wilde

Chad F. Clement, Esq.
 Nevada Bar No. 12192
 Kathleen A. Wilde, Esq.
 Nevada Bar No. 12522
 10001 Park Run Drive
 Las Vegas, Nevada 89145
Attorneys for Erich M. Martin

DECLARATION OF KATHLEEN A. WILDE, ESQ.,
IN SUPPORT OF APPLICATION FOR ORDER SHORTENING TIME

KATHLEEN A. WILDE, ESQ., declares as follows:

1. I am an attorney at law duly licensed to practice before all courts of the State of Nevada and an associate with the law firm of Marquis Aurbach Coffing.

2. Along with Chad F. Clement, Esq., I am counsel of record for Erich M. Martin ("Erich"), the Plaintiff in the above-entitled matter.

3. I have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

4. On January 12, 2021, the parties appeared before the Court to address child support.

5. During the hearing, the parties disagreed regarding Erich's gross income specific to his military disability and Combat Related Special Compensation. Accordingly, the Court granted limited discovery regarding "the VA Disability Pay issue." See order dated January 26, 2021, on file herein.

6. On January 25, 2021, the Department of Veterans Affairs sent a letter to Erich which stated that the reduction to his benefits noted in a December 2020 letter was in error. The January 2021 letter also conveyed that Erich's monetary compensation would be "appropriately updated."

7. On January 28, 2021, I sent a letter to Mr. Crane which proposed a voluntary increase of child support based on Erich's updated gross income. Along with my letter, I sent Mr. Crane a proposed stipulation and order as well as a copy of the letter from the Department.

8. On February 1, 2021, Mr. Crane rejected Erich's proposal for a voluntary increase in child support.

9. Within minutes of the rejection, Mr. Crane served my office with three sets of written discovery requests which seek information and admissions regarding various aspects of Erich's gross income and financial disclosures from the last year.

10. Many of the discovery requests go beyond the "VA Disability Pay issue."

11. On February 8, 2021, I sent a follow-up letter to Mr. Crane in which I encouraged him to reconsider the value of a stipulation without prolonged discovery.

12. Mr. Crane again rejected the proposed stipulation.

13. Accordingly, Erich's responses to the written discovery requests are currently due on March 3, 2021.

14. Although Erich seeks a voluntary *increase* of child support to ensure Nathan receives the benefits to which he is entitled, it appears that Raina and/or her counsel wish to litigate the issue further.

15. Continued discovery and litigation regarding child support will needlessly waste the parties' resources.

16. Erich is already struggling with the expenses of litigation, especially in light of his other financial obligations.

17. Prompt consideration of the Motion for Voluntary Increase of Child Support, Discontinuation of Discovery, and Attorney's Fees and a hearing, if the Court is inclined to allow one, is necessary so that the resource-saving purpose of his motion is not thwarted.

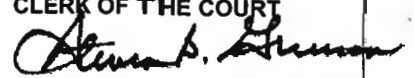
Pursuant to NRS 53.045, I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this 11th day of February, 2021.


KATHLEEN A. WILDE, ESQ.

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1 **Marquis Aurbach Coffing**
 2 Chad F. Clement, Esq.
 3 Nevada Bar No. 12192
 4 Kathleen A. Wilde, Esq.
 5 Nevada Bar No. 12522
 6 10001 Park Run Drive
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 8 Telephone: (702) 382-0711
 9 Facsimile: (702) 382-5816
 10 cclement@maclaw.com
 11 kwilde@maclaw.com
 12 *Attorneys for Erich M. Martin*

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

10 Erich M. Martin,

11 Plaintiff,

12 vs.

13 Raina L. Martin,

14 Defendant.

Case No.: D-15-509045-D

Dept. No.: Q

Date of Hearing: March 12, 2021

Time of Hearing: CHAMBER CALENDAR

15 **ORDER SHORTENING TIME**

16 Upon the Plaintiff's Application, the declaration of counsel, and for good cause
 17 appearing: **IT IS HEREBY ORDERED** that the time for hearing Plaintiff Erich M. Martin's
 18 Motion for Voluntary Increase of Child Support, Discontinuation of Discovery, and Attorney's
 19 Fees is hereby shortened and shall be heard on the 12 day of March, 2021 ~~at the~~
 20 **CHAMBER CALENDAR** ^Q
 21 ~~hour of~~ m. in Department ~~C~~ of the Family Court located at the Family Court and
 22 Services Center, 601 N. Pecos, Las Vegas, NV 89101.

23 Dated: February 12, 2021


 DISTRICT COURT JUDGE

24 Submitted by:

25 MARQUIS AURBACH COFFING

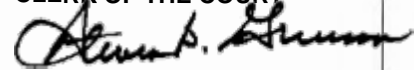
(ND)

26 By: /s/ Kathleen A. Wilde

27 Chad F. Clement, Esq.
 28 Nevada Bar No. 12192
 Kathleen A. Wilde, Esq.
 Nevada Bar No. 12522
 10001 Park Run Drive
 Las Vegas, Nevada 89145
Attorneys for Erich M. Martin

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kwilde@maclaw.com
Attorney for Erich M. Martin

DISTRICT COURT—FAMILY DIVISION

CLARK COUNTY, NEVADA

Erich M. Martin,

Plaintiff,

Case No.: D-15-509045-D
Dept. No.: Q

vs.

Raina L. Martin,

Defendant.

NOTICE OF ENTRY OF ORDER SHORTENING TIME

Please take notice that an Order Shortening Time was entered in the above-captioned matter on the 12th day of February, 2021, a copy of which is attached hereto.

Dated this 12th day of February, 2021.

MARQUIS AURBACH COFFING

By: /s/ Kathleen A. Wilde

Chad F. Clement, Esq.
Nevada Bar No. 12192
Kathleen A. Wilde, Esq.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney for Erich M. Martin

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER SHORTENING TIME** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 12th day of February, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

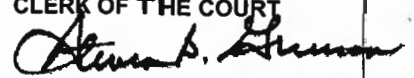
Richard L Crane	richard@willicklawgroup.com
Matthew H. Friedman, Esq.	mfriedman@fordfriedmanlaw.com
Justin Johnson	Justin@willicklawgroup.com
Tracy McAuliff	tracy@fordfriedmanlaw.com
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Reception McAuliffe	email@willicklawgroup.com
Gary Segal, Esq.	gsegal@fordfriedmanlaw.com
"Samira C. Knight, Esq. "	Samira@tklawgroupnv.com
Samira Knight	Samira@TKLawgroupnv.com
Tarkanian Knight	Info@Tklawgroupnv.com

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A


An employee of Marquis Aurbach Coffing

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



1 **Marquis Aurbach Coffing**
 2 Chad F. Clement, Esq.
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 7 Las Vegas, Nevada 89145
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 11 kwilde@maclaw.com
 12 *Attorneys for Erich M. Martin*

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

10 Erich M. Martin,

11 Plaintiff,

12 vs.

13 Raina L. Martin,

14 Defendant.

Case No.: D-15-509045-D

Dept. No.: Q

Date of Hearing: March 12, 2021

Time of Hearing: CHAMBER CALENDAR

15 **ORDER SHORTENING TIME**

16 Upon the Plaintiff's Application, the declaration of counsel, and for good cause
 17 appearing: **IT IS HEREBY ORDERED** that the time for hearing Plaintiff Erich M. Martin's
 18 Motion for Voluntary Increase of Child Support, Discontinuation of Discovery, and Attorney's
 19 Fees is hereby shortened and shall be heard on the 12 day of March, 2021 ~~at the~~
 20 **CHAMBER CALENDAR** ^Q
 21 ~~hour of~~ m. in Department ~~C~~ of the Family Court located at the Family Court and
 22 Services Center, 601 N. Pecos, Las Vegas, NV 89101.

23 Dated: February 12, 2021


 DISTRICT COURT JUDGE

24 Submitted by:

25 MARQUIS AURBACH COFFING

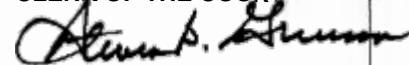
(ND)

26 By: /s/ Kathleen A. Wilde

27 Chad F. Clement, Esq.
 28 Nevada Bar No. 12192
 Kathleen A. Wilde, Esq.
 Nevada Bar No. 12522
 10001 Park Run Drive
 Las Vegas, Nevada 89145
Attorneys for Erich M. Martin

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Marquis Aurbach Coffing
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 cclement@maclaw.com
 kwilde@maclaw.com
Attorneys for Erich M. Martin

DISTRICT COURT—FAMILY DIVISION**CLARK COUNTY, NEVADA**

Erich M. Martin,

Plaintiff,

Case No.: D-15-509045-D
 Dept. No.: Q

vs.

Raina L. Martin,

Defendant.

NOTICE OF APPEAL

Plaintiff, Erich M. Martin, by and through his attorneys of record, the law firm of Marquis Aurbach Coffing, hereby appeals to the Supreme Court of Nevada the Order from the January 12, 2021, Hearing, filed on January 26, 2021. The Notice of Entry for the Order was filed on January 28, 2021, and is attached hereto as **Exhibit 1**.

Dated this 12th day of February, 2021.

MARQUIS AURBACH COFFINGBy: /s/ Kathleen A. Wilde

Chad F. Clement, Esq.
 Nevada Bar No. 12192
 Kathleen A. Wilde, Esq.
 Nevada Bar No. 12522
 10001 Park Run Drive
 Las Vegas, Nevada 89145
Attorneys for Erich M. Martin

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF APPEAL** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 12th day of February, 2021. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

John Kelleher	hjuilfs@kelleherandkelleher.com
Erich Martin	emartin2617@gmail.com
Richard L Crane	richard@willicklawgroup.com
Matthew H. Friedman, Esq.	mfriedman@fordfriedmanlaw.com
Justin Johnson	Justin@willicklawgroup.com
Tracy McAuliff	tracy@fordfriedmanlaw.com
Christopher B. Phillips, Esq.	cphillips@fordfriedmanlaw.com
Reception	email@willicklawgroup.com
Gary Segal, Esq.	gsegal@fordfriedmanlaw.com
"Samira C. Knight, Esq. "	Samira@tklawgroupnv.com
John Kelleher	kelleherjt@aol.com
Samira Knight	Samira@TKLawgroupnv.com
Tarkanian Knight	Info@Tklawgroupnv.com

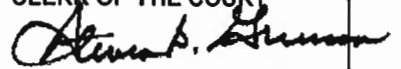
I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A


An employee of Marquis Aurbach Coffing

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

EXHIBIT “1”



1 **NEOJ**
2 **WILICK LAW GROUP**
3 **MARSHAL S. WILICK, ESQ.**
4 Nevada Bar No. 2515
5 3591 E. Bonanza Road, Suite 200
6 Las Vegas, NV 89110-2101
7 Phone (702) 438-4100; Fax (702) 438-5311
8 email@willicklawgroup.com
9 Attorney for Defendant
10

11 **DISTRICT COURT**
12 **FAMILY DIVISION**
13 **CLARK COUNTY, NEVADA**
14

15 **ERICH MARTIN,**
16 **Plaintiff,**

17 **vs.**

18 **RAINA MARTIN,**
19 **Defendant.**

CASE NO: D-15-509045-D
DEPT. NO: Q

20 **NOTICE OF ENTRY OF ORDER FROM THE JANUARY 12, 2021,**
21 **HEARING**

22 **TO: ERICH MARTIN, Plaintiff.**

23 **TO: KATHLEEN A. WILDE, ESQ., Attorney for Plaintiff.**

24 **PLEASE TAKE NOTICE** that an *Order from the January 12, 2021, Hearing*
25 was duly entered in the above action on the 26th day of January, 2021, a true and

26 *****

27 *****

28 *****

1 correct copy of which is attached herein.

2 **DATED** this 28th day of January, 2021.

3 WILICK LAW GROUP

4 // s // Richard L. Crane, Esq.

5 MARSHAL S. WILICK, ESQ.

6 Nevada Bar No. 2515

7 RICHARD L. CRANE, ESQ.

8 Nevada Bar No. 9536

9 3591 East Bonanza Road, Suite 200

10 Las Vegas, Nevada 89110-2101

11 Attorneys for Defendant

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 28th day of January, 2021, I caused the above and foregoing document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system.
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.
- ☐ by hand delivery with signed Receipt of Copy.
- ☐ by First Class, Certified U.S. Mail.

To the person(s) listed below at the address, email address, and/or facsimile number indicated:

CHAD F. CLEMENT, ESQ.
KATHLEEN A. WILDE, ESQ.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney for Plaintiff

/s/Justin K. Johnson

An Employee of the WILICK LAW GROUP

P:\wp19\MARTIN, R\DRAFTS\00479646.WPD\j

ORDR
WILICK LAW GROUP
MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Phone (702) 438-4100; Fax (702) 438-5311
email@wilicklawgroup.com
Attorney for Defendant

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: Q

DATE OF HEARING: 1/12/2021
TIME OF HEARING: 10:00 am

ORDER FROM THE JANUARY 12, 2021, HEARING

This matter came on for a hearing at the above date and time before the Honorable Bryce Duckworth, District Court Judge, Family Division. Defendant, Raina Martin, was present by video and was represented by and through her attorney, Richard L. Crane, Esq., of the WILICK LAW GROUP, and Plaintiff, Erich Martin, was present by video and represented by and through his attorney, Kathleen A. Wilde of MARQUIS AURBACH COFFING.

The Court, having reviewed the pleadings and papers filed herein and entertaining argument from both sides, made the following findings and orders:

THE COURT HEREBY FINDS:

1. This case is appropriate to be heard by the District Court as the issues raised are ancillary to the issues brought up on appeal.
2. Mr. Crane represented that CRSC pay is always accompanied by VA Disability Pay. The Court asked Mr. Martin directly if he was receiving VA Disability pay in addition to his CRSC pay. Mr. Martin replied that he was not receiving any VA disability pay.
3. Based on Mr. Martin's response, the Court finds that the Plaintiff's monthly income to be used in the calculation of Child Support is \$13,022.16.
4. Based on Mr. Crane's request, discovery will be opened on the issue of VA Disability Pay.
5. Should Discovery result in there being VA Disability Pay that was not disclosed on the Plaintiff's Financial Disclosure Form, the amount of child support shall be recalculated appropriately.
6. The Court does not have its own standard Behavioral Order Language, but will accept any added and stipulated language.
7. Any previous financial Orders made by this Court's predecessor are still considered due and enforceable under the Court's contempt powers.
8. As the Child Support is up for review based on over three years having passed, attorney's fees will not be awarded to either party.

IT IS HEREBY ORDERED:

1. As of November 18, 2020, Child Support is set at \$1,317 per month. Erich is to transmit the full amount to Raina on the first of every month. ~~After the 5th, any payments not made by then shall be considered late and interest shall be applied.~~
2. Discovery regarding the VA Disability Pay issue is open as of the January 12, 2021, and shall remain open for 60 days.

3. The Parties shall bear their own attorney's fees.

4. Mr. Crane is to draft the Order from today's hearing. Ms. Wilde is to review as to form and content.

DATED this ____ day of _____, 2021.

Dated this 26th day of January, 2021


DISTRICT COURT JUDGE *JK*

Dated this 22nd day of January, 2021
Respectfully Submitted By:

WILICK LAW GROUP

// s // Richard L. Crane, Esq.

MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 E. Bonanza Rd., Suite 200
Las Vegas, Nevada 89110
(702) 438-4100; Fax (702) 438-5311
Attorneys for Defendant

P:\wp19\MARTIN, R\DRAFTS\00477161.WPD\jj

Dated this ____ day of _____, 2021
Approved as to Form and Content
By:

A78 3BB B21C BEB6
MAROUIS ALIBACH COFFING
Bryce C. Duckworth
District Court Judge

Signature Refused

CHAD F. CLEMENT, ESQ.
Nevada Bar No. 12192
KATHLEEN A. WILDE, ESQ.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711; Fax (702) 382-5816
Attorneys for Plaintiff

1 CSERV

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Erich M Martin, Plaintiff

CASE NO: D-15-509045-D

7 vs.

DEPT. NO. Department Q

8 Raina L Martin, Defendant.

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 1/26/2021

15 "Samira C. Knight, Esq. " .

Samira@tklawgroupnv.com

16 Chad Clement

cclement@maclaw.com

17 Reception Reception

email@willicklawgroup.com

18 Samira Knight

Samira@TKLawgroupnv.com

19 Tarkanian Knight

Info@Tklawgroupnv.com

20 Matthew Friedman, Esq.

mfriedman@fordfriedmanlaw.com

21 Justin Johnson

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22 Tracy McAuliff

tracy@fordfriedmanlaw.com

23 Kathleen Wilde

kwilde@maclaw.com

24 Gary Segal, Esq.

gsegal@fordfriedmanlaw.com

25 Richard Crane

richard@willicklawgroup.com

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Erich Martin	emartin2617@gmail.com
Lennie Fraga	lfraga@maclaw.com
Christopher Phillips, Esq.	cphillips@fordfriedmanlaw.com
Rachel Tygret	rtygret@maclaw.com
Cally Hatfield	chatfield@maclaw.com
Suzanne Boggs	sboggs@maclaw.com

215

215

**Marquis Aurbach Coffing**

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Kathleen A. Wilde, Esq.

Nevada Bar No. 12522

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Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

cclement@maclaw.com

kwilde@maclaw.com

*Attorneys for Erich M. Martin***DISTRICT COURT—FAMILY DIVISION****CLARK COUNTY, NEVADA**

Erich M. Martin,

Plaintiff,

Case No.: D-15-509045-D

Dept. No.: Q

vs.

Raina L. Martin,

Defendant.

CASE APPEAL STATEMENT

Plaintiff, Erich M. Martin, by and through his attorneys of record, Marquis Aurbach Coffing, hereby files this Case Appeal Statement.

1. Name of appellant filing this Case Appeal Statement:

Erich M. Martin

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

The Honorable Rebecca L. Burton, Dept. C of the Eighth Judicial District Court.¹

3. Identify each appellant and the name and address of counsel for each appellant:

Appellant:

Erich M. Martin

¹ Shortly after Judge Burton issued the order in question, the case was reassigned to the Honorable Judge Bryce C. Duckworth. See Eighth Judicial District Court Administrative Order 20-25.

Counsel for Appellant:

Chad F. Clement, Esq.
Kathleen A. Wilde, Esq.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, NV 89145

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

Respondent:

Raina L. Martin

Counsel for Respondent:

Marshal S. Willick, Esq.
Richard L. Crane, Esq.
Willick Law Group
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110

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

N/A

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

Appellant retained counsel for most of the District Court proceedings.

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

Retained.

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

N/A.

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

3 The Complaint for Divorce was filed on February 2, 2015.

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

7 Erich and Raina Martin married on April 1, 2002. Erich filed for divorce
8 in 2015, and on November 5, 2015, the District Court signed a Decree of Divorce
(the "Decree") on the basis of irreconcilable differences.

9 The Decree provided, in relevant part, that Raina that Raina is entitled to
10 "one-half (1/2) of the marital interest in the [sic] Erich's military retirement
11 pursuant to the time rule established in Nevada Supreme Court cases *Gemma v.*
12 *Gemma*, 105 Nev. 458, 778 P.2d 429 (1989), and *Fondi v. Fondi*, 106 Nev. 856,
802 P.3d 1264 (1990)." "Should Erich select to accept military disability
payments," the Decree provides that "Erich shall reimburse Raina for any amount
of that her share of the pension is reduced due to the disability status."

13 Erich retired from the military in 2019. The Defense Finance and
14 Accounting Service ("DFAS") made two payments to Raina before Erich waived
15 his retirement pay and opted for full disability under Combat Related Special
Compensation.

16 On May 1, 2020, Raina filed a Motion to Enforce in which she argued for
17 "permanent alimony in the amount she would be receiving as her share of the
18 military retirement plus any future cost of living adjustments." In its August 11,
2020 Order Regarding Enforcement of Military Retirement Benefits, the District
19 Court granted Raina's motion and ruled that Erich must personally pay Raina
\$845.43 every month plus cost-of-living adjustments – for all time – as well as
20 arrears for the payments that were not made in 2020.

21 Erich timely filed an appeal challenging the Order Regarding Enforcement
22 of Military Retirement Benefits. *See* case number 81810. In the District Court,
Raina then moved for attorneys' fees pendente lite for the costs of the
23 forthcoming appeal. Over Erich's objection, the District Court awarded Raina
\$5,000. The instant appeal challenges the award of fees pendente lite.

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

27 *Erich M. Martin v. Raina L. Martin*, case number 81810 (appeal challenging
28 August 11, 2020 Order Regarding Enforcement of Military Retirement Benefits).

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

N/A.

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

This is a family law matter, rather than a traditional civil case. Although Erich and undersigned counsel remain open to settlement, the NRAP 16 process in case number 81810 was no successful. So, it is unlikely that the present matter can be resolved.

Dated this 12th day of February, 2021.

MARQUIS AURBACH COFFING

By: /s/ Kathleen A. Wilde

Chad F. Clement, Esq.
Nevada Bar No. 12192
Kathleen A. Wilde, Esq.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Erich Martin

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **CASE APPEAL STATEMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 12th day of February, 2021. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:²

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I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

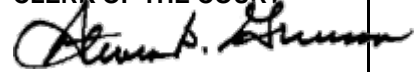
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**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING:
TIME OF HEARING:

ORAL ARGUMENT

Yes x No

**OPPOSITION TO
*MOTION FOR VOLUNTARY INCREASE OF CHILD SUPPORT,
DISCONTINUATION OF DISCOVERY AND ATTORNEY'S FEES*
AND
COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS AND
RELATED RELIEF AS TO POSSIBLE RULE 11 SANCTIONS**

I. INTRODUCTION

Raina's FDF filed on November 18, 2020, remains correct and there have been no material change in her financial disclosure. This is submitted in compliance with EDCR 5.507.

Erich's *Motion* is a mess both procedurally and factually. We tried to point this out to opposing counsel, but they ignored anything we told them.

1 Nearly everything they claim is without merit and is not supported by any
2 competent evidence.

3 Throughout this case, we have had to deal with Erich lying to us and to Raina.
4 This was also pointed out to opposing counsel, but they took that as an attack on their
5 client and on their skills as lawyers. They refused to accept that the facts of the case
6 proved out his continued lies and misrepresentations.

7 We have dealt with this as best we could. However, when he lies to the Court
8 when asked directly if he has any other income and he says no, it is perjury.

9 This is a word that we do not use lightly. But it is time that Erich learn that you
10 can't continue to cover your tracks by lying.

11 As this Court is aware, there was a fairly recent case where a man submitted
12 a known fraudulent document to the Court concerning a child custody matter. He was
13 criminally charged for doing so and is currently serving a three year sentence in the
14 Nevada Department of Correction. Lying to the Court, submitting documents that
15 have known errors included, and making claims that documents supporting their
16 claim were provided to us, are serious matters that tear down the fundamental
17 processes of our judiciary. In other words, he needs to be held accountable.

18 As a final opening note, it was our intention to produce and serve a *Motion for*
19 *Rule 11 Sanctions* to opposing counsel for their failures in conducting the most basic
20 of investigations prior to the filing of the current *Motion*. However, they now have
21 requested that this matter be heard on shortened time, so we were unable to get it
22 served in accordance with the Rule.¹ The Court retains the authority under NRCP
23

24
25 ¹ NRCP 11(c)(2) **Motion for Sanctions.** A motion for sanctions must be made separately
26 from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The
27 motion must be served under Rule 5, but it must not be filed or be presented to the court if the
28 challenged paper claim, defense, contention, or denial is withdrawn or appropriately corrected within
21 days after service or within another time the court sets. If warranted, the court may award to the
prevailing party the reasonable expenses, including attorney fees, incurred for presenting or opposing
the motion.

11(c)(3) to “order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b).”

II. FACTS

This Court, having read and reviewed the prior pleadings in this matter is fully aware of the facts of this case. Therefore, we will only present a few relevant facts here, specifically the mischaracterizations that are made in the *Motion*.

Erich did file an updated FDF on December 11, 2020, but the indicated income was misstated. Specifically, he claimed on the FDF page 2 that his monthly gross income was \$10,620 per month. However, his attached pay stubs indicate that his income was actually \$11,505 per month.² Almost \$900 more than he claimed.

Erich’s income was notably lower than the FDF filed in June 2020, but not for the reasons stated in the *Motion*. It was lower because he purposefully miscalculated his monthly income from employment and did not include the VA benefits to which he is entitled. At no time, did we ever consider his current wife’s income in any calculations.³ It is also notable that his June FDF was more accurate – being filed while he was in proper person – then the one where he had assistance of counsel.

Erich’s Exhibit 2, was never produced to counsel. Had it been produced, knowing that he was eligible to receive the benefits, we could have assisted in getting the issue resolved. This might also have precluded the filing of any other motions or the implementation of any discovery. However, he did not disclose this to us or to the Court.

² \$5,310 every two weeks equals an annual salary of \$138,060. This amount divided by 12 equals \$11,505.

³ Opposing Counsel has made this claim at every hearing since they appeared in the case. Judge Burton dismissed this as she did the calculation and proved that it did not include his wife’s income.

1 It is important to note that according to the letter, they were withholding the
2 benefits to pay a debt he had to the government. In other words, he was still receiving
3 the gross benefit, it was just paying a debt. He still lied to the Court concerning the
4 receipt of these funds.

5 We were last before the Court on the morning of January 12. At that hearing,
6 undersigned counsel made an assertion as an officer of the court that everyone that
7 receives CRSC also receives VA disability compensation.⁴ The Court opened
8 discovery after Erich “twice” told the Court that he was not receiving these benefits.

9 After the hearing, undersigned Counsel called the VA to determine the benefits
10 that Erich was receiving.⁵ The response was \$3,823.57.⁶ However, we did not have
11 evidentiary support of this number, so the subpoena was necessary to obtain the
12 information to prove that Erich misrepresented his income to the Court. The
13 subpoena was sent on January 15, 2021, asking only for information concerning
14 Erich’s disability payments.⁷

15 The letter from the VA that opposing counsel provided clearly does not say his
16 benefits were suspended, only that “Your monetary compensation has been
17 appropriately updated and amended...”⁸ Additionally, the letter sent by Opposing
18 Counsel misrepresented his VA compensation saying that it was \$2,842.98 and did
19 all of their child support calculations using this clearly erroneous number.⁹
20

21
22 ⁴ CRSC is paid by the Defense Finance and Accounting Service (DFAS) and the VA benefits
come from the Veterans Administration.

23 ⁵ This information is public record and can be disclosed with a phone call.

24 ⁶ So, on the date of the hearing, Erich *was* entitled to \$3,823.57 per month in VA disability.

25 ⁷ The Court is well aware of the requests included in the subpoena as it required this Court’s
26 signature to be issued.

27 ⁸ See Plaintiff’s Exhibits 3 and 4.

28 ⁹ See Plaintiff’s Exhibit 4, second paragraph.

1 Armed with the knowledge that on January 12, Erich's VA compensation was
2 nearly \$4,000 per month, we declined their offer to sign the proposed Stipulation and
3 Order as it would still have shorted our client a significant sum.

4 Erich then claims in his factual statement that our discovery requests are
5 somehow intrusive and exhaustive. Of course, no discovery conference was ever held
6 stating their objections as required by EDCR 5.602. Additionally, if there was such
7 an objection to our requests, this same rule states:

8 Unless otherwise ordered, all discovery disputes (except disputes presented at
9 a pretrial conference or at trial) must first be heard by the discovery hearing
master.

10 No discovery motion has been filed and bringing it before this Court is a waste
11 of judicial resources.¹⁰

12 On February 8, 2021, Opposing Counsel sent a letter again asking that we
13 stipulate to a child support amount of \$1,529.99. The letter included a statement:

14 Candidly, I find it difficult to understand why your client is opposed to
15 stipulated child support in an amount greater than what she requested in her
November 2020 motion."¹¹

16 Contrary to her assertion, that the request was "not fruitful," we responded on
17 the same date stating:

18 As to your offered support, we can see how you came up with your numbers,
19 but none of it is supported by any documentation. Before we can stipulate to
20 a child support amount we would need to see a new FDF with all of the
21 income supported by pay stubs or other proof of income. At a minimum, we
should see a current (from this year) CRSC statement, any Retiree Account
Statements (RAS) from DFAS, at least one pay stub showing the new income,
and a statement from the VA showing the amount he is receiving.

22 Additionally, we already have the subpoena issued to the VA and they have
23 acknowledged receipt. We want to see what that subpoena produces and will
copy you with the results.¹²

24 The letter went on to say:

25
26 ¹⁰ We maintain that our requests are and remain relevant based on the papers, pleadings, and
oral representations presented to this Court.

27 ¹¹ See Defendant's Exhibit A, copy of letter from Ms. Wilde received on February 8.

28 ¹² See Defendant's Exhibit B, copy of letter to Ms. Wilde sent on February 8.

1 If you can wait until the subpoena is responded to and can get an updated FDF
2 on file, we may be able to resolve the child support issue. If you feel you must
3 file a Motion before doing those things, we will be pointing out all of the
4 above to Judge Duckworth and will again ask for fees.

5 In other words, if Erich would file a new and correct FDF and await the
6 response from the VA, we may have been able to resolve the case.

7 Erich filed his *Motion for Voluntary Increase of Child Support,*
8 *Discontinuation of Discovery, and Attorney's Fees* and a new FDF on February 10,
9 2021.

10 This *Opposition* follows.

11 **III. OPPOSITION**

12 We will deal with all of the procedural problems with their *Motion* after we
13 address the main issues presented.

14 **A. Erich's FDF Still Misstates His Income**

15 We argued at the last hearing that Erich had filed an FDF that misstated his
16 income. He has filed a new FDF that does the same thing. Specifically, neither Erich
17 nor his Counsel took to the time to actually check the numbers presented to the Court.
18 Worse still, they use these wrong numbers to calculate the support.

19 Looking at the letter from the VA, the Court can see that his VA benefits are
20 listed as \$3,823.57. The CRSC payment is listed as \$2,394.18. These two numbers
21 represent the total of his disability income. They total \$6,217.75. His FDF indicates
22 that his disability income is \$5,245.04. He misstates his income here by \$972.71 per
23 month.

24 This is a simple calculation that should have been checked by his counsel
25 before filing the FDF. Even though we warned them of this type of error, they did not
26 review the FDF to determine if it was misrepresenting his income.¹³

27
28 ¹³ See Exhibit C, email from Richard Crane sent to Ms. Rachel Tygret on December 28, 2020.

1 Clearly, Erich and his Counsel were more concerned with taking a jab at Raina
2 by listing her property award as “Disability Payments to Raina” on page three of the
3 FDF under Monthly Deductions – Other, and as an “indemnification” payment in the
4 *Motion* at page 6 of 13.¹⁴

5 Ms. Wilde in her *Motion* states that the total gross income of Erich is
6 \$17,095.19. The calculations for child support all stem from this erroneous number.
7 His actual monthly income is \$18,068.¹⁵

8 Though we could argue that until Raina actually receives the property award
9 that is being held in trust by Erich’s Counsel, it should be included in the child
10 support calculation we instead, will subtract what is being held in trust, leaving a
11 monthly income of \$17,211.71. This is the number that should be used for the
12 calculation of the child support. Had Ms. Wilde simply filed the FDF, we would have
13 pointed out her errors and there would be no need for their *Motion* or this *Opposition*.
14 But they refused to even consider our request to wait on the *Motion* until a new FDF
15 was on file and the results of the VA subpoena were received.

16 These errors amplify why we requested the discovery that was served on Erich
17 through his Counsel. Once proof was produced, we could accurately determine his
18 actual income.

19 Further, as we pointed out to the Court at the last hearing, the FDF is either
20 inflated as to expenses or Erich is a spendthrift. He is currently making \$216,816 per
21 year. However, he lists a total of \$24,844.91 per month in deductions and expenses.
22
23
24

25
26 ¹⁴ They are attempting to create a narrative that the money Erich was ordered to pay to Raina
27 is anything but the property award he agreed to pay at the time of divorce.

28 ¹⁵ CRSC of \$2,394.18 plus VA benefits of \$3,823.67 plus monthly pay of \$11,850.15 equals
\$18,068.

1 This is a total of \$298,138.92 per year or a deficit of \$81,322.92 per year or
2 \$6,776.91 a month. This is unsustainable.¹⁶

3 We do know that his claim of spending \$675 per month on his only natural
4 child is completely bogus as he pays virtually nothing beyond his child support and
5 it has been a battle to get him to pay anything other than the child support.

6 Since the FDF is still unreliable as to the numbers included in the form, we
7 must rely solely on the pay stubs. The child support argument in the *Motion* is plain
8 wrong. Based on the numbers from the pay stubs the actual child support amount is
9 \$1,568.48.¹⁷ Had Erich or his counsel provided these documents before filing a
10 *Motion* we may have been able to avoid this round of litigation.

11 12 **B. Discovery Remains Relevant**

13 As can be seen thus far in this *Opposition*, Erich attempted to pass off numbers
14 to Raina with no FDF and no actual supporting documents. His Counsel even
15 misstated his VA benefits by \$1,000 in the letter where she attempted to have Raina
16 sign away her rights to the correct numbers.

17 The Court granted us the authority to issue discovery to prove that Erich
18 misrepresented his income – specifically as to his VA disability. Though we have not
19 seen the results of the subpoena, we knew on the day of the hearing that Erich had
20 lied to the Court as to his income. We still want to see what they claimed were these
21 “debts” that his VA benefits were being garnished to satisfy.

22 No matter what they were supposed to be repaying, they were, for all intent and
23 purposes, still being received by Erich to satisfy an obligation. That is what he
24 should have told the Court.

25
26
27 ¹⁶ If his current wife is making over this amount each month, she has obtained a significant
28 pay increase over the \$2,800 per month she was contributing in June.

¹⁷ See Child support calculation attached as Exhibit D.

1 Counsel argues that the issue of “candor” to the Court is important, but it isn’t
2 important enough to get to the truth. First, candor to the Court is a responsibility of
3 Erich’s Counsel. NRPC 3.3 states:

4 (a) A lawyer shall not knowingly:

5 (1) Make a false statement of fact or law to a tribunal or fail to correct a false
6 statement of material fact or law previously made to the tribunal by the lawyer;

7 (2) Fail to disclose to the tribunal legal authority in the controlling jurisdiction
8 known to the lawyer to be directly adverse to the position of the client and not
9 disclosed by opposing counsel; or

10 (3) Offer evidence that the lawyer knows to be false. If a lawyer, the lawyer’s
11 client, or a witness called by the lawyer, has offered material evidence and the
12 lawyer comes to know of its falsity, the lawyer shall take reasonable remedial
13 measures, including, if necessary, disclosure to the tribunal. A lawyer may
14 refuse to offer evidence, other than the testimony of a defendant in a criminal
15 matter, that the lawyer reasonably believes is false.

16 Here, Ms. Tygret and Ms. Wilde were on notice that their client had
17 misrepresented his income in the FDF filed in December.¹⁸ Even though they knew,
18 they never verified that the numbers in the FDF were actually correct. It is their
19 failure to do the proper Rule 11 investigation before filing the *Motion*. This is
20 sanctionable by this Court.

21 What actually happened here, was that Erich lied directly to the Court about his
22 VA disability payments. He has either received them directly each month or they
23 were applied to his debts. Either way, he misled the Court as to his gross income at
24 the last hearing. This rises to the level of perjury, as the Court directly asked him
25 twice if he was receiving any VA benefits. It was a lie to say no.

26 Now we come to the letter that is first produced as an exhibit in their *Motion*
27 that says his benefits were suspended. This should have been provided to counsel
28 without even asking. But, they slip it in as an exhibit trying to make it look like this
information was disclosed. The subpoena will produce this letter.

Most importantly here, is that Erich does not apologize to the Court or to Raina
for his causing this extra work in opening discovery. He did not even attempt to

¹⁸ See Exhibit C.

1 explain to the Court why he was not receiving benefits. He just sat silent hoping that
2 we would not find this extra \$3,823 he was receiving.

3 Allowing a litigant to lie – either by commission or omission – directly to the
4 Court tears at the heart of our judiciary. It engenders distrust in the system and
5 punishes the innocent. Yes, Erich should be punished for his bald faced lie to this
6 Court.

7 The discovery that we have served will show if he has lied about any other
8 income or obligations. He should be required to supply everything we asked for.¹⁹

9 The Court should deny their request to terminate discovery as we have now
10 shown that they are less than forthcoming with correct information even when cued
11 to do so or asked directly to provide it.

12 13 **C. Attorney's Fees**

14 Under no theory presented in their *Motion* is Erich entitled to attorney's fees.
15 He can't possibly prevail as his FDF is completely inaccurate and his income figures
16 are plain wrong. Under NRS 18.010 his claim fails.

17 It was he, and not Raina, that has vexatiously increased litigation in this matter.
18 Had he been forthcoming with all of his income from the beginning, there would have
19 been no need for this *Motion* or the discovery granted by the Court. His claim under
20 EDCR 7.60 also fails.

21 We did warn Opposing Counsel that we would seek fees if they went forward
22 with this *Motion*. We believe that we have shown that such a request has significant
23 merit as we were forced to correct their income figures and their child support
24 calculations based on those erroneous figures.

25 As for our desire to punish Erich, that is left to the sound discretion of the
26 Court, not us.

27 _____
28 ¹⁹ We did ask for all income sources that he used to obtain a new mortgage. This will
demonstrate whether he was candid with them as well as with this Court.

1 Lastly, and it pains me to point this out, but they are not entitled to fees under
2 the *Brunzell* factors.²⁰ Counsel's work on this matter violated NRCp 11 in that they
3 did not verify any of the numbers they submitted to the Court and to us. We have
4 received three different child support amounts that they want us to accept and want
5 the Court to order; none are correct.

6 They did not provide correct relevant information to undersigned counsel that
7 may have avoided litigation until after they filed their *Motion*, and they were anything
8 but civil in their correspondence and dealings.

9 We will now detail the procedural defects in their *Motion* that also support
10 finding that their representation in this matter was below standards.

11 12 **D. Procedural Errors**

13 **1. EDCR 5.501**

14 Though we agree that Counsel did contact us before filing this *Motion*, our
15 response would have limited litigation if they only filed a correct FDF and waited for
16 the Court authorized subpoena to produce documents. The reason for the rule is to
17 limit litigation. They produced no support for the numbers they provided and
18 expected us to take them at their word that they were correct. As outlined above, that
19 would have been malpractice for us to do.

20 We do not believe that they met the spirit of the rule and the Court should so
21 find.

22 **2. Violated EDCR 5.205**

23 The exhibits produced are not Bates Stamped in the lower right corner as
24 required by EDCR 5.205(b), and they were not all produced to us in discovery.

25 Collective exhibits to a filing must be filed as a separate appendix, including
26 a table of contents identifying each exhibit. This is required by EDCR 5.205(d).

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28

²⁰ *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

1 **3. Violated EDCR 2.21/EDCR 5.506**

2 Erich provides no affidavit or declaration to his *Motion*. EDCR 2.21 says:
3 Rule 2.21. Affidavits on motions.

4 (a) Factual contentions involved in any pretrial or post-trial motion must be
5 initially presented and heard upon affidavits, unsworn declarations under
6 penalty of perjury, depositions, answers to interrogatories, and admissions on
7 file. Oral testimony will not be received at the hearing, except upon the
8 stipulation of parties and with the approval of the court, but the court may set
9 the matter for a hearing at a time in the future and require or allow oral
10 examination of the affiants/declarants to resolve factual issues shown by the
11 affidavits/declarations to be in dispute. This provision does not apply to an
12 application for a preliminary injunction pursuant to N.R.C.P. 65(a).

13 (b) Each affidavit/declaration shall identify the affiant/declarant, the party on
14 whose behalf it is submitted, and the motion or application to which it pertains
15 and must be served and filed with the motion, opposition, or reply to which it
16 relates.

17 (c) Affidavits/declarations must contain only factual, evidentiary matter,
18 conform with the requirements of N.R.C.P. 56(e), and avoid mere general
19 conclusions or argument. Affidavits/declarations substantially defective in
20 these respects may be stricken, wholly or in part.

21 Here, there is no affidavit attached to the *Motion* at all. EDCR 5.506 allows
22 for Declarations – including short form declarations – on motions and oppositions.
23 Erich does not present either which is grounds for the Court striking the *Motion* in
24 whole or in part.

25 These procedural defects go mainly to the issue of fees. Since they have failed
26 to comply with even the local rules, they are not entitled to fees.

27 **IV. COUNTERMOTION**

28 **A. Attorney's Fees**

 Notwithstanding the massive errors pointed out in the current *Motion*, FDF and
the fact that Raina should be the prevailing party in this litigation, the Court
specifically said that if it was discovered that Erich was receiving VA disability
payments as we suggested at the hearing, attorney's fees would be awarded for the
previous hearing as well as this hearing.

 It is clear that Erich lied to the Court as he was entitled to the benefits and even
if they were being garnished to pay his debt to the government, he was still receiving

1 them. He lied to the Court to try and avoid paying child support. It wasn't until he
2 realized that we would find all of this out through the subpoena process that he tried
3 to cover his tracks.

4 As this Court is aware, attorney's fees may be awarded in a pre-or post-divorce
5 motion/opposition under NRS 125.150. In addition, and because we believe that
6 Raina will be the prevailing party in this matter, she should receive an award of her
7 attorney's fees and costs pursuant to NRS 18.010(2) for having to oppose this *Motion*.

8 Erich has consistently attempted to short Raina of money she is rightfully
9 owed. This is a clear demonstration of him doing the same thing with child support.
10 By making him pay for the litigation that he causes, it may deter him from doing the
11 same in the future.

12 With specific reference to Family Law matters, the Supreme Court has re-
13 adopted "well-known basic elements," which in addition to hourly time schedules
14 kept by the attorney, are to be considered in determining the reasonable value of an
15 attorney's services qualities, commonly referred to as the *Brunzell* factors:²¹

16 1. *The Qualities of the Advocate:* his ability, his training, education,
17 experience, professional standing and skill.

18 2. *The Character of the Work to Be Done:* its difficulty, its intricacy, its
19 importance, time and skill required, the responsibility imposed and the
prominence and character of the parties where they affect the importance of
the litigation.

20 3. *The Work Actually Performed by the Lawyer:* the skill, time and
21 attention given to the work.

22 4. *The Result:* whether the attorney was successful and what benefits were
23 derived.

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25
26
27
28 ²¹ *Supra.*

Each of these factors should be given consideration, and no one element should predominate or be given undue weight.²² Additional guidance is provided by reviewing the “attorney’s fees” cases most often cited in Family Law.²³

The *Brunzell* factors require counsel to make a representation as to the “qualities of the advocate,” the character and difficulty of the work performed, and the work *actually* performed by the attorney.

First, respectfully, we suggest that the supervising counsel is A/V rated, a peer-reviewed and certified (and re-certified) Fellow of the American Academy of Matrimonial Lawyers, and a Certified Specialist in Family Law.²⁴ Richard L. Crane, Esq., the attorney primarily responsible for drafting this *Motion*, is an associate attorney for the WILICK LAW GROUP and has practiced exclusively in the field of Family Law for over nine years under the direct tutelage of supervising counsel.

The fees charged by paralegal staff are reasonable, and compensable, as well. The tasks performed by staff in this case were precisely those that were “some of the work that the attorney would have to do anyway [performed] at substantially less cost per hour.”²⁵ As the Court reasoned, “the use of paralegals and other nonattorney staff reduces litigation costs, so long as they are billed at a lower rate,” so ““reasonable attorney’s fees”” . . . includes charges for persons such as paralegals and law clerks.”

²² *Miller v. Wilfong*, 121 Nev. 119, P.3d 727 (2005).

²³ Discretionary Awards: Awards of fees are neither automatic nor compulsory, but within the sound discretion of the Court, and evidence must support the request. *Fletcher v. Fletcher*, 89 Nev. 540, 516 P.2d 103 (1973), *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980), *Hybarger v. Hybarger*, 103 Nev. 255, 737 P.2d 889 (1987).

²⁴ Per direct enactment of the Board of Governors of the Nevada State Bar, and independently by the National Board of Trial Advocacy. Mr. Willick was privileged (and tasked) by the Bar to write the examination that other would-be Nevada Family Law Specialists must pass to attain that status.

²⁵ *LVMPD v. Yeghiazarian*, 129 Nev. 760, 312 P.3d 503 (2013) citing to *Missouri v. Jenkins*, 491 U.S. 274, 295-98 (1989).

1 Justin K. Johnson, the paralegal assigned to Raina's case, earned a Certificate
2 of Achievement in Paralegal Studies and was awarded an Associates of Applied
3 Science Degree in 2014 from Everest College. He has been a paralegal for over five
4 years and provided substantial assistance to WILICK LAW GROUP staff in a variety
5 of family law cases.

6 As to the "character and quality of the work performed," we believe this filing
7 is adequate, both factually and legally; we have diligently reviewed the applicable
8 law, explored the relevant facts, and believe that we have properly applied one to the
9 other.

10 11 **V. CONCLUSION**

12 Based on the foregoing, this Honorable Court should enter the following
13 orders:

- 14 1. Denying Erich's *Motion* in full.
- 15 2. Enter a new child support award going back to January 1, 2021,
16 for \$1,568.48 per month.
- 17 3. Find that Erich perjured himself by answering in the negative
18 when asked if he was receiving VA disability benefits.
- 19 4. Award Raina her actual attorney's fees from the filing of the
20 *Motion to Modify Child Support* through the hearing on this
21 matter.
- 22 5. Require that any fees awarded and arrearages be paid within 30
23 days of the order being issued from the bench.

1 6. Any other relief the Court deems is just and proper under the
2 circumstances.

3 **DATED** this 17th day of February, 2021.

4
5 WILLICK LAW GROUP

6 // s // Richard L. Crane, Esq.

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2. I have read the preceding *Motion*, and I have personal knowledge of the facts contained therein, unless stated otherwise. Further, the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct.

EXECUTED this 17th day of February, 2021.

RAINA MARTIN

Justin Johnson

From: Raina Martin <rainardh7@gmail.com>
Sent: Friday, February 12, 2021 7:23 AM
To: Justin Johnson
Cc: Raina Martin; Richard Crane; Tony 🧑 Bricker
Subject: Re: Draft Opposition
Attachments: 00482956.PDF

Hi Justin (& Richard)

Looks amazing.

Please sign and submit on my behalf.

Thank you,
Raina

On Feb 11, 2021, at 5:12 PM, Justin Johnson <justin@willicklawgroup.com> wrote:

Raina,



If you have any questions, please do not hesitate to let know.



Justin K. Johnson, Paralegal
Willick Law Group
3591 E. Bonanza Rd., Suite 200
Las Vegas, Nevada 89110
Phone 438-4100 ext 107; Fax 438-5311

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 17th day of February, 2021, I caused the foregoing document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.

To the litigant(s) and attorney(s) listed below at the address, email address, and/or facsimile number indicated:

Chad F. Clement, Esq.
Kathleen A. Wilde, Esq.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff

//s//Justin K. Johnson

Employee of the WILICK LAW GROUP

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MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN,
Plaintiff/Petitioner

-V.-

RAINA MARTIN,
Defendant/

Case No. D-15-509045-D

Department C

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

☒ **\$25** The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.

-Or-

☐ **\$0** The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:

☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.

☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.

☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.

☐ Other Excluded Motion (must specify) _____.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

☒ **\$0** The Motion/Opposition being filed with this form is **not** subject to the \$129 or the \$57 fee because:

☒ The Motion/Opposition is being filed in a case that was not initiated by joint petition.

☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.

-Or-

☐ **\$129** The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.

-Or-

☐ **\$57** The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☐ **\$0** ☒ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Willick Law Group Date: 2/17/2020

Signature of Party or Preparer: //s//Justin K. Johnson