

IN THE SUPREME COURT OF THE STATE OF NEVADA

Justin Maurice,

Appellant,

vs.

Sarah Maurice,

Respondent.

Supreme Court No. 83009

District Court Case No. D14-501883-3
Electronically Filed
Sep 07 2021 01:53 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

APPEAL FROM DECISION AND ORDER FROM 10/27/20 HEARING AND
DECISION AND ORDER FROM 01/13/21 MOTION FOR CONSIDERATION
HEARING

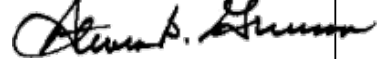
APPENDIX

VOL. 4

Bradley J. Hofland, Esq.
HOFLAND & TOMSHECK
228 S. 4th Street, First Floor
Las Vegas, Nevada 89101
702-895-6760
Attorney for Appellant

CHRONOLOGICAL INDEX OF APPENDIX

Description	Date Filed	Vol.	Page No.	Bate No.
Supplemental Exhibit	01/13/21	4	003-007	ROA000680- ROA000684
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Memorandum of Attorney's Fees and Costs	03/26/21	4	010-018	ROA000687- ROA000695
Objection to Plaintiff's Memorandum of Attorney's Fees and Costs	04/02/21	4	019-023	ROA000696- ROA000700
Order	04/23/21	4	024-035	ROA000701- ROA000712
Notice of Entry of Order	04/26/21	4	036-049	ROA000713- ROA000726
Notice of Appeal	05/26/21	4	050-051	ROA000727- ROA000728
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Notice of Posting Appeal Bond for Defendant Justin Maurice	06/01/21	4	057-058	ROA000734- ROA000735
Request for Transcript of Proceedings	07/29/21	4	059-063	ROA000736- ROA000740
Estimated Cost of Expedited/Rush Transcripts	07/29/21	4	064	ROA000741
Certification of Transcripts Notification of Completion	08/03/21	4	065	ROA000742
Transcript re: All Pending Motions on January 13, 2021	08/03/21	4	066-089	ROA000743- ROA000766
Transcript re: All Pending Motions on October 27, 2020	08/03/21	4	090-094	ROA000767- ROA000771
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Transcript re: All Pending Motions on February 10, 2015	08/12/21	4	100-121	ROA000777- ROA000798



1 **DISC**

2 RACHEL M. JACOBSON, ESQ.

3 Nevada Bar No. 007827

4 JACOBSON LAW OFFICE, LTD

5 64 North Pecos Road, Suite 200

6 Henderson, Nevada 89074

7 (702) 601-0770

8 *Attorney for Plaintiff*

9
10 ***EIGHTH JUDICIAL DISTRICT COURT***
11 ***CLARK COUNTY, NEVADA***
12

13 **SARAH MAURICE,**

14 **Plaintiff,**

15 **vs.**

16 **JUSTIN MAURICE,**

17 **Defendant.**

Case No. **D-14-506883-D**

Dept. No. **Q**

18 **SUPPLEMENTAL EXHIBIT**

19 COMES NOW Plaintiff, SARAH MAURICE, by and through her attorney,
20 Rachel M. Jacobson, Esq., at Jacobson Law Office, Ltd., and hereby submits the
21 following Exhibit in support of Plaintiff's OPPOSITION AND
22 COUNTERMOTION.
23

24 Plaintiff understands that these Exhibits are not considered substantive
25 evidence in this case until formally admitted into evidence.
26

27 ///

28 ///

///

1 **Table of Contents:**

2

3 **Exhibit 1** – School Grades Reports.

4 DATED this 13th day of January 2021.

5

6 JACOBSON LAW OFFICE, LTD

7 */s/ Rachel M. Jacobson, Esq.*

8

9

Rachel M. Jacobson, Esq.
Nevada Bar No. 007827
64 North Pecos Road, Ste 200
Henderson, Nevada 89074
Tel. 702) 601-0770
Attorney for Plaintiff

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of JACOBSON LAW OFFICE, LTD., and that on this 13th day of January 2021, I caused a copy of the above referenced document entitled "SUPPLEMENTAL EXHIBIT" to be served as follows to the party(s) listed below at the address, and/or email address indicated below:

☐ BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope upon which first class mail postage was prepaid in Henderson, Nevada;

☒ BY ELECTRONIC SERVICE: 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; and/or

☐ BY ELECTRONIC MAIL: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via electronic mail;

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

Bradley J. Hofland, Esq.
Email: bradh@hoflandlaw.com
Attorney for Defendant

/s/ Rachel M. Jacobson

An employee of JACOBSON LAW OFFICE, LTD.

Legacy Traditional School Cadence

325 Inflection Street
Henderson, NV 89011
(702)846-2310

Maurice, Emma R

2020 - 2021 Report Card
Grade: 01 Student ID: 18193

GPA Summary:

Cumulative GPA

0.0

Attendance Summary By Term:

Terms:	Q1		Q2		Q3		Q4		Total	
Period	Absent	Tardy	Absent	Tardy	Absent	Tardy	Absent	Tardy	Absent	Tardy
AM	0	0	0	0	0	0	0	0	0	0
PM	0	0	0	0	0	0	0	0	0	0
CRS	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

Grade Report:

Course	Task	Q1	Q2	Q3	Q4
CRS) 101-2 Grammar/Writing [Gatlin, Myra]	Grade Report	B	A		
CRS) 102-2 Phonograms [Gatlin, Myra]	Grade Report	A	B		
CRS) 103-2 Spelling [Gatlin, Myra]	Grade Report	A	A		
CRS) 104-2 Reading [Gatlin, Myra]	Grade Report	A	B		
CRS) 105-2 Mathematics [Gatlin, Myra]	Grade Report	A	A		
CRS) 106-2 Science [Gatlin, Myra]	Grade Report	A	B		
CRS) 107-2 Social Studies [Gatlin, Myra]	Grade Report	A	A		

Academic Performance Level for A-F						
A	B	C	D	F	I	NC
A	B	C	D	F	Incomplete	No Credit

Parent/Guardian of Emma R Maurice

ROA000683

Legacy Traditional School Cadence

325 Inflection Street
Henderson, NV 89011
(702)846-2310

Maurice, Savannah E

2020 - 2021 Report Card
Grade: 08 Student ID: 18192

GPA Summary:

Cumulative GPA

3.93

Attendance Summary By Term:

Terms:	Q1		Q2		Q3		Q4		Total	
Period	Absent	Tardy	Absent	Tardy	Absent	Tardy	Absent	Tardy	Absent	Tardy
1	0	0	0	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0	0	0	0
6	0	0	0	0	0	0	0	0	0	0
7	0	0	0	0	0	0	0	0	0	0
C	0	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0	0

Grade Report:

Course	Task	Q1	Q2	Q3	Q4
5) JH104-4 JH Course 3 [Malloy, Christian]	Grade Report	A	A		
2) JH135-1 8th Grade English [Bates, Bridgett]	Grade Report	A	A		
1) JH137-1 8th Grade Social Studies [Stefaniak, David]	Grade Report	B	A		
6) JH139-3 8th Grade Literature [Bates, Bridgett]	Grade Report	A	B		
7) JH141-4 8th Grade Science [Stefaniak, David]	Grade Report	B	A		

Academic Performance Level for A-F						
A	B	C	D	F	I	NC
A	B	C	D	F	Incomplete	No Credit

Parent/Guardian of Savannah E Maurice

ROA000684

R. GISTER OF ACTIONS**CASE No. D-14-506883-D****Sarah Maurice, Plaintiff vs. Justin Maurice, Defendant.**§
§
§
§
§
§
§
§Case Type: **Divorce - Complaint**
Subtype: **Complaint Subject Minor(s)**
Date Filed: **12/11/2014**
Location: **Department Q**
Cross-Reference Case Number: **D506883**
Supreme Court No.: **83009****PARTY INFORMATION****Defendant** **Maurice, Justin**
108 Westin LN
Henderson, NV 89002

Male

Lead Attorneys
Bradley J. Hofland
Retained
702-895-6760(W)**Plaintiff** **Maurice, Sarah**
1596 Rusy Ridge LN
Henderson, NV 89002

Female

Rachel M. Jacobson
Retained
702-601-0770(W)**Subject Minor Maurice, Emma****Subject Minor Maurice, Savannah****EVENTS ☐ ORDERS OF THE COURT**01/13/2021 **All Pending Motions** (9:00 AM) (Judicial Officer Duckworth, Bryce C.)*DEFENDANT'S NOTICE OF MOTION AND MOTION FOR RECONSIDERATION OF ORDER DENYING TO MODIFY THE CURRENT CUSTODIAL ARRANGEMENT; MODIFY CHILD SUPPORT; MODIFY CHILD TAX DEDUCTION; AND FOR AN AWARD OF ATTORNEY'S FEES AND COSTS; AND RELATED RELIEF; AND RELATED RELIEF...PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR RECONSIDERATION AND COUNTERMOTION FOR AN AWARD OF ATTORNEY'S FEES, COSTS AND RELATED RELIEF...DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO DFENDNT'S MOTION FOR RECONSIDERATION OF ORDER DENYING MOTION TO MODIFY THE CURRENT CUSTODIAL ARRANGEMENT; MODIFY CILD SUPPORT; MODIFY CHILD TX DEDUCTION; AND FOR AN AWARD OF ATTORNEY'S FEES AND COSTS; AND RELATED RELIEF.***Minutes**

01/13/2021 9:00 AM

- DEFENDANT'S NOTICE OF MOTION AND MOTION FOR RECONSIDERATION OF ORDER DENYING TO MODIFY THE CURRENT CUSTODIAL ARRANGEMENT; MODIFY CHILD SUPPORT; MODIFY CHILD TAX DEDUCTION; AND FOR AN AWARD OF ATTORNEY'S FEES AND COSTS; AND RELATED RELIEF...PLAINTIFF'S OPPOSITION DEFENDANT'S MOTION FOR RECONSIDERATION OF ORDER DENYING MOTION TO MODIFY THE CURRENT CUSTODIAL ARRANGEMENT; MODIFY CHILD SUPPORT; MODIFY CHILD TAX DEDUCTION; AND FOR AN AWARD OF ATTORNEY'S FEES AND COSTS; AND RELATED RELIEF...DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR RECONSIDERATION OF ORDER DENYING TO MODIFY THE CURRENT CUSTODIAL ARRANGEMENT, ET AL. Plaintiff/Mom, Ms. Jacobson and Mr. Hofland present by video with Defendant/Dad present in the office. Mr. Hofland represented there has been a disconnect in the communication, as he had a matter scheduled for the same time in downtown court at last hearing. Discussion regarding parties' current schedule being convenient for Dad, last custody schedule been from seven (7) years ago, Dad's request to spend more time with the children, Dad's wishes to establish a better relationship with the children request for an evidentiary hearing to be set. Ms. Jacobson discussed Dad's schedule is worst than his previous one, Dad's Financial Disclosure Form (FDF) reflecting he actually works more, Mom's schedule not fluctuating despite receiving a promotion, Dad not submitting evidence of a substantial change in circumstance to request a modification of custody and Mom's concerns for Dad's behavior. Ms. Jacobson is further requesting for attorney's fees. The Court noted the Decree of Divorce was filed five (5) years ago and inquired if the parties would like to participate in family mediation. Mr. Hofland argued other jurisdictions have found a schedule change a significant change in circumstances to modify visitation schedule and asked the Court to consider same as Dad is simply requesting to spend more time with his children. The Court noted it does not find

8/30/2021

<https://www.clarkcountycourts.us/Secure/CaseDetail.aspx?CaseID=11560501&HearingID=205080989&SingleViewMode=Minutes>

sufficient basis to set further proceedings regarding modification of custody, further, it deems appropriate to grant attorney's fees for Ms. Jacobson. For the record, the Court discussed the detailed timeline and thread of e-mail correspondence between Mr. Hofland's office staff and the Court regarding the 10/27/2020 hearing were Mr. Hofland was unable to appear. COURT stated its FINDINGS and ORDERED the following: 1. Motion for RECONSIDERATION is DENIED. 2. Ms. Jacobson shall prepare the order from today in addition to a Brunzell Memorandum of Fees and Costs and leave a blank space for the Court to determine ATTORNEY'S FEES. CASE CLOSED upon entry of order.

[Parties Present](#)

[Return to Register of Actions](#)



MEMC

RACHEL M. JACOBSON, LTD.
Nevada Bar No. 007827
JACOBSON LAW OFFICE, LTD.
64 North Pecos Road, Suite 200
Henderson, Nevada 89074
Phone (702) 601-0770
Attorney for Plaintiff,
Sarah Maurice

***EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA***

SARAH MAURICE,

Plaintiff,

vs.

JUSTIN MAURICE,

Defendant.

Case No. **D-14-506883-D**

Dept. No. **Q**

FAMILY DIVISION

**MEMORANDUM OF ATTORNEY'S
FEES AND COSTS**

COMES NOW Plaintiff, SARAH MAURICE ("Sarah"), by and through her attorney, RACHEL M. JACOBSON, ESQ., of the law firm of JACOBSON LAW OFFICE, LTD., and, pursuant to the Court's Order at the time of the January 13, 2021 hearing in this matter, presents to the Court her Memorandum of Attorney's Fees and Costs.

**I
INTRODUCTION**

This matter came before this Court on Defendant's Motion for Reconsideration of Order Denying to Modify the Current Custodial Arrangement; Modify Child Support;

1 Modify Child Tax Deduction; and for an Award of Attorney's Fees and Costs and Related
2 Relief filed December 7, 2020. Plaintiff filed her Opposition and Countermotion to
3 Defendant's Motion and related Exhibits. Plaintiff also appeared with counsel for hearing
4 of same on January 13, 2021. This Memorandum of Fees and Costs in the above
5 referenced case is provided to the Court indicating fees and costs incurred by Plaintiff
6 from December 7, 2020 through March 26, 2021.
7

9 I. FEES INCURRED

10 A. Plaintiff's billing records in this case from December 7, 2020 through March 26,
11 2021 reflect the following time entries for Jacobson Law Office, Ltd. A detailed
12 summary is attached hereto as **Exhibit A**:
13

<i>Assistant time:</i>	5.8 hours	@ \$ 95.00/hour	\$ 551.00
<i>Attorney time:</i>	7.2 hours	@ \$350.00/hour	\$ 2,520.00
Fees and Costs Total:			\$ 3,071.00

17 II. LEGAL ARGUMENT

18 Attorney's fees may be awarded in a pre or post-divorce motion under NRS
19 18.010(2) and NRS 22.100. NRS 18.010(2) provides that fees may be awarded:
20
21

22 (a) When the prevailing party has not recovered more than
23 \$20,000; or

24 (b) Without regard to the recovery sought, when the court
25 finds that the claim, counterclaim, cross-claim or third-party
26 complaint or defense of the opposing party was brought or
27 maintained without reasonable ground or to harass the prevailing
28 party. The court shall liberally construe the provisions of this
paragraph in favor of awarding attorney's fees in all appropriate
situations. It is the intent of the Legislature that the court award

1 attorney's fees pursuant to this paragraph and impose sanctions
2 pursuant to Rule 11 of the Nevada Rules of Civil Procedure in
3 all appropriate situations to punish for and deter frivolous or
4 vexatious claims and defenses because such claims and defenses
5 overburden limited judicial resources, hinder the timely
6 resolution of meritorious claims and increase the costs of
engaging in business and providing professional services to the
public.

7 3. In awarding attorney's fees, the court may pronounce its
8 decision on the fees at the conclusion of the trial or special
9 proceeding without written motion and with or without
presentation of additional evidence.

10 4. Subsections 2 and 3 do not apply to any action arising
11 out of a written instrument or agreement which entitles the
prevailing party to an award of reasonable attorney's fees.

12 Further, EDCR 7.60(b) provides:

13
14 (b) The court may, after notice and an opportunity to be heard,
15 impose upon an attorney or a party any and all sanctions which
16 may, under the facts of the case, be reasonable, including the
imposition of fines, costs or attorney's fees when an attorney or
a party without just cause:

17 (1) Presents to the court a motion or an opposition to a
18 motion which is obviously frivolous, unnecessary or
unwarranted.

19 (2) Fails to prepare for a presentation.

20 (3) So multiplies the proceedings in a case as to increase
21 costs unreasonably and vexatiously.

22 (4) Fails or refuses to comply with these rules.

23 (5) Fails or refuses to comply with any order of a judge
of the court.

24 As noted above, Plaintiff has incurred fees and costs in the amount of \$3,071.00 in
25 attempting to address Defendant's filing and failure to reasonably address this matter. In
26 weighing the reasonable value of an attorney's services, the Court has adopted basic
27 elements to be considered along with the attorney's hourly schedule. As provided in
28

1 *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969) and
2 *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005), those factors are:

- 3
4 1) The Qualities of the Advocate: his ability, his training, education,
5 experience, professional standing and skill.
- 6
7 2) The Character of the Work to be Done: its difficulty, its intricacy, its
8 importance, time and skill required, the responsibility imposed and the
9 prominence and character of the parties where they affect the importance
10 of the litigation.
- 11
12 3) The Work Actually Performed by the lawyer: the skill, time and attention
13 given to the work.
- 14
15 4) The result: whether the attorney was successful and what benefits were
16 derived.

17 Regarding the initial factor, we respectfully present that the undersigned counsel
18 has obtained her JD in 2001; she has been licensed in the State of Nevada since October of
19 2001 and has dedicated her practice primarily to the area of family law with a focus on
20 mediation of cases to circumvent litigation for families. And the fees charged by counsel
21 and staff are reasonable and compensable. As to the *character of the work*, it is of
22 importance as Defendant misrepresented facts to the Court in his effort to modify primary
23 physical custody forcing Plaintiff to defend herself in her continued efforts to protect the
24 best interest of the parties' minor children and maintain their stability. As to *work*
25 *actually performed*, the undersigned respectfully asks this Court to find that the work
26
27
28

1 presented is adequate and well contemplated. As for *the result obtained*, while each of the
2 foregoing factors is relevant, not one should predominate or be given undue weight. *Miller*
3 *v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).
4

5 **DATED** this 26th day of March 2021.
6

7 *Respectfully Submitted By:*
8 JACOBSON LAW OFFICE, LTD.

9 */s/ Rachel M. Jacobson*

10 _____
11 RACHEL M. JACOBSON, ESQ.
12 Nevada Bar No. 007827
13 64 No. Pecos Road, Suite 200
14 Henderson, Nevada 89074
15 T: 702-601-0770
16 *Attorney for Plaintiff*
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DECLARATION OF ATTORNEY

1. I, Rachel M. Jacobson, Esq., declare that I am competent to testify to the facts contained in the preceding filing.

2. I am an attorney duly licensed to practice law in the state of Nevada.

3. I am an attorney representing the Plaintiff, Sarah Maurice.

4. I have personal knowledge of the above costs and disbursements expended, and the items contained in the above memorandum are true and correct to the best of my knowledge and belief. In addition, any disbursements have been necessarily incurred and paid in this action.

5. I declare under penalty of perjury, under the laws of the State of Nevada and United States (NRS 53.045 and 28 U.S.C. § 1746) that the foregoing is true and correct.

/s/ Rachel M. Jacobson
RACHEL M. JACOBSON, ESQ.

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A

Sarah Maurice

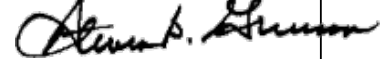
Date Range: 12/07/2020 - 03/26/2021

Billable vs total

\$3,071.00

13 hour(s)

DATE	ACTIVITY	DURATION	DESCRIPTION	RATE	TOTAL	STATUS	USER
Mar 25, 2021	Correspondence	0.2	Prepare response correspondence to OC re: order; request to submit competing order for Court's review given unresolved discrepancies in preparation	\$350.00/hr	\$70.00		Rachel Jacobson
Mar 1, 2021	Receipt and Review	0.2	Receipt and review correspondence from OC requesting revisions to proposed order	\$350.00/hr	\$70.00		Rachel Jacobson
Feb 23, 2021	Receipt and Review	0.2	Receipt and review email communication from OC requesting add'l time to respond to proposed order	\$350.00/hr	\$70.00		Rachel Jacobson
Feb 18, 2021	Preparation	1.8	Continue finalization of proposed order from hearing; review hearing video for same; email OC re: same	\$350.00/hr	\$630.00		Rachel Jacobson
Feb 18, 2021	Correspondence	0.2	Emails to/from client & Hofland. Review of letter from OC	\$350.00/hr	\$70.00		Rachel Jacobson
Feb 11, 2021	Preparation	0.4	Review initial draft of proposed order from hearing	\$350.00/hr	\$140.00		Rachel Jacobson
Jan 20, 2021	Preparation	5.0	Review video transcript of hearing of 1.13.21 and prepare order and memo re fees for review by RJ	\$95.00/hr	\$475.00		Legal Assistant
Jan 19, 2021	Receipt and Review	0.2	Answer and Counter	\$350.00/hr	\$70.00		Rachel Jacobson
Jan 13, 2021	Court Appearance	1.6	Preparation for and court appearance	\$350.00/hr	\$560.00		Rachel Jacobson
Jan 12, 2021	Draft	0.2	Supp EXHS	\$350.00/hr	\$70.00		Rachel Jacobson
Jan 8, 2021	Receipt and Review	0.4	D's Reply to OPPO. Emails to/from client re EXHS	\$350.00/hr	\$140.00		Rachel Jacobson
Jan 7, 2021	File	0.3	Communication with client regarding FDF; efile and serve same	\$95.00/hr	\$28.50		Legal Assistant
Jan 5, 2021	Draft	1.6	Oppo and CM	\$350.00/hr	\$560.00		Rachel Jacobson
Dec 21, 2020	Review and finalize	0.2	Answer and Counter	\$350.00/hr	\$70.00		Rachel Jacobson
Dec 16, 2020	Preparation	0.5	Begin review and preparation of opposition and counter motion to new motion filed by Defendant 12.7.20	\$95.00/hr	\$47.50		Legal Assistant



HOFLAND & TOMSHECK
Bradley J. Hofland, Esq.
Nevada Bar Number: 6343
bradh@hoflandlaw.com
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
Telephones: (702) 895-6760
Facsimile: (702) 731-6910
Attorney for Defendant, Justin Maurice

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

SARAH MAURICE,	) CASE NO.: D-14-506883-D
	) DEPT. NO.: Q
Plaintiff,)
	) OBJECTION TO PLAINTIFF'S
vs.	) MEMORANDUM OF ATTORNEY'S
	) FEES AND COSTS
JUSTIN MAURICE,)
)
Defendant.)
)

COMES NOW, Defendant Justin Maurice ("Justin") by and through his attorneys, Bradley J. Hofland, Esq. of Hofland & Tomscheck, and hereby submits his Objection to Plaintiff's Memorandum of Attorney's Fees and Costs and respectfully submits that any award of attorney's fees and costs to Plaintiff Sarah Maurice ("Sarah") is not warranted under the facts of this case and applicable authority and to do so would constitute an injustice.

Dated this 2nd day of April, 2021

HOFLAND & TOMSHECK
By: /s/ Bradley J. Hofland
Bradley J. Hofland, Esq.
Nevada Bar No. 6343
228 South 4th Street, 1st Floor
Las Vegas Nevada 89101
Attorneys for Defendant Justin Maurice

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**
3 **Introduction**

4
5 On September 17, 2020 Defendant Justin Maurice (“Justin” or
6 “Defendant”) filed his motion to modify child custody, child support and tax
7 deduction based on a substantial change of circumstances. The hearing on
8 Defendant’s motion was set for October 27, 2020. Prior to the hearing
9 Defendant’s counsel informed the Court of a scheduling conflict due counsel’s
10 appearance at the same time in an unrelated matter. As a result, the Court called
11 the hearing without Defendant’s counsel or Defendant present issued a ruling.
12 The Order after the October 27, 2020 hearing denying Defendant’s motion was
13 entered on November 23, 2020. Thereafter, on December 7 2020, Defendant filed
14 his motion for reconsideration based on new circumstances, no factual finding
15 made by the Court and error of law. Plaintiff filed her opposition to Defendant’s
16 motion 30 days after service on January 6, 2021. The hearing on Defendant’s
17 motion was conducted on January 13, 2021, and the Court denied Defendant’s
18 motion for reconsideration and awarded Plaintiff attorney’s fees.

19 **II.**
20 **Legal Analysis**

21 NRS 18.010(2) permits attorney’s fees under both subsections, to wit: (a) as
22 a prevailing party, and (b) because Plaintiff’s positions were brought and
23 maintained without reasonable ground. Although Defendant’s motion for
24 reconsideration was denied the motion was brought and maintained with
25 reasonable ground as result of the underlying motion to modify being heard
26 without a hearing and additional events occurred after court issued its ruling that
27 warranted reconsideration.

28 Plaintiff’s request for \$ 3,071.00 in attorney’s fees for opposing

1 Defendant's motion for reconsideration and the amount of work done is
2 unreasonable and unfair. Furthermore, Plaintiff's opposition to Defendant's
3 motion for reconsideration was untimely. Justin filed and served his motion for
4 reconsideration on December 7, 2020. Pursuant to EDCR 5.502, Sarah's
5 opposition was due on December 21, 2020. According to Plaintiff's counsel's
6 billing (Exhibit "A"), counsel's office began preparing the opposition and
7 counter-motion on December 16, 2020. However, Plaintiff's opposition was not
8 filed until January 6, 2021, such that Justin's requested relief should have been
9 granted without a hearing. Nevertheless, a hearing on Defendant's motion was
10 conducted and this Court denied Defendant's motion for reconsideration and
11 awarded Plaintiff attorney's fees and costs and ordered Plaintiff's counsel to
12 prepare the Order and a Brunzell Memorandum of Fees and Costs to determine
13 the attorney's fees.

14 The order after hearing was prepared by Plaintiff's counsel prior to the
15 court minutes being prepared requiring not only Plaintiff's counsel to spend time
16 reviewing the hearing video, but also required Defendant's counsel to review the
17 hearing video ensure the order corresponded with the Court's findings and orders.
18 Additionally, Plaintiff's counsel's legal assistant spent 5 hours of unnecessary
19 time reviewing the video transcript and preparing the order after hearing and
20 Plaintiff's counsel spent an additional 2.2 hours reviewing the order and the
21 hearing video. Additional time requested by Plaintiff's counsel consist of another
22 .8 hours in review of correspondence between counsel regarding the order and
23 revisions. The time spent on reviewing the hearing video and preparation of the
24 order and revisions could have been avoided had Plaintiff's counsel waited until
25 the court minutes were prepared, which were detailed and consistent with the
26 Court's findings and rulings.

27 Additionally, no declaration from Plaintiff's counsel's legal assistant was
28 submitted with the Memorandum of Attorney's Fees and Costs with regards to the

1 legal assistant's qualifications, whether said time was reasonable and permitted by
2 Nevada law. NRS 28.010 does not mention attorney's fees to be awarded for non-
3 attorney's work and time. As such all of the legal assistant's time (5.8 hours of
4 which 5 hours was spent reviewing the hearing video and preparing the order)
5 should be disregarded in the amount of \$551.00.

6 Plaintiff's counsel also included attorney's fees for 3.2 hours for activities
7 performed *subsequent* to the hearing, including review of the hearing video,
8 finalization of the order and correspondence which time and fees are unreasonable
9 and should be disregarded.

10 Nevertheless, as it pertains to Plaintiff's request, an award of fees is not
11 warranted, it would not be fair, and it would not be just. However, should the
12 Court be inclined to award Plaintiff reasonable attorney's fees, Defendant request
13 the amount of attorney's fees be set at a maximum amount of \$1,400.00.

14 Dated this 2nd day of April, 2021

15
16 **HOFLAND & TOMSHECK**

17 By: /s/ Bradley J. Hofland
18 Bradley J. Hofland, Esq.
19 Nevada Bar No. 6343
20 228 South 4th Street, 1st Floor
21 Las Vegas Nevada 89101
22 *Attorneys for Defendant Justin Maurice*
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 2nd day of April, 2021, I served the **OBJECTION TO PLAINTIFF’S MEMORANDUM OF ATTORNEY’S FEES AND COSTS** on the following parties by E-Service through Odyssey and/or U.S. mail addressed as follows:

Jacobson Law Office, Ltd.
64 North Pecos Road, Suite 200
Henderson, NV 89074
Attorney for Plaintiff

By: /s/ Nikki Warren
Employee of Hofland & Tomsheck

Heather L. Smith
CLERK OF THE COURT

ORDER

RACHEL M. JACOBSON, LTD.
Nevada Bar No. 007827
JACOBSON LAW OFFICE, LTD.
64 North Pecos Road, Suite 200
Henderson, Nevada 89074
Phone (702) 601-0770
*Attorney for Plaintiff,
Sarah Maurice*

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

SARAH MAURICE,

Plaintiff,

vs.

JUSTIN MAURICE,

Defendant.

Case No. **D-14-506883-D**

Dept. No. **Q**

FAMILY DIVISION

Date of Hearing: 01/13/2021

Time of Hearing: 9:00 AM

ORDER

THIS MATTER having come on for hearing upon Defendant's Motion for Reconsideration of Order Denying to Modify the Current Custodial Arrangement; Modify Child Support; Modify Child Tax Deduction; and for an Award of Attorney's Fees and Costs and Related Relief, and Plaintiff's Opposition and Countermotion thereto and Defendant's Reply; Plaintiff, SARAH MAURICE ("Plaintiff/Mother"), appearing via *Blue Jeans* and being represented by RACHEL M. JACOBSON, ESQ., of Jacobson Law Office, Ltd., and Defendant, JUSTIN MAURICE ("Defendant/Father"), also appearing via *Blue Jean* and being

1 represented by BRADLEY J. HOF LAND, ESQ.; the Court, having reviewed the
2 pleadings and papers on file herein, and the Court being fully advised in the
3 premises and good cause appearing therefore, makes the following Notations,
4 Findings and Orders:
5

6 THE COURT NOTED that no stipulations between the parties have been
7 reached.
8

9 THE COURT FURTHER NOTED that the Stipulated Decree of Divorce
10 was entered September 30, 2015, and, recognizing that the Decree is five years of
11 age, the Court questioned counsel as to whether there would be any value in having
12 the parties participate in mediation regarding a modification to the schedule. It is
13 clear to the Court that there has been communication and dialog between the
14 parties over the past year with things that have happened and the environment that
15 we live in now. The parties have demonstrated the capacity to communicate with
16 each other. The Court also stated that this is independent of the request to modify
17 custody. (VT 9:13) Counsel's opinions differed as to mediation.
18

19 THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS
20 based upon the arguments of counsel and papers that have been filed with the
21 Court: (VT 9:19:44)
22

23 THE COURT HEREBY FINDS that this matter comes before the Court on
24 Defendant's Motion for Reconsideration of Order Denying to Modify the Current
25
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1 Custodial Arrangement; Modify Child Support; Modify Child Tax Deduction; and
2 for an Award of Attorney's Fees and Costs and Related Relief. The standard
3 applied by the Court in evaluating such a motion for reconsideration is the *Ellis v.*
4 *Carucci* standard, recognizing that the controlling order (the Decree of Divorce),
5 provides the parties with Joint Legal Custody and the Plaintiff/Mother with
6 Primary Physical Custody. That order was entered in 2015, subject to the
7 visitation defined therein for Father. Pursuant to the *Ellis v. Carucci* standard, the
8 Court is required to initially make a finding that there has been a substantial
9 change in circumstances affecting the well-being of the child in evaluating whether
10 or not there is a basis to modify custody. After making a finding that there has
11 been a substantial change in circumstances, the Court then considers the best
12 interest factors, which is a focal point in looking at the best interests of the
13 children. (VT 9:21)

14
15 THE COURT FURTHER FINDS AND CONCLUDES that the *Ellis v.*
16 *Carucci* case modified the *Murphy* test that had been in place up until the time of
17 *Ellis v. Carucci*. The standard that is set forth in both cases relies in part upon
18 maintaining some stability in custodial arrangements for the benefit of children.
19 That is the basis for the original *Murphy* test, lessened somewhat in the *Ellis v.*
20 *Carucci* test. The test in *Ellis v. Carucci* is the standard to be applied by the Court.
21 (VT 9:21:43)

1 THE COURT FURTHER FINDS that when the case first came before the
2 Court on the Defendant's motion on October 27, 2020, the Court was asked to
3 make such a determination. Upon review of the original papers filed pursuant to
4 the *Rooney* case, the Court determined that there was not a sufficient showing
5 pursuant to *Rooney* to set further proceedings on the motion. (VT 9:22:12)
6
7

8 THE COURT FURTHER FINDS that the primary focus of the Defendant's
9 Motion relates to his work schedule. Although Defendant raises other issues and
10 arguments, the change in his work schedule is the primary focus of his request.
11 There is reference to an offer of proof that the parties' older child, Savannah (13
12 years of age and soon to be 14), has expressed a preference regarding her custody
13 (which is a "best interest" factor pursuant to NRS 125C.0035). Plaintiff disputes
14 this offer of proof, arguing that the opposite is true. This Court concludes that such
15 an expression of a preference is not determinative of a substantial change in
16 circumstances. Rather, such an offer is part of the best interest analysis. (VT
17 9:23:13)
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22 THE COURT FURTHER FINDS that, looking at work schedules in general,
23 the Court posed the question: if someone loses his/her job and becomes
24 unemployed (which the Court has seen a fair amount of this past year), does that
25 constitute a substantial change in circumstances to warrant the Court permanently
26 modifying custody (because someone becomes unemployed). (VT 9:15) This
27
28

1 Court's approach is not determined by how other judicial Departments may or may
2 not be approaching this issue. This Court applies the law to the facts. The Court
3 recognizes that we are living in unique times, including a rise in unemployment.
4 The Court, therefore, posed the question regarding unemployment. The Court
5 would not conclude that the loss of employment necessarily triggers an automatic
6 review with evidentiary proceedings for a permanent modification of custody and
7 the Court also views the same a temporary circumstance. Defendant's specific
8 situation is offered something that is more than a temporary circumstance. In this
9 regard, Defendant's work schedule has changed, including the availability of
10 "working" from home. Such a "work" arrangement is something that we are
11 seeing a lot more frequently today under the current circumstances with the
12 Pandemic (and may remain after things get back to "normal"). However, when the
13 Court hears the phrase "working from home," the connotation that that frequently
14 is attaches is that "working" from home does not really mean "working." The
15 suggestion is that someone who is "working" from home is actually not working,
16 but is available to provide daycare for children, available to educate children or
17 involved in some form of distance learning. The good news for the Court is that
18 the parties' children are fortunate enough to be receiving some in-person
19 education, which is a fabulous and a fantastic scenario for them. It is not complete,
20 but they at least get some socialization and some classroom time. Nevertheless,
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1 when the Court hears “working from home,” the Court should necessarily view
2 such a claims as actually *working* from home. It may not mean that every minute
3 of that time is spent actually performing work, but clearly the Court’s expectation
4 would be that the employer expects that one is available and actually working from
5 home. (VT 9:25:27)
6

7
8 THE COURT FURTHER FINDS that, based upon the offers that have been
9 made, there has not been a sufficient basis nor has there been a sufficient showing,
10 pursuant to *Rooney*, that would warrant this Court to reconsider the prior Order
11 (Nov. 21, 2020) and set further proceedings. The Court is not persuaded, based
12 upon those papers, and pursuant to *Rooney*, that there is sufficient cause to set
13 further proceedings. (VT 9:26)
14

15
16 THE COURT FURTHER FINDS that Plaintiff is entitled to an award of
17 attorney’s fees pursuant to EDCR 7.60. This Court has considered the factors set
18 forth in *Brunzell v. Golden Gate National Bank* in evaluating an award of fees.
19 After this Court’s review and consideration of Plaintiff’s Memorandum of
20 Attorney’s Fees and Costs (Mar. 26, 2021) and Defendant’s Objection to Plaintiff’s
21 Memorandum of Attorney’s Fees and Costs (Apr. 2, 2021), this Court finds that an
22 award of \$1,500 is appropriate.
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26 THE COURT FURTHER FINDS that it also is important to clarify the
27 record as it relates to what transpired in the prior hearing in light of the assertions
28

1 made in the paperwork filed on behalf of Defendant that misstate how this Court
2 handled the prior proceedings and, as such, the Court finds the clarification as to
3 what exactly transpired is necessary and, in that regard, the COURT FINDS AS
4 FOLLOWS: (VT 9:26:20)
5

6
7 1. Defendant's Motion for Reconsideration of Order Denying to Modify
8 the Current Custodial Arrangement; Modify Child Support; Modify Child Tax
9 Deduction; and for an Award of Attorney's Fees and Costs and Related Relief
10 states in specific footnote 2:
11

12 *At no time*, did the Court's staff inform Mr. Hofland's office that the
13 hearing was starting with or without him. [Emphasis added]

14 The Defendant's Motion continues in footnote 3:
15

16 Clark County while smaller than Los Angeles, San Bernardino,
17 San Francisco, Orange County and San Diego Counties, has generally
18 like other large counties in other states accommodated scheduling
19 conflicts caused by conflicts with other appearances scheduled for the
20 same time and date. Mr. Hofland inadvertently wrongly assumed
21 Department Q granted the same "common" courtesy followed in other
22 divisions of the Eighth Judicial District Court and other Courts where
23 Mr. Hofland has appeared to trail hearings so all parties and counsel
24 would be present at important hearings.

25 Further, on page 3 of Defendant's Reply to Plaintiff's Opposition:
26

27 "Sadly, and unacceptably this Court chose to deprive Defendant of his
28 due process rights to a fair and meaningful hearing (he was not
allowed to appear given the Court's method of disposition), and more
troubling his fundamental rights as a parent were not recognized and
accommodated. Along with that, Defendant's counsel was not
allowed (denied) the opportunity to be heard (unlike Plaintiff's
counsel). Instead, this Court simply focused on one factor, denied

1 argument and an evidentiary hearing, claiming that factor alone was
2 insufficient to modify custody and child support, and promptly ruled
3 the case would be closed as soon as Plaintiff's counsel could get an
4 order to the Court. (VT 9:28)

5 2. (VT 9:28) For the record, this Court's JEA and Law Clerk received an
6 email from Mr. Hofland's office on Monday, October 26, 2020 at 1:25 PM, to
7 notify the Department that "Mr. Hofland will be a few minutes late logging on to
8 Bluejeans in the morning as he also has a telephonic hearing with one of his civil
9 cases at 9:00 AM tomorrow also." Department Q's Law Clerk responded on
10 October 26, 2020 at 3:15 PM and stated: "Thank you for the notice." The
11 Department Q JEA was included in the email.
12

13
14 3. Department Q's JEA followed up with Mr. Hofland's office on
15 Tuesday, October 27, 2020 (the date of the hearing) at 10:02 AM. The hearing
16 was scheduled for 9:00 AM on the Court's calendar. The suggestion that this
17 Court failed to trail the matter is completely inaccurate. The hearing was
18 scheduled at 9:00 AM. As of 10:02 AM, the Court had trailed the matter.
19 Department Q's JEA's email to Mr. Hofland's office stated: "Can you please tell
20 me the status of Mr. Hofland? Unfortunately, Ms. Jacobson was not notified by
21 your office and she has been waiting since 9 AM. Judge Duckworth will be calling
22 the matter...." Thus, notice was *in fact* imparted on Mr. Hofland's office that the
23 matter was going to be called and was called at 10:03 AM.
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1 4. After trailing the matter for more than an hour to accommodate
2 counsel, the hearing proceeded at 10:03 AM. On October 27, 2020 at 10:08 AM,
3 an email was received by Department Q's JEA from Mr. Hofland's office stating
4 "I apologize for the delay. Mr. Hofland is *still waiting* to be called for his civil
5 hearing this morning in Department 25. Mr. Hofland anticipates he will be
6 finished *by 10:30 AM/11:00 AM*. Our Client Justine Maurice is at our office for
7 the Maurice Hearing, and he just stepped out for 15 mins to get a cup of coffee."
8 (Emphasis added). (VT 9:30:30)

12 5. Again, the suggestion that this Court failed to offer any courtesy
13 whatsoever is inaccurate. Moreover, the Court would expect that, as a professional
14 courtesy, if an attorney anticipates being late to a hearing, counsel would
15 communicate the anticipated delay to opposing counsel. The Court did
16 accommodate the delay; the Court waited for more than an hour. This matter was
17 not the only case on the Court's calendar that morning; the Court had other matters
18 scheduled and the Court.

22 6. It is this Court's prerogative to review the papers and make a
23 determination on those papers because the Court views the papers as being the
24 mode by which counsel for both parties, especially capable counsel that both
25 parties have, to communicate all of the relevant information the Court needs to
26 make a decision. It is this Court's prerogative to make decisions based on the
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1 papers that have been filed, again presuming that all of the relevant information the
2 Court needs to make a decision have been accurately stated in those papers. In this
3 particular matter, the hearing was scheduled for 9:00 AM. It started at 10:03 AM
4 and apparently the hearing before this Court was less of a priority than the hearing
5 before another department downtown in a civil matter. This Court waited over an
6 hour. That was an accommodation that was offered notwithstanding the arguments
7 to the contrary.
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10
11 **THEREFORE,**

12 **IT IS HEREBY ORDERED** that Defendant's Motion for Reconsideration
13 of Order Denying to Modify the Current Custodial Arrangement; Modify Child
14 Support; Modify Child Tax Deduction; and for an Award of Attorney's Fees and
15 Costs and Related Relief is DENIED. (VT 9:25:50; 9:32:10)
16

17
18 **IT IS FURTHER ORDERED** that Ms. Jacobson shall prepare the Order,
19 submit it to Mr. Hofland for review and signature and leave a blank in the Order
20 for the Court to make a determination as it relates to the issue of attorney's fees.
21 The Plaintiff is directed to file a Memorandum of Fees indicating the amount
22 incurred in responding to Defendant's Motion for Reconsideration of Order
23 Denying to Modify the Current Custodial Arrangement; Modify Child Support;
24 Modify Child Tax Deduction; and for an Award of Attorney's Fees and Costs and
25 Related Relief.
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IT IS FURTHER ORDERED that attorney's fees in the amount of \$1,500 are awarded to Plaintiff, reduced to judgment in Plaintiff's favor and against Defendant.

Dated this 23rd day of April, 2021


DISTRICT COURT JUDGE

D8A 3B8 4A8B 0F11
Bryce C. Duckworth
District Court Judge

Approved as to Form and Content:

Respectfully Submitted:

JACOBSON LAW OFFICE, LTD

/s/ Rachel M. Jacobson

RACHEL M. JACOBSON, ESQ.
Nevada Bar No. 007827
64 N. Pecos Road, Suite 200
Henderson, Nevada 89074
Telephone: (702) 601-0770
Attorney for Plaintiff,
Sarah Maurice

BRADLEY J. HOF LAND, ESQ.
Nevada Bar No. 006343
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
Telephone: (702) 895-6760
Attorney for Defendant,
Justin Maurice

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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5
6 Sarah Maurice, Plaintiff

CASE NO: D-14-506883-D

7 vs.

DEPT. NO. Department Q

8 Justin Maurice, 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: 4/23/2021

15 "Carol Beitler, Legal Assistant" .

jakobslaw@gmail.com

16 "Rachel Jacobson, Esq." .

reli@jacobsonlawltd.com

17 Bradley Hofland

Bradh@hoflandlaw.com

18 Dina DeSousa Cabral

DinaD@hoflandlaw.com

19 Rachel Jacobson

eservice@jacobsonlawltd.com

20 Nikki Woulfe

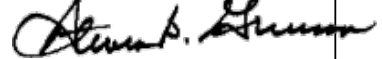
clerk@hoflandlaw.com

21 Anna Stein

bhassistant@hoflandlaw.com

22 Rachel Jacobson

Reli@jacobsonlawltd.com



1 **NEOJ**

2 RACHEL M. JACOBSON, ESQ.
3 Nevada Bar No. 007827
4 JACOBSON LAW OFFICE, LTD.
5 64 North Pecos Road, Suite 200
6 Henderson, Nevada 89074
7 Phone (702) 601-0770
8 *Attorney for Plaintiff,*
9 *Sarah Maurice*

8 ***EIGHTH JUDICIAL DISTRICT COURT***
9 ***CLARK COUNTY, NEVADA***

10 **SARAH MAURICE,**

11 **Plaintiff,**

12 **vs.**

13 **JUSTIN MAURICE,**

14 **Defendant.**

Case No. **D-14-506883-D**

Dept. No. **Q**

FAMILY DIVISION

15 **NOTICE OF ENTRY OF**
16 **ORDER**

16 **PLEASE TAKE NOTICE** that an ORDER from hearing of January 13,
17 2021, attached hereto, was duly entered in the above-referenced case on the 23rd
18 day of April 2021.

20 DATED this 26th day of April 2021.

21 *Respectfully Submitted by:*
22 JACOBSON LAW OFFICE, LTD

23 */s/ Rachel M. Jacobson, Esq.*
24 RACHEL M. JACOBSON, ESQ.
25 Nevada Bar No. 007827
26 64 North Pecos Road, Suite 200
27 Henderson, Nevada 89074
28 (702) 601-0770
Attorney for Plaintiff

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Heather L. Smith
CLERK OF THE COURT

ORDER

RACHEL M. JACOBSON, LTD.
Nevada Bar No. 007827
JACOBSON LAW OFFICE, LTD.
64 North Pecos Road, Suite 200
Henderson, Nevada 89074
Phone (702) 601-0770
*Attorney for Plaintiff,
Sarah Maurice*

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

SARAH MAURICE,

Plaintiff,

vs.

JUSTIN MAURICE,

Defendant.

Case No. **D-14-506883-D**

Dept. No. **Q**

FAMILY DIVISION

Date of Hearing: 01/13/2021

Time of Hearing: 9:00 AM

ORDER

THIS MATTER having come on for hearing upon Defendant's Motion for Reconsideration of Order Denying to Modify the Current Custodial Arrangement; Modify Child Support; Modify Child Tax Deduction; and for an Award of Attorney's Fees and Costs and Related Relief, and Plaintiff's Opposition and Countermotion thereto and Defendant's Reply; Plaintiff, SARAH MAURICE ("Plaintiff/Mother"), appearing via *Blue Jeans* and being represented by RACHEL M. JACOBSON, ESQ., of Jacobson Law Office, Ltd., and Defendant, JUSTIN MAURICE ("Defendant/Father"), also appearing via *Blue Jean* and being

1 represented by BRADLEY J. HOF LAND, ESQ.; the Court, having reviewed the
2 pleadings and papers on file herein, and the Court being fully advised in the
3 premises and good cause appearing therefore, makes the following Notations,
4 Findings and Orders:
5

6 THE COURT NOTED that no stipulations between the parties have been
7 reached.
8

9 THE COURT FURTHER NOTED that the Stipulated Decree of Divorce
10 was entered September 30, 2015, and, recognizing that the Decree is five years of
11 age, the Court questioned counsel as to whether there would be any value in having
12 the parties participate in mediation regarding a modification to the schedule. It is
13 clear to the Court that there has been communication and dialog between the
14 parties over the past year with things that have happened and the environment that
15 we live in now. The parties have demonstrated the capacity to communicate with
16 each other. The Court also stated that this is independent of the request to modify
17 custody. (VT 9:13) Counsel's opinions differed as to mediation.
18

19 THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS
20 based upon the arguments of counsel and papers that have been filed with the
21 Court: (VT 9:19:44)
22

23 THE COURT HEREBY FINDS that this matter comes before the Court on
24 Defendant's Motion for Reconsideration of Order Denying to Modify the Current
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1 Custodial Arrangement; Modify Child Support; Modify Child Tax Deduction; and
2 for an Award of Attorney's Fees and Costs and Related Relief. The standard
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6 Primary Physical Custody. That order was entered in 2015, subject to the
7 visitation defined therein for Father. Pursuant to the *Ellis v. Carucci* standard, the
8 Court is required to initially make a finding that there has been a substantial
9 change in circumstances affecting the well-being of the child in evaluating whether
10 or not there is a basis to modify custody. After making a finding that there has
11 been a substantial change in circumstances, the Court then considers the best
12 interest factors, which is a focal point in looking at the best interests of the
13 children. (VT 9:21)

14
15 THE COURT FURTHER FINDS AND CONCLUDES that the *Ellis v.*
16 *Carucci* case modified the *Murphy* test that had been in place up until the time of
17 *Ellis v. Carucci*. The standard that is set forth in both cases relies in part upon
18 maintaining some stability in custodial arrangements for the benefit of children.
19 That is the basis for the original *Murphy* test, lessened somewhat in the *Ellis v.*
20 *Carucci* test. The test in *Ellis v. Carucci* is the standard to be applied by the Court.
21 (VT 9:21:43)

1 THE COURT FURTHER FINDS that when the case first came before the
2 Court on the Defendant's motion on October 27, 2020, the Court was asked to
3 make such a determination. Upon review of the original papers filed pursuant to
4 the *Rooney* case, the Court determined that there was not a sufficient showing
5 pursuant to *Rooney* to set further proceedings on the motion. (VT 9:22:12)
6
7

8 THE COURT FURTHER FINDS that the primary focus of the Defendant's
9 Motion relates to his work schedule. Although Defendant raises other issues and
10 arguments, the change in his work schedule is the primary focus of his request.
11 There is reference to an offer of proof that the parties' older child, Savannah (13
12 years of age and soon to be 14), has expressed a preference regarding her custody
13 (which is a "best interest" factor pursuant to NRS 125C.0035). Plaintiff disputes
14 this offer of proof, arguing that the opposite is true. This Court concludes that such
15 an expression of a preference is not determinative of a substantial change in
16 circumstances. Rather, such an offer is part of the best interest analysis. (VT
17 9:23:13)
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22 THE COURT FURTHER FINDS that, looking at work schedules in general,
23 the Court posed the question: if someone loses his/her job and becomes
24 unemployed (which the Court has seen a fair amount of this past year), does that
25 constitute a substantial change in circumstances to warrant the Court permanently
26 modifying custody (because someone becomes unemployed). (VT 9:15) This
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2 such a claims as actually *working* from home. It may not mean that every minute
3 of that time is spent actually performing work, but clearly the Court’s expectation
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5 home. (VT 9:25:27)
6

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8 THE COURT FURTHER FINDS that, based upon the offers that have been
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11 (Nov. 21, 2020) and set further proceedings. The Court is not persuaded, based
12 upon those papers, and pursuant to *Rooney*, that there is sufficient cause to set
13 further proceedings. (VT 9:26)
14

15
16 THE COURT FURTHER FINDS that Plaintiff is entitled to an award of
17 attorney’s fees pursuant to EDCR 7.60. This Court has considered the factors set
18 forth in *Brunzell v. Golden Gate National Bank* in evaluating an award of fees.
19 After this Court’s review and consideration of Plaintiff’s Memorandum of
20 Attorney’s Fees and Costs (Mar. 26, 2021) and Defendant’s Objection to Plaintiff’s
21 Memorandum of Attorney’s Fees and Costs (Apr. 2, 2021), this Court finds that an
22 award of \$1,500 is appropriate.
23
24
25

26 THE COURT FURTHER FINDS that it also is important to clarify the
27 record as it relates to what transpired in the prior hearing in light of the assertions
28

1 made in the paperwork filed on behalf of Defendant that misstate how this Court
2 handled the prior proceedings and, as such, the Court finds the clarification as to
3 what exactly transpired is necessary and, in that regard, the COURT FINDS AS
4 FOLLOWS: (VT 9:26:20)
5

6
7 1. Defendant's Motion for Reconsideration of Order Denying to Modify
8 the Current Custodial Arrangement; Modify Child Support; Modify Child Tax
9 Deduction; and for an Award of Attorney's Fees and Costs and Related Relief
10 states in specific footnote 2:
11

12 *At no time*, did the Court's staff inform Mr. Hofland's office that the
13 hearing was starting with or without him. [Emphasis added]

14 The Defendant's Motion continues in footnote 3:
15

16 Clark County while smaller than Los Angeles, San Bernardino,
17 San Francisco, Orange County and San Diego Counties, has generally
18 like other large counties in other states accommodated scheduling
19 conflicts caused by conflicts with other appearances scheduled for the
20 same time and date. Mr. Hofland inadvertently wrongly assumed
21 Department Q granted the same "common" courtesy followed in other
22 divisions of the Eighth Judicial District Court and other Courts where
23 Mr. Hofland has appeared to trail hearings so all parties and counsel
24 would be present at important hearings.

25 Further, on page 3 of Defendant's Reply to Plaintiff's Opposition:
26

27 "Sadly, and unacceptably this Court chose to deprive Defendant of his
28 due process rights to a fair and meaningful hearing (he was not
allowed to appear given the Court's method of disposition), and more
troubling his fundamental rights as a parent were not recognized and
accommodated. Along with that, Defendant's counsel was not
allowed (denied) the opportunity to be heard (unlike Plaintiff's
counsel). Instead, this Court simply focused on one factor, denied

1 argument and an evidentiary hearing, claiming that factor alone was
2 insufficient to modify custody and child support, and promptly ruled
3 the case would be closed as soon as Plaintiff's counsel could get an
4 order to the Court. (VT 9:28)

5 2. (VT 9:28) For the record, this Court's JEA and Law Clerk received an
6 email from Mr. Hofland's office on Monday, October 26, 2020 at 1:25 PM, to
7 notify the Department that "Mr. Hofland will be a few minutes late logging on to
8 Bluejeans in the morning as he also has a telephonic hearing with one of his civil
9 cases at 9:00 AM tomorrow also." Department Q's Law Clerk responded on
10 October 26, 2020 at 3:15 PM and stated: "Thank you for the notice." The
11 Department Q JEA was included in the email.
12

13
14 3. Department Q's JEA followed up with Mr. Hofland's office on
15 Tuesday, October 27, 2020 (the date of the hearing) at 10:02 AM. The hearing
16 was scheduled for 9:00 AM on the Court's calendar. The suggestion that this
17 Court failed to trail the matter is completely inaccurate. The hearing was
18 scheduled at 9:00 AM. As of 10:02 AM, the Court had trailed the matter.
19 Department Q's JEA's email to Mr. Hofland's office stated: "Can you please tell
20 me the status of Mr. Hofland? Unfortunately, Ms. Jacobson was not notified by
21 your office and she has been waiting since 9 AM. Judge Duckworth will be calling
22 the matter...." Thus, notice was *in fact* imparted on Mr. Hofland's office that the
23 matter was going to be called and was called at 10:03 AM.
24
25
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1 4. After trailing the matter for more than an hour to accommodate
2 counsel, the hearing proceeded at 10:03 AM. On October 27, 2020 at 10:08 AM,
3 an email was received by Department Q's JEA from Mr. Hofland's office stating
4 "I apologize for the delay. Mr. Hofland is *still waiting* to be called for his civil
5 hearing this morning in Department 25. Mr. Hofland anticipates he will be
6 finished *by 10:30 AM/11:00 AM*. Our Client Justine Maurice is at our office for
7 the Maurice Hearing, and he just stepped out for 15 mins to get a cup of coffee."
8 (Emphasis added). (VT 9:30:30)
9

12 5. Again, the suggestion that this Court failed to offer any courtesy
13 whatsoever is inaccurate. Moreover, the Court would expect that, as a professional
14 courtesy, if an attorney anticipates being late to a hearing, counsel would
15 communicate the anticipated delay to opposing counsel. The Court did
16 accommodate the delay; the Court waited for more than an hour. This matter was
17 not the only case on the Court's calendar that morning; the Court had other matters
18 scheduled and the Court.
19

22 6. It is this Court's prerogative to review the papers and make a
23 determination on those papers because the Court views the papers as being the
24 mode by which counsel for both parties, especially capable counsel that both
25 parties have, to communicate all of the relevant information the Court needs to
26 make a decision. It is this Court's prerogative to make decisions based on the
27
28

1 papers that have been filed, again presuming that all of the relevant information the
2 Court needs to make a decision have been accurately stated in those papers. In this
3 particular matter, the hearing was scheduled for 9:00 AM. It started at 10:03 AM
4 and apparently the hearing before this Court was less of a priority than the hearing
5 before another department downtown in a civil matter. This Court waited over an
6 hour. That was an accommodation that was offered notwithstanding the arguments
7 to the contrary.
8
9

10
11 **THEREFORE,**

12 **IT IS HEREBY ORDERED** that Defendant's Motion for Reconsideration
13 of Order Denying to Modify the Current Custodial Arrangement; Modify Child
14 Support; Modify Child Tax Deduction; and for an Award of Attorney's Fees and
15 Costs and Related Relief is DENIED. (VT 9:25:50; 9:32:10)
16
17

18 **IT IS FURTHER ORDERED** that Ms. Jacobson shall prepare the Order,
19 submit it to Mr. Hofland for review and signature and leave a blank in the Order
20 for the Court to make a determination as it relates to the issue of attorney's fees.
21 The Plaintiff is directed to file a Memorandum of Fees indicating the amount
22 incurred in responding to Defendant's Motion for Reconsideration of Order
23 Denying to Modify the Current Custodial Arrangement; Modify Child Support;
24 Modify Child Tax Deduction; and for an Award of Attorney's Fees and Costs and
25 Related Relief.
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IT IS FURTHER ORDERED that attorney's fees in the amount of \$1,500 are awarded to Plaintiff, reduced to judgment in Plaintiff's favor and against Defendant.

Dated this 23rd day of April, 2021


DISTRICT COURT JUDGE

D8A 3B8 4A8B 0F11
Bryce C. Duckworth
District Court Judge

Approved as to Form and Content:

Respectfully Submitted:

JACOBSON LAW OFFICE, LTD

/s/ Rachel M. Jacobson

RACHEL M. JACOBSON, ESQ.
Nevada Bar No. 007827
64 N. Pecos Road, Suite 200
Henderson, Nevada 89074
Telephone: (702) 601-0770
Attorney for Plaintiff,
Sarah Maurice

BRADLEY J. HOFLAND, ESQ.
Nevada Bar No. 006343
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
Telephone: (702) 895-6760
Attorney for Defendant,
Justin Maurice

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Sarah Maurice, Plaintiff

CASE NO: D-14-506883-D

7 vs.

DEPT. NO. Department Q

8 Justin Maurice, 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: 4/23/2021

15 "Carol Beitler, Legal Assistant" .

jakobslaw@gmail.com

16 "Rachel Jacobson, Esq." .

reli@jacobsonlawltd.com

17 Bradley Hofland

Bradh@hoflandlaw.com

18 Dina DeSousa Cabral

DinaD@hoflandlaw.com

19 Rachel Jacobson

eservice@jacobsonlawltd.com

20 Nikki Woulfe

clerk@hoflandlaw.com

21 Anna Stein

bhassistant@hoflandlaw.com

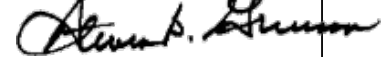
22 Rachel Jacobson

Reli@jacobsonlawltd.com

23
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ROA000726

HOFLAND & TOMSHECK – Attorneys at Law
228 South 4th Street, First Floor
Las Vegas NV 89101
PH: (702) 895-6760 ♦ FAX: (702) 731-6910

Electronically Filed
5/26/2021 4:56 PM
Steven D. Grierson
CLERK OF THE COURT



HOFLAND & TOMSHECK
Bradley J. Hofland, Esq.
Nevada Bar Number: 6343
bradh@hoflandlaw.com
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
Telephones: (702) 895-6760
Facsimile: (702) 731-6910
Attorney for Defendant, Justin Maurice

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

SARAH MAURICE,	) CASE NO.: D-14-506883-D
	) DEPT. NO.: Q
Plaintiff,)
	) NOTICE OF APPEAL
vs.)
)
JUSTIN MAURICE,)
)
Defendant.)
)

NOTICE IS HEREBY GIVEN that Defendant, Justin Maurice, hereby appeals to the Supreme Court of the State of Nevada the Court's final Order Denying to Modify the Current Custodial Arrangement; Modify Child Support; Modify Child Tax Deduction; and for an Award of Attorney's Fees and Costs and Related Relief entered on April 26, 2021.

Dated this 26th day of May, 2021

HOFLAND & TOMSHECK
By: /s/ Bradley J. Hofland
Bradley J. Hofland, Esq.
Nevada Bar No. 6343
228 South 4th Street, 1st Floor
Las Vegas Nevada 89101
Attorneys for Defendant Justin Maurice

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CERTIFICATE OF SERVICE

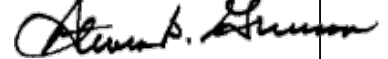
I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 26th day of May, 2021, I served the **NOTICE OF APPEAL** on the following parties by E-Service through Odyssey and/or U.S. mail addressed as follows:

Jacobson Law Office, Ltd.
64 North Pecos Road, Suite 200
Henderson, NV 89074
Attorney for Plaintiff

By: /s/ Nikki Warren
Employee of Hofland & Tomsheck

HOFLAND & TOMSHECK – Attorneys at Law
228 South 4th Street, First Floor
Las Vegas NV 89101
PH: (702) 895-6760 ♦ FAX: (702) 731-6910

Electronically Filed
5/26/2021 4:56 PM
Steven D. Grierson
CLERK OF THE COURT



HOFLAND & TOMSHECK
Bradley J. Hofland, Esq.
Nevada Bar Number: 6343
bradh@hoflandlaw.com
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
Telephones: (702) 895-6760
Facsimile: (702) 731-6910
Attorney for Defendant, Justin Maurice

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

SARAH MAURICE,	) CASE NO.: D-14-506883-D
	) DEPT. NO.: Q
Plaintiff,)
	) CASE APPEAL STATEMENT
vs.)
)
JUSTIN MAURICE,)
)
Defendant.)
)

1. Name of appellant filing this case appeal statement:

Defendant Justin Maurice

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

The Honorable Bryce C. Duckworth; Eighth Judicial District Court, Clark County.

3. Counsel for Appellant:

Party: Defendant/Appellant, Justin Maurice

Counsel:	Bradley J. Hofland, Esq.	Telephone	(702) 895-6760
	HOFLAND & TOMSHECK	Facsimile	(702) 731-6910
	228 South 4th Street, 1 st Fl.	Email	bradh@hoflandlaw.com
	Las Vegas, NV 89101		

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, indicate as much and provide the name and address of that respondent's trial counsel):

Party: Plaintiff/Respondent, Sarah Maurice

Counsel:	Rachel Jacobson, Esq.	Telephone	(702) 601-0770
	JACOBSON LAW OFFICE	Facsimile	
	64 North Pecos Road, Suite 200	Email	eservice@jacobsonlawltd.com ;
	Henderson, NV 8907489030		Reli@jacobsonlawltd.com

Ms. Jacobson is the trial counsel; undersigned counsel does not know if respondent will retain additional or separate appellate counsel.

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):

All counsel are licensed to practice law in Nevada.

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

All parties were represented by counsel.

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:

Not applicable.

9. Indicate the date the proceedings commenced in the district court

1 (e.g., date complaint, indictment, information, or petition was filed):

2 December 11, 2014, Complaint for Divorce.

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

6 This is an appeal from a final judgment of the district court,

7 The issues on appeal include:

- 8
- 9 1. Whether the Court erred in denying Defendant's motion to modify
10 current custodial arrangement, child support and child tax
11 deduction without allowing him an opportunity to be heard;
 - 12 2. Whether the Court erred in refusing to find adequate cause for the
13 setting of an evidentiary hearing.
 - 14 3. Whether the Court erred in failing to make the requisite factual
15 findings in denying Defendant's motion;
 - 16 4. Whether the Court erred in ruling that a change in work schedules
17 is not a factor the Court could consider in modification of current
18 custodial arrangement.
 - 19 5. Whether the Court erred in its refusal to recognize best interest
20 factors as a substantial change in circumstances.
 - 21 6. Whether the Court erred in failing to make additional findings as
22 provided for in NRCP 52.
- 23

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

27 Not Applicable.

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

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This appeal involves child custody and visitation.

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

There is a potential for this matter to be resolved at a settlement conference.

Dated this 26th day of May, 2021

HOFLAND & TOMSHECK

By: /s/ Bradley J. Hofland

Bradley J. Hofland, Esq.

Nevada Bar No. 6343

228 South 4th Street, 1st Floor

Las Vegas Nevada 89101

Attorneys for Defendant Justin Maurice

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CERTIFICATE OF SERVICE

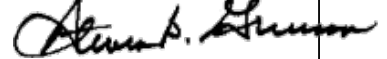
I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 26th day of May, 2021, I served the **CASE APPEAL STATEMENT** on the following parties by E-Service through Odyssey and/or U.S. mail addressed as follows:

Rachel Jacobson
Jacobson Law Office, Ltd.
64 North Pecos Road, Suite 200
Henderson, NV 89074
Attorney for Plaintiff

By: /s/ Nikki Warren
Employee of Hofland & Tomsheck

HOFLAND & TOMSHECK – Attorneys at Law
228 South 4th Street, First Floor
Las Vegas NV 89101
PH: (702) 895-6760 ♦ FAX: (702) 731-6910

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6/1/2021 5:12 PM
Steven D. Grierson
CLERK OF THE COURT



HOFLAND & TOMSHECK
Bradley J. Hofland, Esq.
Nevada Bar Number: 6343
bradh@hoflandlaw.com
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
Telephones: (702) 895-6760
Facsimile: (702) 731-6910
Attorney for Defendant, Justin Maurice

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

SARAH MAURICE,	) CASE NO.: D-14-506883-D
	) DEPT. NO.: Q
Plaintiff,)
	) NOTICE OF POSTING APPEAL
vs.	) BOND FOR DEFENDANT JUSTIN
	) MAURICE
JUSTIN MAURICE,)
)
Defendant.)
)

PLEASE TAKE NOTICE that an Appeal Bond for Defendant, Justin Maurice in the amount of FIVE HUNDRED DOLLARS and 00/100 (\$500.00) was filed with the Court.

Dated this 1st day of June, 2021

HOFLAND & TOMSHECK
By: /s/ Bradley J. Hofland
Bradley J. Hofland, Esq.
Nevada Bar No. 6343
228 South 4th Street, 1st Floor
Las Vegas Nevada 89101
Attorneys for Defendant Justin Maurice

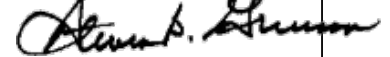
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 1st day of June, 2021, I served the **NOTICE OF POSTING APPEAL BOND FOR DEFENDANT JUSTIN MAURICE** on the following parties by E-Service through Odyssey and/or U.S. mail addressed as follows:

Jacobson Law Office, Ltd.
64 North Pecos Road, Suite 200
Henderson, NV 89074
Attorney for Plaintiff

By: /s/ Nikki Warren
Employee of Hofland & Tomsheck



1 **RQST**
2 **HOFLAND & TOMSHECK**
3 Bradley J. Hofland, Esq.
4 Nevada Bar Number: 6343
5 bradh@hoflandlaw.com
6 228 South 4th Street, 1st Floor
7 Las Vegas, Nevada 89101
8 Telephones: (702) 895-6760
9 Facsimile: (702) 731-6910
10 *Attorney for Defendant, Justin Maurice*

11
12
13 **DISTRICT COURT, FAMILY DIVISION**
14 **CLARK COUNTY, NEVADA**
15

16 SARAH MAURICE,) CASE NO.: D-14-506883-D
17) DEPT. NO.: Q
18 Plaintiff,)
19)
20 vs.)
21)
22 JUSTIN MAURICE,)
23)
24 Defendant.)
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29 **REQUEST FOR TRANSCRIPT OF PROCEEDINGS**

30 To: Transcript Video Services, 601 N. Pecos Road, Las Vegas, NV 89101.

31 Defendant, Justin Maurice, requested preparation of a transcript of the
32 proceedings before the District Court as follows:

33 Judge or Officer hearing the proceeding: Honorable Bryce C. Duckworth.

34 Specific portions of the transcript being requested:

35 PORTIONS REQUESTED:

36 October 27, 2020: Motion Hearing

37 January 13, 2021: Motion Hearing

38 NUMBER OF COPIES REQUESTED: 2 copies.

1 I hereby certify that on July 29, 2021, I ordered the transcripts listed above
2 from the Court Reporter named above and paid the required deposit to Clerk of
3 Court on July 29, 2021¹. A deposit of \$160.00 was was required for ordering the
4 transcripts.

5 DATED this 29th day of July, 2021.

6 HOFLAND AND TOMSHECK
7

8 By: /s/ Bradley J. Hofland
9 BRADLEY J. HOFLAND, ESQ.
10 Nevada Bar No. 006343
11 228 S. 4th Street, 1st Floor
12 Las Vegas, Nevada 89101
13 Attorneys for Defendant
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¹ See Exhibit 1, a copy of Estimate of Transcript for Appeal Purposes filed 07/29/21

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 29th day of July, 2021, I served the **REQUEST FOR TRANSCRIPTS PROCEEDINGS** on the following parties by E-Service through Odyssey and/or U.S. mail addressed as follows:

Jacobson Law Office, Ltd.
64 North Pecos Road, Suite 200
Henderson, NV 89074
Attorney for Plaintiff

By: /s/ Nikki Warren
Employee of Hofland & Tomsheck

EXHIBIT “1”

FILED

JUL 29 2021

Sherry Justice
CLERK OF COURT

EOT

COPY

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

SARAH MAURICE,) CASE NO. D-14-506883-D
Plaintiff,) DEPT. Q
vs.) APPEAL NO. 83009
JUSTIN MAURICE,)
Defendant.)

ESTIMATED COST OF EXPEDITED/RUSH TRANSCRIPT(S)

The office of Transcript Video Services received a request for transcript estimate from Bradley J. Hofland, Esq., on July 28, 2021, for the following proceedings in the above-captioned case:

OCTOBER 27, 2020; JANUARY 13, 2021

for original transcripts and one copy of each.

The estimated cost for the transcripts is \$155.00 for a a four-day expedite or \$160.00 for a 48-hour rush (excluding weekends). Payment in the amount of **\$155.00 or \$160.00** must be paid directly to **VERBATIM REPORTING & TRANSCRIPTION** prior to work commencing on the transcripts. Please call Verbatim Reporting & Transcription to make deposit payment (281) 724-8600 or (520) 303-7356.

DATED this 29th day of July, 2021.

Sherry Justice
Sherry Justice
Transcript Video Services

Transcript ESTIMATE amount of _____ Direct Pay Invoice # _____

Received this _____ day of _____, 2021.

This is only an **estimate**. Upon completion of transcript(s), a balance may be due, or you may receive a refund of your deposit if overpayment is greater than \$15.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.
ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

ROA000740

FILED

JUL 29 2021

Sherry Justice
CLERK OF COURT

EOT

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

SARAH MAURICE,)
Plaintiff,)
CASE NO. D-14-506883-D
DEPT. Q
APPEAL NO. 83009
vs.)
JUSTIN MAURICE,)
Defendant.)

ESTIMATED COST OF EXPEDITED/RUSH TRANSCRIPT(S)

The office of Transcript Video Services received a request for transcript estimate from Bradley J. Hofland, Esq., on July 28, 2021, for the following proceedings in the above-captioned case:

OCTOBER 27, 2020; JANUARY 13, 2021

for original transcripts and one copy of each.

The estimated cost for the transcripts is \$155.00 for a a four-day expedite or \$160.00 for a 48-hour rush (excluding weekends). Payment in the amount of **\$155.00 or \$160.00** must be paid directly to **VERBATIM REPORTING & TRANSCRIPTION** prior to work commencing on the transcripts. Please call Verbatim Reporting & Transcription to make deposit payment (281) 724-8600 or (520) 303-7356.

DATED this 29th day of July, 2021.

Sherry Justice
Sherry Justice
Transcript Video Services

Transcript ESTIMATE amount of _____ Direct Pay Invoice # _____

Received this _____ day of _____, 2021.

This is only an **estimate**. Upon completion of transcript(s), a balance may be due, or you may receive a refund of your deposit if overpayment is greater than \$15.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.

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

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ORIGINAL

FILED

EIGHTH JUDICIAL DISTRICT COURT

AUG 03 2021

FAMILY DIVISION

William A. Spivey
CLERK OF COURT

CLARK COUNTY, NEVADA

SARAH MAURICE,) CASE NO. D-14-506883-D
Plaintiff,) DEPT. Q
)
vs.)
) NV SUPREME CT. APPEAL NO.83009
JUSTIN MAURICE,)
Defendant.)

CERTIFICATION OF TRANSCRIPTS NOTIFICATION OF COMPLETION

The Office of Transcript Video Services received a request for transcript and one copy, for the purposes of appeal from Bradley J. Hofland, Esq., on July 28, 2021 for the following proceedings in the above-captioned case:

October 27, 2020; January 13, 2021

I do hereby certify that copies of the transcript requested in the above-captioned case were submitted to be filed with the Eighth Judicial District Court on August 03, 2021, and ordering party was notified August 03, 2021.

DATED this 03rd day of August 2021.

Maria Balagtas
Maria Balagtas, Law Office Assistant II
Transcription Video Services

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

ROA000742

1 **TRANS**

FILED

AUG 03 2021

2
3 **ORIGINAL**

Sharon A. Hoffman
CLERK OF COURT

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5 **EIGHTH JUDICIAL DISTRICT COURT**
6 **FAMILY DIVISION**
7 **CLARK COUNTY, NEVADA**
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9 SARAH MAURICE,)
10 Plaintiff,) CASE NO. D-14-506883-D
11 vs.) DEPT. Q
12 JUSTIN MAURICE,) APPEAL NO. 83009
13 Defendant.)
14

15 BEFORE THE HONORABLE BRYCE C. DUCKWORTH
16 DISTRICT COURT JUDGE

17 TRANSCRIPT RE: ALL PENDING MOTIONS

18 WEDNESDAY, JANUARY 13, 2021
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1 APPEARANCES:

2 The Plaintiff: SARAH MAURICE
3 For the Plaintiff: RACHEL JACOBSON, ESQ.
4 64 North Pecos Rd., Suite #200
 Henderson, Nevada 89074
 (702) 601-0770

5 The Defendant: JUSTIN MAURICE
6 For the Defendant: BRADLEY HOF LAND, ESQ.
7 626 S. Third St.
 Las Vegas, Nevada 89101
 (702) 472-8686

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1 LAS VEGAS, NEVADA

WEDNESDAY, JANUARY 13, 2021

2 PROCEEDINGS

3 (THE PROCEEDINGS BEGAN AT 9:03:03 A.M.)

4
5 THE COURT: We are on the record in the Maurice
6 matter, case D-14-506883-D. Starting with the Plaintiff's
7 side, please confirm your appearances by stating your names.

8 MS. JACOBSON: Good morning, Your Honor. Rachel
9 Jacobson, bar number 7827 on behalf of the Plaintiff, Sarah
10 Maurice, who is also present via Bluejeans.

11 THE COURT: Good morning. And now, moving to the
12 Defense side. Please confirm your appearances by stating your
13 names.

14 MR. HOFLAND: Good morning, Your Honor. Brad
15 Hofland. My bar number is 6343 and present with me is Justin
16 Maurice in my office.

17 THE COURT: Good morning. And I believe we have the
18 Plaintiff, Ms. Maurice, on the line separately. Ma'am, if you
19 could state your name.

20 MS. MAURICE: Yes. This is Sarah Maurice.

21 THE COURT: Good morning. And I would request -- we
22 are having appearances by video means. Those who are not
23 appearing in this hearing, if you please mute your mics and
24 your cameras as well, and then we'll call your case shortly

1 once we've completed this matter.

2 All right. This case comes before the Court on
3 Defendant's motion for reconsideration of order denying to
4 modify the current custodial arrangement and related relief.
5 The opposition filed by the Plaintiff and the reply filed by
6 the -- by the Defendant. Let me start by asking, are there
7 any stipulations or agreements to report to the Court?

8 MS. JACOBSON: No, Your Honor.

9 THE COURT: I've had a chance to read the papers.
10 It is the Defendant's motion. Mr. Hofland, is there anything
11 not contained in the papers that needs to be brought to the
12 attention of the Court?

13 THE CLERK: You're muted, Mr. Hofland.

14 THE COURT: You're muted, Counsel.

15 MR. HOFLAND: Can you hear me now?

16 THE COURT: Yes.

17 MR. HOFLAND: Oh, beautiful. I -- I don't know what
18 occurred at the last hearing where there was a disconnect as
19 far as our appearance at the hearing. I had another hearing
20 in front of -- in district court downtown in front of Judge
21 Delaney and we -- at that matter trailed in which I was told
22 that the hearing prior to that that we were going to give
23 prior -- have priority in that -- in that case, and
24 unfortunately, in that case, which wasn't a couple important

1 issues.

2 We were not given priority at which we were in
3 constant with the Court and letting the Court be aware that
4 we're -- this matter is trailed. For some reason, Judge
5 Delaney -- and she apologized when she called our matter that
6 our matter was called at a later period in time. She
7 apologized for that for any inconveniences which were created
8 by that.

9 During COVID during a lot of different cases is that
10 this is one of the things which occurs, that the scheduling
11 and doing the video appearances and generally I've appeared in
12 gosh, in front of this Court for over 20 years -- you know,
13 probably about 20 years or so and when there's been instances
14 when somebody's not available, usually there's considerations
15 which were admitted.

16 So I was quite shocked when I -- I found out that
17 the hearing went forward without my participation. And then
18 in other departments during COVID, there's been phone calls,
19 whatever, but which I've -- so many different cases which the
20 other side which hasn't appeared, which the matter has trailed
21 or even set for a new date if the counsel's not there in which
22 the consideration and the courtesy is given.

23 But I was shocked to see that that courtesy wasn't
24 extended in this matter. As far as the pleadings are

1 concerned is that Justin -- his schedule right now compared to
2 what his schedule before was at the time when the parties were
3 divorced, Sarah and him kind of have the reverse schedule.
4 Now she's working, goes to work at 6:00 in the morning till
5 6:00 at night versus my client just got this incredible
6 schedule, which he gets paid from court to court.

7 So when he leaves in the morning, it's ten hours.
8 So he's from 8:00 until 6:00 generally and four days a week.
9 And so he's available. I mean, the Court's schedule -- the
10 Court doesn't get paid from court to court. The Court gets
11 paid and staff gets paid from being in a presence inside the
12 building. But he's got this incredible schedule at which he's
13 available. The circumstances have changed dramatically since
14 when the initial decree went into place is at that period of
15 time, which he was working for Justo (phonetic).

16 And at that period of time, when he was working, he
17 had a more extended schedule which did not tend -- well, it
18 really did, but it didn't tend to promote a schedule for the
19 parties to have joint physical schedule -- a joint physical
20 custody. Seven years has gone fast and now Emma is now eight
21 years old and Savannah is, I think, 16 years old and --

22 Mr. Maurice: Six and 13.

23 MR. HOF LAND: Six and 13, and so the circumstances
24 have changed dramatically. He's available. His work

1 schedule. He wasn't available before. He's only spending 48
2 hours with the kids every month. And so this comes down to is
3 that, what is he asking for? He's asking for more time with
4 the children. I mean, it's to benefit, not just him, but to
5 benefit the children. It's in the children's best interest.

6 The children shouldn't have a limited schedule to
7 see their father 48 hours a month when he's available. And
8 he's making and asking in which to have additional time. He's
9 put together a motion. He's asked for it. One of the most
10 fundamental that he's asked for is additional time with his
11 kids. That's nothing outrageous. That not something novel.
12 They are children. They're not object. They're children.

13 They want to -- he wants to develop and have a
14 relationship -- more of a relationship. He wants to do
15 things. Ironically in this case is that when the pandemic
16 started in the beginning of March of this year, the time that
17 he spends with his children on -- or his daughters was about a
18 50/50 schedule. During this summer for a few months up until
19 she wanted to change it around in which caused the motion to
20 be filed is that the parties shared this schedule.

21 There's no reason which to pull the father away from
22 their children. There's no reason why the kids shouldn't have
23 their father. And there's been many (indiscernible) which
24 state is that having both parents in their life. And our

1 legislature said the same thing. And I know that this is a
2 motion for modification, but you know what? He is available.
3 There's no reason to restrict that. We request that there's
4 an evidentiary hearing in which to address this issue.

5 THE COURT: Okay. Ms. Jacobson, let me -- Mr.
6 Hofland, from my review of the papers, will you acknowledge
7 that everything that's been stated was contained in the papers
8 you filed with the Court?

9 MR. HOFLAND: No, Judge. It -- it's argument on the
10 papers is content -- contained in there.

11 THE COURT: But the -- there's nothing --

12 MR. HOFLAND: But I --

13 THE COURT: -- new I've learned from the argument.
14 It's the same thing that's stated in the papers. That's my
15 only questions.

16 MR. HOFLAND: Well, yeah. But my argument is -- is
17 -- is -- is that Dad should have more time with his children.

18 THE COURT: And -- and that was argued in the
19 papers. Ms. Jacobson --

20 MR. HOFLAND: No, and -- wasn't --

21 THE COURT: -- is there -- is there anything that
22 you desire --

23 MR. HOFLAND: Well, and when --

24 THE COURT: -- to add that was not contained in the

1 papers on your side?

2 MR. HOFLAND: Well, Judge, I first --

3 MS. JACOBSON: Yes, Your Honor.

4 MR. HOFLAND: I -- I've argued in there as well is
5 that her schedule that she had before is different from what
6 it is now. I've also -- and made the arguments is that the
7 time that she spent and the time that he spent with the
8 children has changed, and that there was additional time.

9 THE COURT: Okay. Miss -- Ms. Jacobson, is there
10 anything that you would like to add that is not contained in
11 your papers that you filed with the Court?

12 MS. JACOBSON: Yes, Your Honor. Though it's
13 something I'd like to add, it is not nothing new to -- and it
14 is not anything new to the record. If the Court reflects upon
15 the record itself, the Court will see that the Defendant's
16 schedule has actually worsened as far as his available from
17 the time that the parties entered the decree of divorce, at
18 which time he was unemployed as provided in his own filings
19 back in 2015.

20 If we look at his FDF previously filed, you'll see
21 that his schedule, yes, has changed by the fact that he works
22 now an additional day and even more time. On the other hand,
23 looking at Sarah's schedule, nothing has changed except that
24 she's made it up in the chains of command in her employment,

1 so it just shows continued stability on his part.

2 So the fact that the Defendant now wants the Court
3 to accept his change in schedule as a change of circumstances
4 of the decree as entered cannot do so because looking at the
5 schedule at the time of the decree, it actually shows that
6 he's available less time than he was when the decree was
7 entered. Your Honor, moreover, I'd like to point out that the
8 Court simply negate the request for modification based on the
9 Defendant's nonappearance.

10 The Court specifically indicated at the time of the
11 last hearing that its making a decision on the papers
12 regarding the Defendant's schedule. It specifically stated in
13 this instant. The Court did not as a -- as a global
14 (indiscernible) reject this schedule change as a -- as a
15 consubstantial modification. The Court stated in this
16 instance. That is not substantial change, and I would not --
17 and nothing there has been provided in the new papers to
18 indicate a substantial change.

19 So I would request that the Court affirm its prior
20 decision on the papers, and that the Court, at this juncture,
21 grant the Plaintiff attorneys' fees for the necessity of
22 coming, yet again, before the Court. Thank you, Your Honor.

23 THE COURT: Let me ask both sides. I recognize the
24 decree of divorce is -- is dated September 30th, 2015. It was

1 a stipulated decree, and that's what these issues and
2 arguments emanate from. Recognizing that the decree is five
3 years of age, is there any appetite on either or both sides
4 for Mom and Dad to participate in mediation to perhaps talk
5 about modifications to the schedule.

6 This is independent of the request to modify
7 custody, but recognizing that five years or so have past, is
8 there an appetite -- and it's clear to me on both sides
9 acknowledge that there have been communication and dialog over
10 the past year with -- with things that have happened in -- in
11 the environment we live in now. So there certainly has --
12 they have demonstrated the capacity to communicate with each
13 other. Is there -- would there be any value to having the
14 parties participate in mediation?

15 MS. JACOBSON: There's none --

16 MR. HOFLAND: This is Brad Hofland -- this is Brad
17 Hofland. Yes, Judge.

18 MS. JACOBSON: And Your Honor, not from the
19 Plaintiff's side. The existing schedule is one that was best
20 for the girls. In fact, there's been an indication that as
21 represented in our papers, that there's concerns regarding
22 Dad's behavior, and those are the same concerns that Mom had
23 initially. The decree was not -- the schedule was not entered
24 based on Dad's schedule. It was entered based on Dad's

1 behavior, including violent behavior, which as you seen in our
2 exhibits, continues.

3 As Dad had another conviction in 2018 for domestic
4 violence is that -- against his then girlfriend. So no, Your
5 Honor, there is no -- Ms. Maurice does not request to change
6 the schedule at this juncture.

7 THE COURT: Okay. Mr. Hofland, the -- the primary
8 focus of Dad's motion is not the only focus is -- is this
9 change in work schedule. It is -- is it the Defendant's
10 position if someone loses their job and becomes unemployed,
11 which I've seen a fair amount of this -- this past year, is
12 that a sufficient change in circumstances to warrant the Court
13 permanently modifying custody because someone becomes
14 unemployed?

15 MR. HOFLAND: Judge, unfortunately, that case is
16 right on that point. And other judges, your brother in there
17 do believe that that is a basis, and they have invoked that
18 consistently in two to three different departments. As far as
19 looking at what the law is, is to look at whether or not the -
20 - the party has the ability to care for a child. That's what
21 the -- what the focus is on.

22 And Mr. Maurice does have that ability, whereas
23 before, he did not. He does not work on Fridays. He wants to
24 spend additional time. Consistently throughout the United

1 States, there has been several different courts, and there's
2 been decisions by the Nevada Court of Appeals, which I can
3 cite before the Court as far as precedent or persuasive
4 authority, but -- but in other jurisdictions, there are -- are
5 cases, which we cited so the Court -- and this is a basis and
6 for consideration for the Court -- for the Court to consider
7 as far as modification of the -- of a current order.

8 But to answer your question, as far as somebody
9 being unemployed, if that's the triggering event, the parent
10 is now available where the -- the parent is not now -- was not
11 before, would that be a basis for permanent. I -- I mean, a
12 bunch of different factors would have to be looked into
13 consideration and is whether or not that that -- the party or
14 the parent was now permanently unemployed has the ability to
15 have the means, the financial means not to work in the future.

16 So I mean, it -- it could be. But in the cases
17 which I've worked with, it was not on those on those basis,
18 which they've given temporary custody orders because somebody
19 is not working and now is available because of the extended
20 benefits to the federal government through the state
21 government in which to give additional benefits.

22 I have a case pending right now before one of the
23 other departments which one of the parties who had a full-time
24 job, which was a terrible job where they're working at nights,

1 now is unemployment and -- and now is taking trips with the
2 children and doing this, that, and the other thing. And
3 because of that, that schedule the court has granted that
4 person basically the fact of primary physical custodian
5 timeshare because they're unemployed.

6 I mean, I'm -- I'm -- I'm arguing against that in
7 that case, of course, and I -- you know, believe that you
8 should look at other factors in addition to that, but I mean,
9 that as far as a permanency would look at as whether or not
10 that person's -- has the ability to sustain that -- that
11 schedule as far as their financials.

12 MS. JACOBSON: Your Honor, may I respond?

13 THE COURT: You may briefly.

14 MS. JACOBSON: Thank you, Your Honor. Your Honor,
15 what we're looking at here is a temporary situation. One, the
16 girls have already gone back to school physically, and then to
17 -- for two days a week and are anticipated to go back soon too
18 for most days. What we're -- what the Court is asked to find
19 is that Dad has had a change of circumstances affecting the
20 welfare of the kids by now he's not working on Fridays.

21 But I ask the Court to look at Dad's own prior FDF.
22 He never worked on Fridays. None of his prior filings reflect
23 that he worked on Fridays. So just taking into account the --
24 the FDF Dad filed in December of 2015, it reflects that Dad's

1 days off were Thursday and Friday with the same hours that he
2 reports today.

3 So working one less days. But for Dad to make the
4 argument that he is now more available -- assuming arguendo
5 that this change was not a temporary one, which it is due to
6 COVID, the girls' schooling at least, Dad was working more
7 time than he was by his own admission in 2015 when the decree
8 was signed, Your Honor. Thank you.

9 MR. HOFLAND: And Judge --

10 THE COURT: All right.

11 MR. HOFLAND: -- if I could respond briefly?

12 THE COURT: Briefly.

13 MR. HOFLAND: Thank you, Your Honor. His -- his
14 schedule, he worked Monday through Friday schedule before.
15 The representations that Counsel's making that he worked a
16 schedule, that he had Mondays and Fridays off is completely
17 false. He was -- always worked a Monday through Friday
18 schedule. The schedule that he's working right now working
19 four tens is not temporary, Your Honor. It is permanent.

20 Consider -- I mean, that's different from the -- the
21 conversation we're having regarding somebody being available
22 because they're unemployed. This is not because he's
23 unemployed. He's working four tens. His job schedule is four
24 tens, and it is permanent four tens. He works for a different

1 employer. And the four tens that he works is from court to
2 court. He's working less time. He's working less time than
3 Sarah's working right now.

4 THE COURT: All right. I make the following
5 findings and orders based on the arguments that have been
6 submitted, the papers filed with the Court. This matter comes
7 before the Court on the Defendant's motion for
8 reconsideration. The standard applied by the Court in
9 evaluating a -- such a motion for reconsideration is the Ellis
10 v. Carucci standard recognizing that the controlling order,
11 which is the decree of divorce, provides the parties with
12 joint legal custody and the Plaintiff, Mother with primary
13 physical custody.

14 Again, that was entered in 2015, subject to the
15 custodial time defined therein for -- for the father.
16 Pursuant to the Ellis v. Carucci standard, the -- the Court is
17 required to initially make a finding that there has been a
18 substantial change in circumstances affecting the well-being
19 of the child in evaluating whether or not there's a basis to
20 modify custody, and then the best interest factors are -- are
21 -- are applied at that point in time, which -- which is a
22 focal point when looking at the best interest of the children.

23 The Ellis v. Carucci case essentially modified the
24 Murphy test that had -- had been in place up until the time of

1 Ellis v. Carucci. And -- and the standard that's set forth in
2 both cases does rely in -- in part on the -- the maintaining
3 some stability in custodial arrangements for the children.
4 And that's the basis for the original Murphy test, less in
5 somewhat in the Ellis v. Carucci test. So that's the standard
6 ultimately to be applied by the Court.

7 When the case first came before the Court on the
8 Defendant's motion on October 27th, the Court was asked to
9 make a determination and upon review of the papers pursuant to
10 the Runi case, I determined at that point in time based on the
11 papers that had been filed that there -- there was not a
12 sufficient showing pursuant to Runi to set for further
13 proceedings on the motion.

14 The primary focus of the -- the Defendant's motion
15 relates to his work schedule. There are other issues that are
16 raised, to be clear for the record, as it relates to his
17 request to modify custody. There's a reference to at least
18 the offer that the parties' older child, Savannah, who is 13
19 years of age, soon to be 14, has expressed a preference, which
20 is a factor under the best interest factors pursuant to enter
21 as 125:c.0035.

22 That -- that factual assertion or offer is in
23 dispute, clearly based on the papers in Mom's response stating
24 that just the opposite is true. Again, that's not something

1 that I would conclude is -- determinative of a substantial
2 change in circumstances where a child expresses a preference.
3 That's more under the best interest analysis. So looking at
4 the work schedule, and -- and I pose the question and -- and I
5 -- I -- I'm -- I've never been the type to necessarily -- and
6 I don't know what departments are doing elsewhere.

7 That's -- it's -- it's not necessarily the -- the
8 mode of operation here to -- to -- to keep track of what
9 everyone else is doing. I have to apply the law to the facts
10 as they stand before me. And -- and I recognize that we're
11 living in some very unique times. Unique times in terms of
12 unemployment. I pose that question. I don't -- I -- I would
13 not conclude that the loss of employment necessarily would
14 trigger an automatic review with evidentiary proceedings for a
15 permanent modification of custody because I view it as a
16 temporary circumstance.

17 This is offered to the Court as perhaps something
18 more than a temporary circumstance based on Dad's employment,
19 his availability based on the type of work, working from home,
20 which is something that we're seeing a lot more frequently
21 today under the current circumstances with the pandemic. That
22 may be around to stay after things get back to, quote,
23 unquote, normal however that -- that looks. But even that
24 phrase, when I hear working from home, it certainly -- it

1 appears that somewhat the connotation is that because you're
2 working from home, you're really not working.

3 You're available to provide daycare for children,
4 You're available to educate your children who are maybe
5 involved in some form of distance learning. The good news for
6 from what I've read is your children actually get some in-
7 person education, which is fabulous. And -- and a fantastic
8 scenario from them. It's not complete, but they at least get
9 some socialization and some classroom time. But my -- when I
10 hear working from home, I view that as actually working from
11 home.

12 And the responsibility at the -- and it may not mean
13 that it's every minute of -- of that time, you're actually
14 performing, but clearly, my expectation would be that the
15 employer expects that you're available and you are actually
16 working from home. I -- I don't -- I -- I -- I don't find
17 based on what the offers that have been made that it is a
18 sufficient basis that there has been a sufficient showing
19 pursuant to Runi that would warrant this Court setting further
20 proceedings on a modification of custody.

21 I'm not persuaded based on those papers pursuant to
22 Runi that there is sufficient cause to set further
23 proceedings. So the motion is denied. I did want to clarify
24 certain things for the record as well, and this is more an --

1 an aside and not germane to the issues before the Court. But
2 I -- I do believe it is important to make things clear for the
3 record as it relates to what transpired at the prior hearing.

4 Because there are assertions made in the paperwork
5 filed on behalf of the Defendant that do suggest things about
6 how this Court handled the prior proceedings, that, again, I
7 want to make a clear record as to exactly what happened. The
8 motion states that specific footnote two in Defendant's motion
9 states at no time did the Court's staff inform Hofland's
10 office that the hearing was starting with or without him.

11 Again, at no time did the Court's staff inform Mr.
12 Hofland's office that the hearing was starting with or without
13 him. It goes on in footnote three, Clark County, while
14 smaller in -- than Los Angeles, San Bernardino, San Francisco,
15 Orange County, and San Diego Counties has generally, like
16 other large counties and other states, accommodated scheduling
17 conflicts caused by conflicts with other appearance scheduled
18 for the same time and date.

19 Mr. Hofland inadvertently wrongly assumed Department
20 Q granted the same common courtesy followed in other divisions
21 of the Eighth Judicial District Court and other courts where
22 Mr. Hofland has appeared to trail hearings so all parties and
23 counsel would be present at important hearings.

24 On page 3, sadly and unacceptably, this Court chose

1 to deprive Defendant of his due process rights to a fair and
2 meaningful hearing. He was not allowed to appear given the
3 Court's method of disposition and more troubling his
4 fundamental rights as a parent were not recognized and
5 accommodated. Along with that, Defendant's counsel is not
6 allowed, denied the opportunity to be heard, unlike
7 Plaintiff's counsel.

8 Instead, this Court simply focused on one factor,
9 denied argument, and an evidentiary hearing claiming that
10 factor alone was insufficient to modify custody and child
11 support and promptly rule the case would be closed as soon as
12 Plaintiff's counsel could get an order from the Court.

13 For the record, this Court -- this Court's JA and
14 law clerk received an email from Mr. Hofland's office on
15 Monday, October 26th, 2020, at 1:25 p.m. to notify the
16 Department that, quote, Mr. Hofland will be a few minutes
17 later logging onto Bluejeans in the morning as he also has a
18 telephonic hearing for one of his civil cases at 9:00 a.m.
19 tomorrow also.

20 Department Q's law clerk responded on October 26th,
21 2020, at 3:15 p.m. and stated, quote, thank you for the
22 notice, closed quote. The JA -- the Department Q JA was
23 included in the email. Department Q's JA followed with Mr.
24 Hofland's office on Tuesday, October 27th, the date of the

1 hearing, 2020, at 10:02 a.m.. Recognizing that the hearing
2 was scheduled to -- to start at 9:00 a.m.

3 So the suggestion that this Court failed to trail
4 the matter is completely inaccurate. The hearing was
5 scheduled at 9:00 a.m. As of 10:02 a.m., the Court had
6 trailed the matter. Department Q's JA's email to Mr.
7 HOfland's office stated, quote, can you please tell me the
8 status of Mr. Hofland. Unfortunately, Ms. Jacobson was not
9 notified by your office, and she has been waiting since 9:00
10 a.m. Judge Duckworth will be calling the matter, close quote.

11 Clearly indicating that notice was imparted on Mr.
12 Hofland's office that the matter was going to be called and
13 was called at 10:03 a.m. The hearing proceeded at 10:03 a.m.
14 after trailing the matter for more than an hour to accommodate
15 counsel. The -- at -- at -- on October 27th, 2020, at 10:08
16 a.m. a -- an email was received by Department Q's JA stating,
17 quote, from Mr. Hofland's office, quote, I apologize for the
18 delay.

19 Mr. Hofland is still waiting to be called for his
20 civil hearing this morning in Department 25. Mr. Hofland
21 anticipates he will be finished by 10:30 a.m., 11:00 a.m. Our
22 client, Justin Maurice is at our office for the Maurice
23 hearing, and he just stepped out 15 minutes to get a cup of
24 coffee.

1 Again, the suggestion that this Court failed to
2 offer any courtesy, and I would expect as a professional
3 courtesy that if someone's going to be late, and this is
4 expected in any case, that counsel have the professional
5 courtesy to communicate with opposing counsel to let them know
6 they're going to be late. I did accommodate the delay. I
7 waited for more than an hour.

8 The Maurice case was not the only case on my
9 calendar that morning. I had other matters scheduled that
10 morning, and I waited an hour. This Court -- it is this
11 Court's prerogative to review the papers and make a
12 determination on those papers because I do view the papers as
13 being the mode by which Counsel for both parties, especially
14 capable counsel, that both parties have to communicate all of
15 the relevant information I need to make a decision without any
16 oral argument being made.

17 There are departments that will dispose of the
18 papers just based on the papers without even holding a hearing
19 and issue orders taking matters off calendar. I -- I
20 scheduled a hearing. The hearing was set for 9:00 a.m. It
21 started at 10:03 a.m. And apparently, the -- the hearing
22 before this Court was less of a priority than the hearing in
23 front of another department downtown in a civil matter. This
24 Court waited over an hour.

1 That was an accommodation that was offered
2 notwithstanding the arguments to the contrary. It is my
3 prerogative to make decisions based on the papers that have
4 been filed presuming that all of the information I need to
5 make a decision has been accurately stated in those papers.
6 The Defendant's motion is denied. I'll direct Ms. Jacobson to
7 prepare the order, submit it to Mr. Hofland for review and
8 signature.

9 Leave a blank in the order for the Court to make a
10 determination. As it relates to the issue of attorneys' fees,
11 the Plaintiff is -- is directed to file a memorandum of fees
12 indicating the amount concurred in responding to the motion
13 for reconsideration. Those are the Court's orders. Thank you
14 for your appearances.

15 (PROCEEDINGS CONCLUDED AT 9:32:39 A.M.)

16 * * * * *

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

20

21

22

Kimberly C. McCright, CET

23

24

1 **TRANS**

FILED

AUG 03 2021

ORIGINAL

Steven A. Hoffman
CLERK OF COURT

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

9 SARAH MAURICE,)
10 Plaintiff,) CASE NO. D-14-506883-D
11 vs.) DEPT. Q
12 JUSTIN MAURICE,) APPEAL NO. 83009
13 Defendant.)
14

15 BEFORE THE HONORABLE BRYCE C. DUCKWORTH
16 DISTRICT COURT JUDGE

17 TRANSCRIPT RE: ALL PENDING MOTIONS

18 TUESDAY, OCTOBER 27, 2020
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23
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1 APPEARANCES:

2 The Plaintiff: SARAH MAURICE
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 (702) 601-0770

5 The Defendant: JUSTIN MAURICE
6 For the Defendant: BRADLEY HOF LAND, ESQ.
7 626 S. Third St.
 Las Vegas, Nevada 89101
 (702) 472-8686
 (NOT PRESENT)

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1 LAS VEGAS, NEVADA

TUESDAY, OCTOBER 27, 2020

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 10:03:12)

4

5 THE COURT: Okay. We are on the record in the
6 Maurice matter, case D-14-506883-D. Starting with Plaintiff's
7 side, please confirm your appearance.

8 MS. JACOBSON: Good morning, Your Honor. Rachel
9 Jacobson, bar number 7827 on behalf of the Plaintiff, Sarah
10 Maurice who is present by Bluejeans.

11 THE COURT: Good morning. And I -- I see the
12 Plaintiff present. On Defendant's side, do we have anyone
13 present? Okay. And I'm not hearing anyone, and this was set
14 for 9:00 a.m. We've waited an hour. And Ms. Jacobson, it's
15 my understanding you -- you didn't receive any communication
16 about --

17 MS. JACOBSON: I have not.

18 THE COURT: -- any delay in today's hearing?

19 MS. JACOBSON: Correct. The only communication I
20 received is when I called the Court this morning to confirm
21 that I'm in the right Bluejeans link.

22 THE COURT: Right. And you are in the right
23 location. And again, it's been -- it's been more than an
24 hour. The word that the Court did receive is that counsel for

1 Defendant would be a little late. I usually give 15 minutes.
2 It's been more than an hour. Have you had any communication
3 with opposing counsel?

4 MS. JACOBSON: I have not, Your Honor.

5 THE COURT: Okay.

6 MS. JACOBSON: Not in a while regarding this case.

7 THE COURT: Okay. And I've had a chance to review
8 the papers. Anything you all wanted to add, Counsel, beyond
9 what's in the papers?

10 MS. JACOBSON: No, Your Honor.

11 THE COURT: Okay. I've had a chance to review the
12 papers. In the nature of the request by the -- the Defendant
13 is to modify custody, requesting that the Court adopt a joint
14 physical custody schedule, and as a -- as a result, thereof,
15 to modify child support, pursuant to Wright v. Osburn and --
16 and the dependency exemption.

17 As I indicated, I've had a -- I've had a chance to
18 review the -- the papers that I'm -- had been filed, so I was
19 prepared to -- to rule on the papers anyway. I don't find
20 that a modification of a work schedule is a sufficient basis
21 under Ellis v. Carucci, that as a substantial change in
22 circumstances affecting the well-being of -- of the children
23 in this instance that would invoke the Court pursuing a
24 modification of custody pursuant to Ellis v. Carucci and then

1 proceeding to the best interest factor.

2 So I don't -- i don't find that that's a sufficient
3 basis to modify the underlying custody arrangement. So I deny
4 the -- the Defendant's motion to modify custody. And if
5 you'll -- if you'll prepare an order from today, Counsel?

6 MS. JACOBSON: Will do, Your Honor. Thank you.

7 THE COURT: All right. Thank you for your
8 appearance.

9 MS. JACOBSON: Thank you for your time.

10 (PROCEEDINGS CONCLUDED AT 10:06:12 A.M.)

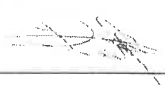
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12 ATTEST: I do hereby certify that I have truly and
13 correctly transcribed the digital proceedings in the above-
14 entitled case to the best of my ability.

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Kimberly C. McCright, CET

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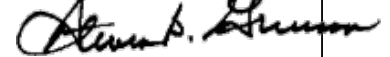
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Electronically Filed
8/9/2021 1:40 PM
Steven D. Grierson
CLERK OF THE COURT



RQST
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Attorney for Defendant, Justin Maurice

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

SARAH MAURICE,	) CASE NO.: D-14-506883-D
	) DEPT. NO.: Q
Plaintiff,)
)
vs.)
)
JUSTIN MAURICE,)
)
Defendant.)
)

REQUEST FOR TRANSCRIPT OF PROCEEDINGS

To: Transcript Video Services, 601 N. Pecos Road, Las Vegas, NV 89101.

Defendant, Justin Maurice, requested preparation of a transcript of the proceedings before the District Court as follows:

Judge or Officer hearing the proceeding: Honorable Bryce C. Duckworth.

Specific portions of the transcript being requested:

PORTIONS REQUESTED:

February 10, 2015: Motion Hearing

NUMBER OF COPIES REQUESTED: 2 copies.

1 I hereby certify that on August 9, 2021, I ordered the transcripts listed
2 above from the Court Reporter named above and paid the required deposit to
3 Clerk of Court on August 9, 2021¹. A deposit of \$115.00 was required for
4 ordering the transcripts.

5 DATED this 9th day of August, 2021.

6 HOFLAND AND TOMSHECK
7

8 By: /s/ Bradley J. Hofland
9 BRADLEY J. HOFLAND, ESQ.
10 Nevada Bar No. 006343
11 228 S. 4th Street, 1st Floor
12 Las Vegas, Nevada 89101
13 Attorneys for Defendant
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¹ See Exhibit 1, a copy of Estimate of Transcript for Appeal Purposes filed 08/09/21

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 9th day of August, 2021, I served the **REQUEST FOR TRANSCRIPTS PROCEEDINGS** on the following parties by E-Service through Odyssey and/or U.S. mail addressed as follows:

Jacobson Law Office, Ltd.
64 North Pecos Road, Suite 200
Henderson, NV 89074
Attorney for Plaintiff

By: /s/ Nikki Warren
Employee of Hofland & Tomsheck

EXHIBIT “1”

FILED

AUG 09 2021

Sherry Justice
CLERK OF COURT

EOT

COPY

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

SARAH MAURICE,) CASE NO. D-14-506883-D
Plaintiff,) DEPT. Q
vs.) APPEAL NO. 83009
JUSTIN MAURICE,)
Defendant.)

ESTIMATED COST OF EXPEDITED/RUSH TRANSCRIPT(S)

The office of Transcript Video Services received a request for transcript estimate from Bradley J. Hofland, Esq., on August 05, 2021, for the following proceedings in the above-captioned case:

FEBRUARY 10, 2015

for original transcript and one copy.

The estimated cost for the transcript is \$95.00 for a a four-day expedite or \$115.00 for a 48-hour rush (excluding weekends). Payment in the amount of **\$95.00 or \$115.00** must be paid directly to **VERBATIM REPORTING & TRANSCRIPTION** prior to work commencing on the transcript. Please call Verbatim Reporting & Transcription to make deposit payment (281) 724-8600 or (520) 303-7356.

DATED this 9th day of August, 2021.

Sherry Justice
Sherry Justice
Transcript Video Services

Transcript ESTIMATE amount of _____ Direct Pay Invoice # _____

Received this _____ day of _____, 2021.

This is only an **estimate**. Upon completion of transcript(s), a balance may be due, or you may receive a refund of your deposit if overpayment is greater than \$15.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.

COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

ROA000776

1 **TRANS**

2 **ORIGINAL**

FILED

AUG 12 2021

Sharon A. Hoffman
CLERK OF COURT

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

9 SARAH MAURICE,)
10 Plaintiff,) CASE NO. D-14-506883-D
11 vs.) DEPT. Q
12 JUSTIN MAURICE,) APPEAL NO. 83009
13 Defendant.)
14

15 BEFORE THE HONORABLE BRYCE C. DUCKWORTH
16 DISTRICT COURT JUDGE

17 TRANSCRIPT RE: ALL PENDING MOTIONS

18 TUESDAY, FEBRUARY 10, 2020
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1 APPEARANCES:

2 The Plaintiff: SARAH MAURICE
3 For the Plaintiff: RACHEL JACOBSON, ESQ.
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8 The Defendant: JUSTIN MAURICE
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1 LAS VEGAS, NEVADA

TUESDAY, FEBRUARY 10, 2015

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 09:11:02)

4

5 THE COURT: Okay. We are on the record in the
6 Maurice matter, Case D-14-506883-D. Please confirm your
7 appearances.

8 MS. JACOBSON: Thank you, Your Honor. Rachel
9 Jacobson, bar number 7827 on behalf of Sarah Maurice who is
10 also present.

11 THE COURT: Good morning.

12 MR. HILL: Robert Hill, 8496, on behalf of Mr.
13 Maurice in an unbundled capacity.

14 THE COURT: Good morning. This is the time set for
15 hearing on Plaintiff's motion for preliminary relief, the
16 opposition and countermotion filed by the Defendant, and the
17 reply I received from the Plaintiff. And I've had a chance to
18 receive -- read the papers and review the exhibits which were
19 quite extensive, and that includes attendance detail records
20 from the -- the preschool daycare provider.

21 With that being said, have any issues been resolved
22 at this point?

23 MS. JACOBSON: No, Your Honor.

24 THE COURT: Okay. The -- based on the papers that

1 have been filed, it's not in dispute that the parties
2 separated in September of 2014. So that establishes an
3 important timeline for me as I look at the conduct and your
4 behavior in regards to how you're raising your children since
5 that time. And that establishes somewhat of a blueprint as to
6 how the two of you as Mom and Dad define what was in the best
7 interest of Emma and Savannah during that period of time.

8 I am going to be referring the two of you to
9 mediation to sit down as parents to have a discussion as to
10 how you're going to raise your children. I always emphasize
11 to parents at an initial hearing, it's important as you enter
12 into mediation to recognize that as the parents, you know your
13 children better than I ever will.

14 I'm a stranger to your children, I've never met
15 them, likely never will meet your children, and therefore,
16 it's incumbent on the two of you to have those discussions as
17 to how you're going to raise them. Doesn't mean you have to
18 reach an agreement.

19 If you don't reach an agreement, we'll come back in
20 about 90 days and determine exactly what we need to do at that
21 point. It'll be a return hearing from FMC, it'll serve also
22 as our case management conference when we come back. And we
23 may need to set a trial where you call witnesses to the
24 witness stand and then I make a final decision on all issues,

1 including custody, and that is how you're going to raise your
2 children. But again, I emphasize to you that even under that
3 scenario, I gather as much information as I can and I make a
4 decision based on that evidence as to how you're going to
5 raise your children. But I am still the stranger at that
6 point in time.

7 That's why I -- as I stated at the outset, what's
8 important for me to look at is what behaviors have been in
9 place up until the complaint was filed. How did the two of
10 you interact in terms of caretaking responsibilities from the
11 time that you separated until the litigation was initiated.

12 And -- and also fundamentally, I have to look at
13 this from a standpoint that I want to build and maintain a
14 relationship between both of you and your children. And
15 Savannah is almost eight years of age, Emma is just a couple
16 days from her first birthday. So, young children to very
17 young.

18 So that being said, it is Plaintiff's motion;
19 Counsel, do you have anything to add beyond what's in the
20 papers?

21 MS. JACOBSON: I would just simply like to
22 reiterate, Your Honor, that since the parties' separation, Dad
23 has only had two overnights with the younger child and four
24 with Savannah, the older child. And when Dad did pick up the

1 girls from school or daycare, it was only for a period of
2 about one or two hours until they were returned to Mom's care.

3 THE COURT: Okay. What specific schedule -- on a
4 temporary basis, because --

5 MS. JACOBSON: Sure.

6 THE COURT: -- even though I'm sending you to
7 mediation, I -- I want you to leave with some schedule that
8 I'm going to define. And it's probably not a perfect
9 schedule, but I'd like to -- to know exactly what you're --

10 MS. JACOBSON: According to my client, Your Honor,
11 the parties were able to discuss a schedule and it basically
12 involved alternating weekends and Dad will continue to pick up
13 the girls from school or daycare when he's available and Mom
14 will get the girls from Dad immediately when she gets off
15 work.

16 THE COURT: Okay. And so that's something -- and I
17 know that the preschool records showed the times in which Dad
18 would pick up.

19 MS. JACOBSON: Correct.

20 THE COURT: And so I recognize that it did happen.
21 It wasn't necessarily an everyday -- it looked like there were
22 weeks in which it was everyday and then there were gaps in
23 time when it didn't happen. So you're saying if Dad is
24 available each of those days, he could pick up the children?

1 MS. JACOBSON: And that's a concern. Mom can't
2 really rely on that on Dad's availability or -- or commitment
3 to pick up the girls daily, but if he's available to pick them
4 up --

5 THE COURT: Okay.

6 MS. JACOBSON: -- certainly, I think that would be
7 helpful, Your Honor.

8 THE COURT: Okay. All right. Thank you, Counsel.

9 MS. JACOBSON: Thank you.

10 MR. HILL: Your Honor, Mr. Maurice isn't okay with
11 the schedule the way it's been and the Court, as the Court
12 indicated, looked through the exhibits that were just provided
13 to Mr. Maurice two days ago, so he didn't have a chance to
14 respond and provide everything to put everything in context.
15 But the Court can notice from the texts that are in there,
16 back in October he was asking for 50 percent time. But
17 unfortunately, he's been in the position -- he's been in this
18 relationship long enough to know that he's been trying to keep
19 the peace and he's asking for 50 percent, just like he has
20 been since October.

21 Unfortunately, the way things go with -- with
22 Plaintiff, it turns into a fight if -- if that he asks for
23 more or, you know, he's just trying to avoid any type of
24 conflict. But as I said, back since October he's asking for

1 50 percent time.

2 They want to --

3 THE COURT: But how is he defining that time? I
4 guess understanding his work schedule, and it's my
5 understanding, and I recognize both parties work for the same
6 company. It's my understanding Dad works early and gets off
7 around 1:00 was the representation, so --

8 MR. HILL: And he's already discussed it with his
9 employers and they will allow him to come in later, to adjust
10 his schedule, on the days that he does have the girls. So
11 what he was asking for was a 4-3-3-4 split, alternating weeks.
12 I mean, he wants as much time with the girls as possible.

13 He can move his work back an hour and a half to two
14 hours, so he can take them to -- to Safekey in the morning and
15 then pick them up around 2:00, 3:00, on the days that he gets
16 off -- the days he has them. So that's what he's able to move
17 his schedule two hours to adjust for it on the days that he
18 has the children.

19 I mean, the Court knows we have clients that work
20 graveyards, they have to make arrangements for their kids, but
21 there's no reason why he shouldn't have as much time as he
22 wants with the children and that's all he's asking for here.
23 And it's -- he's glad it's in front of the Court so the Court
24 can help decide that issue so he's not fighting back and forth

1 with her trying to get much more time. But it's clear in the
2 text messages, back since right after they separated beginning
3 in October, he's telling her he wants 50 percent time. He's
4 not okay with the schedule, and he is able to take care of
5 them.

6 He is in the house. They each have their room in
7 the house. He does have the furniture for the young one. She
8 did not take that out of the house when she left, so he has
9 the ability to take care. He has the furnishing. She lives
10 in a two bedroom apartment and her mother lives with her, so
11 it's -- there's four people in a two bedroom apartment at her
12 house versus his house where he has a three bedroom home, each
13 girl having their own room. There's no reason why he doesn't
14 get as much time here.

15 They were able to work it out and talk and co-
16 parent, but there are some allegations of cheating that kind
17 of muddied the water, but you know, at this point we're
18 thinking about the children and it's best for Dad to be a part
19 of their life as much as possible. So that's what we're
20 asking for is a 3-4-4-3 split at this point. Hopefully they
21 can work it out in mediation so they can accommodate their
22 schedules, but there's no reason why Dad should be shut out of
23 the girls' lives.

24 THE COURT: Well, and certainly that -- the

1 objective of the court is -- is to make sure that both
2 parties, both Mom and Dad are part of the children's lives.
3 And I don't sense from even the proposal made by Mom that
4 that's even part or parcel of what she's looking to
5 accomplish.

6 The two of you were -- you separated on September
7 9th, this litigation was initiated on December 30th, so it's
8 about a four month period of time. And again, that's what I'm
9 looking at. And I recognize that perhaps the schedule was not
10 the ideal schedule, but I even look at ultimately if we have
11 evidentiary proceedings, the caretaking responsibilities prior
12 to that. The daycare records, the preschool records, are part
13 of that, it's not necessarily determinative of that, for me to
14 get a glimpse of what the caretaking responsibilities were
15 like, even while you were in the home together.

16 In an intact household, the ideal world is that you
17 do cover for each other. You have different work schedules
18 and when Mom's working Dad's available, Dad can pick up early
19 from -- from school and then Mom covers because Dad goes to
20 work early --

21 MR. HILL: Okay.

22 THE COURT: -- in the morning.

23 MR. HILL: Yeah.

24 THE COURT: And -- and that's the way you raise

1 children.

2 Now you're at the point where you're going through
3 these divorce proceedings, so this is a tumultuous time for
4 the two of you. My objective today is not to start throwing
5 wholesale changes at your children. Again, you know your
6 children better than I -- I do, and for four months there was
7 some type of a pattern and I know one of the issues that's
8 been discussed is the overnight time, the limited overnight
9 time, that Dad has had.

10 And even the schedule that Mom is proposing expands
11 that significantly, which I think is -- is a good step in the
12 right direction. Dad's response was that he didn't have
13 overnights because he didn't have the appropriate sleeping
14 accommodations. It's not that difficult to go to a thrift
15 store and get some very basic inexpensive sleeping
16 accommodations.

17 I also, in looking at the intake -- the records from
18 the preschool, there were times without question that Dad was
19 picking up from school, but even on those occasions, it looked
20 like some of the -- on many occasions it was late in the day,
21 4:00, 5:00, well after the Court's information as to when Dad
22 was getting off from work.

23 So I -- I am going to maintain some semblance of the
24 status quo in terms of the -- the schedule. It is going to be

1 every other weekend. That will provide Dad with more
2 overnights than he's had up to this point in time. I define a
3 weekend as beginning on Friday, and so Dad would be allowed to
4 pick the children up from the -- the preschool or daycare
5 provider.

6 Is Savannah in Safekey or does she also --
7 ultimately is she transported to Kids' House (ph)?

8 MR. HILL: He picks up the child from --

9 MS. JACOBSON: She's in second grade, Your Honor, so
10 she can be picked up right after school.

11 THE COURT: From school, right.

12 MR. HILL: He picks Savannah up everyday day after
13 school anyway.

14 THE COURT: Okay. So that'll -- Dad's time will
15 begin picking the children up on his weekend and who had last
16 weekend? Did Mom have last weekend?

17 THE PLAINTIFF: Yeah, we already said he could have
18 her for her --

19 THE COURT: This weekend?

20 THE PLAINTIFF: Yes.

21 THE COURT: Okay. Okay, that's right. There's no
22 school on Friday, so -- or Monday, so it's an extended
23 weekend, so this will be Dad's weekend.

24 Also, I'll order that Dad is -- is allowed to pick

1 up the girls after work from preschool or school with -- would
2 Mom pick up when she gets off from work?

3 MS. JACOBSON: Yes, Mom can pick up right after
4 work, Your Honor.

5 THE COURT: Okay. So that would be a schedule on a
6 -- essentially a daily basis, to the extent Dad's able -- that
7 gives Dad contact with the children virtually everyday.
8 Although it's -- it's for a short period of time, I think that
9 especially for Emma at her age, that enhances her bonding
10 because it's frequent contact. And at that age, it's not so
11 much the duration of the contact that I'm concerned with as it
12 is the frequency. And I don't know that we can get as
13 frequent.

14 Now I will say this. That's not necessarily a
15 common schedule that I order because it sets up multiple
16 exchanges between the two of you. So this will give me a 90-
17 day period of time to see how that goes and whether or not
18 that's workable. When parties are going through court, going
19 through a divorce, sometimes that's problematic when we have
20 multiple exchanges.

21 And the last thing I want to do is expose your
22 children to any type of acrimony between the two of you. They
23 need to be shield from that. They're not part of -- part of
24 this in terms of knowing about anything that's going on in

1 court. Not that -- not that Emma would -- would have any --
2 any comprehension of it, but certainly Savannah might.
3 Neither of you should discuss these matters with either
4 children, particularly Savannah who may be more understanding
5 and recognize that Mom and Dad are not together. Neither of
6 you should say anything negative about the other parent in
7 front of the children.

8 Again, they should be shielded and insulated. And
9 both parties do need to take the COPE class it appears. I
10 didn't see COPE certificates from either parent, so both of
11 you need to -- to participate in that -- in that course, and I
12 expect that to be completed by the time we come back.

13 The -- and then we'll come back in 90 days and see
14 what progress you've made.

15 THE CLERK: The return hearing is going to be May
16 4th at 9:00 a.m.

17 MS. JACOBSON: Your Honor, I might have a conflict
18 on that day. I might be in D.C.

19 THE COURT: Okay. If you want to check your
20 calendar.

21 So the weekend -- we would -- we would have an
22 exchange Sunday evening then at 7:00 p.m.

23 Now does Dad work on Monday, this coming Monday even
24 though it's a holiday?

1 MR. HILL: No, he's indicated he's off.

2 THE COURT: Okay. So I would allow Dad, Dad's time
3 would continue Monday until 7:00 because he has the day off.

4 I expect as part of mediation you'll talk about
5 holidays and special occasions. I -- even if you can't
6 resolve the underlying schedule, I would expect you to at
7 least be able to have a discussion about holidays and -- and
8 vacation time.

9 There's no magic to -- to those schedules, usually
10 it's alternated; one year Mom's going to have certain holidays
11 and Dad's going to have other holidays, and then the next year
12 you're going to -- you're going to flip those holidays.

13 Is that date a problem, Counsel?

14 MS. JACOBSON: I am out of town, Your Honor. I'm
15 sorry.

16 THE COURT: Okay.

17 THE CLERK: The week after work better?

18 MS. JACOBSON: Yes. Please. Thank you.

19 THE CLERK: May 11th at 9:00 a.m.

20 THE COURT: Is that acceptable on both sides?

21 MR. HILL: Yes.

22 THE COURT: Okay. It's a Monday. The -- is there -
23 - I see health insurance reflected on the Defendant's
24 financial disclosure form. Does the Defendant provide medical

1 --

2 MR. HILL: Yes, he does.

3 THE COURT: -- insurance coverage? For?

4 MR. HILL: The family, it's family coverage.

5 THE COURT: The entire family, okay.

6 MS. JACOBSON: Your Honor, the parties I think

7 calculated and half of that would be -- half of the child

8 support obligation would be \$130.

9 THE COURT: Half of the health insurance?

10 MS. JACOBSON: Yes. Half of the health insurance,

11 I'm sorry. Thanks.

12 THE COURT: So the parties would maintain joint

13 legal custody on a temporary basis, Plaintiff is designated as

14 the primary physical custodian subject to Dad's visitation,

15 which includes every other weekend, plus daytime visits each

16 day.

17 The calculating child support --

18 MS. JACOBSON: Your Honor, I do want to correct the

19 financial disclosure form provided by Dad. It is my

20 understanding that he was -- received a raise of \$.75 per

21 hour, which per our calculation raises his gross income to

22 \$5,558, provided he's working only 40 hours a week, and he

23 does work overtime, too, but that's just the new calculation.

24 THE COURT: Okay.

1 MS. JACOBSON: And it was backdated to October, so
2 he received backdated pay as well.

3 THE COURT: What is --

4 MR. HILL: It just -- it hasn't been reflected on
5 his -- it -- the raise was last week.

6 THE DEFENDANT: Or the last check.

7 MR. HILL: So it wasn't indicated in this, so it is
8 correct.

9 THE DEFENDANT: The union was in a stalemate with --

10 THE COURT: Oh, okay.

11 THE DEFENDANT: -- negotiations from October until
12 just recently, so the --

13 THE COURT: Okay.

14 THE DEFENDANT: -- the raise wasn't being shown
15 until just recently.

16 THE COURT: So but you -- you would agree that the
17 current amount -- what was the amount, Counsel, that you --
18 five thousand --

19 MS. JACOBSON: \$5,558. That's assuming he's making
20 \$32.07 per hour and working 40 hours a week.

21 THE COURT: Okay. Did -- so is that accurate?

22 THE DEFENDANT: Yes.

23 THE COURT: Okay. Based on the statutory formula,
24 the child support calculation results in \$1,389.50 minus \$130

1 for insurance, results in \$1,260 rounded. So that would be
2 the monthly child support commencing with the month of
3 February.

4 Any -- any constructive amount would be a deferred
5 issue to the time of trial.

6 MS. JACOBSON: Okay. Thank you, Your Honor.

7 THE COURT: We'll have half due -- 630 due on the
8 10th and 20th of each month. I'm denying the request for
9 spousal support given the financial circumstances of the
10 parties and the child support that's been requested, at least
11 on a temporary basis. I'm not saying that that's not a trial
12 issue, but on a temporary basis I'm denying that.

13 There have been issues raised about spending and --
14 and accounting issues. That's a discovery issue. I'm not
15 going to make any rulings today in that regard.

16 The -- neither party disclosed the amounts that they
17 paid for attorneys fees on their financial disclosure forms,
18 so --

19 MS. JACOBSON: Your Honor, Ms. -- Ms. Maurice has
20 paid 2500 in attorneys fees and 289 in filing fees.

21 THE COURT: Okay. How much has Mr. Maurice paid in
22 fees, Counsel?

23 MR. HILL: Your Honor, he just hired us for today's
24 hearing.

1 THE COURT: Unbundled.

2 MR. HILL: Just 400 for today's hearing.

3 THE COURT: Okay. Well, given the fact I'm just
4 recently receiving that information, I'm not going to make any
5 further orders today in regards to the -- the attorneys fees,
6 so I'll defer that issue as well.

7 You have your referral to mediation. The -- I am
8 also granting the request that each party should have
9 exclusive possession of their respective places of residence
10 that was requested in Defendant's counter motion. That makes
11 sense to -- to order that.

12 Any -- any expenses not covered by insurance also,
13 the order is that those expenses are to be divided equally
14 pursuant to the 30-30 rule.

15 So you have your return hearing, we'll come back and
16 see what progress you've made in mediation. And do we need an
17 order prepared from today or will the minutes suffice?

18 MS. JACOBSON: I think the minutes would suffice,
19 but I'd be happy to prepare an order.

20 MR. HILL: The minutes should be fine.

21 THE COURT: Okay.

22 MS. JACOBSON: Your Honor, I do have a couple of
23 requests for clarification.

24 One is Ms. Maurice advises that the youngest child

1 goes to bed around 8:00 p.m., so we're -- we're proposing that
2 a pick up time would be at 6:00 p.m. instead of 7:00, if
3 possible, just to allow the bedtime routine, the bath time,
4 and -- and ensure that everything is ready to go for the next
5 day at school when the exchanges are on Sunday, Your Honor.

6 THE COURT: Okay.

7 MR. HILL: Your Honor, he's just requested leave it
8 as the same, leave it what the Court ordered. I mean, he's
9 the father, he can take care of that stuff. 7:00 gives them
10 plenty of time to get home, get ready for bed. Any baths that
11 are needed on the weekends he has he can take care of. It's
12 just one of the issues where she's trying to control things
13 which he's concerned about. Leave it the same, 7:00, let him
14 take care of the children when he has them and there'll be no
15 issues here.

16 THE COURT: Okay.

17 MR. HILL: So 7:00 isn't a problem, I don't know why
18 we need to move it up one hour for --

19 THE COURT: I'm inclined to leave it at 7:00 p.m.
20 for the time being.

21 MS. JACOBSON: Okay. Thank you, Your Honor.

22 THE COURT: And again, I want the two of you as
23 parents to have those discussions and that's -- that's why I
24 said it, it's not necessarily a perfect scenario when you're

1 inviting a stranger into your home to tell you how to raise
2 your children, and that's why I want you to have that
3 discussion in mediation.

4 Okay? All right.

5 MS. JACOBSON: And Your Honor, one question.

6 As far as property as Your Honor indicated in our
7 moving papers, we did reference some liquidating,
8 transferring, purchasing new property. Can we make sure the -
9 - the parties are aware the JPI is in force and they cannot
10 liquidate or transfer any assets?

11 THE COURT: The joint preliminary injunction, I
12 treat that as a -- a -- as an order of the Court that is
13 punishable by the pow -- the Court's contempt powers, so both
14 parties are on notice that you're governed by the strictures
15 of the joint preliminary injunction. Okay?

16 MS. JACOBSON: I'm so sorry, Your Honor, one more
17 issue. The daycare expense is approximately \$1,000 per month
18 for both of the girls, Safekey and the child's daycare, and
19 the parties have been splitting that amount, correct? And
20 just moving forward so there's no confusion about that, should
21 the parties continue splitting that expense, Your Honor?

22 THE COURT: What's the Defendant's position in that
23 regard?

24 MR. HILL: Yeah, he's okay with splitting it equally

1 50/50 which hasn't been happening. He's been paying more than
2 half, so he's okay with splitting it 50/50.

3 THE COURT: Splitting the day -- okay.

4 MS. JACOBSON: Thank you, Your Honor.

5 THE COURT: All right. So you're okay with the
6 Court issuing an order based on the minutes or do you desire
7 to prepare an order? It doesn't -- it doesn't matter to me,
8 on either side.

9 MS. JACOBSON: I'm comfortable with minutes, Your
10 Honor.

11 MR. HILL: Minutes should be fine.

12 THE COURT: Okay. The Court will issue an order
13 based on the minutes.

14 MS. JACOBSON: Thank you, Your Honor.

15 THE COURT: Okay? All right. Thank you for your
16 appearances.

17 MS. JACOBSON: Thank you.

18 (THE PROCEEDINGS CONCLUDED AT 09:35:10)

19 * * * * *

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

23 /s/ Kimberly C. McCright

24 Kimberly C. McCright, CET