

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTINA CALDERON F/K/A
CHIRSTINA CALDERON STIPP,

Appellant,

vs.

MITCHELL DAVID STIPP,

Respondent.

Supreme Court No. 81888
Electronically Filed
Sep 20 2021 05:53 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME V

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Counsel for Appellant

RADFORD J. SMITH
Radford J. Smith, CHTD
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Counsel for Respondent

| DOCUMENT | VOLUME NUMBER | BATE NO(S) |
|--|--------------------------|-----------------------|
| Notice of Entry of Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters | I | AA000001-18 |
| Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on Timeshare | I | AA000019-40 |
| Exhibits in Support of Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on Timeshare | I | AA000041-54 |
| Notice of Hearing | I | AA000055 |
| Application for an Order Shortening Time | I | AA000056-109 |
| Notice of Department Reassignment | I | AA000110-111 |
| Notice of Appearance of Counsel for Plaintiff | I | AA000112-113 |
| Motion for Order to Show Cause Against the Defendant for Willfully disobeying the Custody Order; A Request for Immediate Return of the Children, Make Up Visitation and Award of Attorney's Fees | I | AA000114-143 |
| Notice of Communications between Defendant and Plaintiff's Attorney | I | AA000144-151 |
| Notice of Hearing | I | AA000152 |
| Ex Parte Application for an Order to Show Cause | I | AA000153-160 |

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Exhibits in Support of Plaintiff's Motion for Order to Show Cause
Against the Defendant for Willfully disobeying the Custody Order; A Request for
Immediate Return of the Children, Make Up Visitation and

Award of Attorney's Fees

I AA000161-230

Plaintiff's Objection to Exhibits improperly cut and pasted within Defendant's
Motion for Child Interview by FMC, Mediation and to Permit Children to exercise
Teenage Discretion on Timeshare, and Objection to Exhibits in Support of
Defendant's Motion filed on August 26, 2019,

pursuant to NRCP 16.205(i)

I AA000231-232

Ex Parte Application for an Order

Shortening Time

I AA000233-244

Defendant's Opposition to Motion for Order to Show Cause Against the Defendant
for Willfully disobeying the Custody Order; A Request for Immediate Return of
the Children, Make Up Visitation and Award of Attorney's Fees and

Countermotion for Interview of Children by FMC and for Children to exercise

Teenage Discretion

II AA000245-272

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Defendant's Exhibits in Support of Defendant's Opposition to Motion for Order to Show Cause Against the Defendant for Willfully disobeying the Custody Order; A Request for Immediate Return of the Children, Make Up Visitation and Award of Attorney's Fees and Countermotion for Interview of Children by FMC and for

Children to exercise Teenage Discretion II AA000273-366

Order to Show Cause II AA000367-368

Notice of Entry of Order II AA000369-372

Declaration of Amy Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on

Timeshare II AA000373-389

Declaration of Amy Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on

Timeshare II AA000390-406

Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC,

Mediation and to Permit Children to exercise Teenage Discretion on Timeshare and Countermotion for Immediate Return of Children, Make-up visitation,

Sanctions, and Award of Attorney's Fees II AA000407-419

Notice of Hearing II AA000420

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Exhibits in Support of Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on Timeshare and Countermotion for Immediate Return of Children, Make-up visitation, Sanctions,

and Award of Attorney's Fees

II AA000421-427

Defendant's Objection to Letter by Christina Calderon's Therapist Donna Wilburn and Notice of Letter from Dr. Roy Lubit

in Support of Objection

II AA000228-481

Response to Plaintiff's Objection

Filed on August 30, 2019

II AA000482-485

Reply to Opposition to Our Motion for Order to Show Cause Against Defendant for Willfully Disobeying the Custody Order and Requested Relief and Opposition to the Countermotion filed by Defendant

III AA000286-497

Reply to Plaintiff's Opposition to Countermotion for Interview of Children by FMC, Mediation at FMC, and for

Children to Exercise Teenage Discretion

III AA000498-517

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

| | | |
|--|-----|--------------|
| Exhibits in Support of Defendant's Reply to Opposition to Our Motion for Order to Show Cause Against Defendant for Willfully Disobeying the Custody Order and Requested Relief and Opposition to the Countermotion | III | AA000518-543 |
| Notice of Appearance | III | AA000544-546 |
| Supplemental Exhibits in Support of Defendant's Reply to Opposition to Our Motion for Order to Show Cause Against Defendant for Willfully Disobeying the Custody Order and Requested Relief and Opposition to the Countermotion filed by Defendant | III | AA000547-550 |
| Ex Parte Application for an Order Shortening Time | III | AA000551-564 |
| Order for Family Mediation Center | III | AA000565 |
| Court Order Instructions | III | AA000566-567 |
| Request for Child Protective Services | | |
| Appearance and Records | III | AA000568 |
| Status Report | III | AA000569-574 |
| Plaintiff's Objection to Defendant's Status Report filed October 7, 2019, and Request that it be stricken Pursuant to EDCR 5.508 | III | AA000575-577 |

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Emergency Motion for Temporary Primary Physical Custody and
Request for Writ of Attachment Order

and Attorney's Fees III AA000578-600

Notice of Hearing III AA000601

Ex Parte Application for an Order Shortening Time III AA000602-607

Opposition to Ex Parte Application for an Order Shortening Time of Plaintiff's

Motion for Primary Physical Custody III AA000608-612

Exhibits in Support of Opposition to Ex Parte Application for an Order Shortening

Time of Plaintiff's Motion for Primary Physical Custody III AA000613-634

Order Setting Case Management Conference III AA000635-637

Plaintiff's Supplement Affidavit in Support of her Emergency Motion for

Temporary Primary Physical Custody and Request for Writ of Attachment Order

and Attorney's Fees III AA000638-643

Opposition to Plaintiff's Emergency Motion for Temporary Primary Physical

Custody and Request for Writ of Attachment Order and Attorney's Fees and

Countermotion for Primary Physical Custody

and Related Relief III AA000644-666

Order Shortening Time III AA000667-668

| DOCUMENT | VOLUME NUMBER | BATE NO(S) |
|---|--------------------------|-----------------------|
| Notice of Entry of Order | III | AA000669-672 |
| Order for Supervised Exchange | III | AA000673-675 |
| Notice of Change of Address | III | AA000676 |
| Order Setting Evidentiary Hearing | III | AA000677-681 |
| Subpoena for Gerardo Hernandez for Deposition | III | AA000682-686 |
| Affidavit of Service | III | AA000687 |
| Notice of Telephonic EDCR 5.602(d) Conference | III | AA000688-690 |
| Plaintiff's Production of Documents and List of Witnesses Pursuant to NRCP 16.2 | III | AA000691-700 |
| Certificate of Mailing | III | AA000701 |
| Plaintiff's Motion to Compel Discovery Responses, Including Answers to Interrogatories and Responses to Requests for Production of Documents; Failure to Make NRCP 16.2 Disclosures and Productions; and For an Award of Attorney's Fees and Costs | III | AA000702-722 |
| Notice of Hearing | III | AA000723 |

| DOCUMENT | VOLUME NUMBER | BATE NO(S) |
|--|--------------------------|-----------------------|
| Plaintiff's Exhibits in Support of Plaintiff's | | |
| Motion to Compel Discovery | IV | AA000724-802 |
| Defendant's Opposition to Motion to Compel | | |
| and Related Relief | IV | AA000803-812 |
| Defendant's Exhibits in Support of Defendant's Opposition to | | |
| Motion to Compel and Related Relief | IV | AA000813-931 |
| Ex Parte Application for an Order | | |
| Shortening Time | IV | AA000932-935 |
| Supplement to Opposition to Motion to | | |
| Compel: Countermotion in Limine | IV | AA000936-944 |
| Exhibits in Support of Defendant's | | |
| Supplement: Countermotion in Limine | IV | AA000945-969 |
| Order Shortening Time | IV | AA000970-971 |
| Request for Hearing on Defendant's Countermotion | | |
| In Limine | V | AA000972-973 |
| Supplement to Opposition to Motion to Compel: | | |
| Countermotion in Limine | V | AA000974-983 |

| DOCUMENT | VOLUME NUMBER | BATE NO(S) |
|---|--------------------------|-----------------------|
| Exhibits in Support of Defendant's Supplement: | | |
| Countermotion in Limine | V | AA000984-1008 |
| Ex Parte Application for Order Setting | | |
| Hearing/Shortening Time | V | AA001009-1012 |
| Request for Hearing on Defendant's | | |
| Countermotion in Limine | V | AA1013-1014 |
| Supplement to Opposition to Motion to Compel | | |
| Countermotion in Limine | V | AA1015-1024 |
| Exhibits in Support of Defendant's Supplement: | | |
| Countermotion in Limine | V | AA1025-1049 |
| Notice of Entry of Order | V | AA1050-1053 |
| Defendant's Pretrial Memorandum | V | AA001054-1099 |
| Receipt of Copy | V | AA001100 |
| Witness List | V | AA001101-1104 |
| Receipt of Copy | V | AA001105 |
| Witness List | V | AA001106-1109 |
| Receipt of Copy | V | AA001110 |
| Plaintiff's List of Witness for Evidentiary Hearing | V | AA001111-1118 |

| DOCUMENT | VOLUME NUMBER | BATE NO(S) |
|---|--------------------------|-----------------------|
| Trial Subpoena | V | AA001119-1121 |
| Trial Subpoena | V | AA001122-1124 |
| Plaintiff's Objection to Defendant's Pre-trial Memorandum filed January 21, 2020 | V | AA001125-1127 |
| Motion to Compel Responses to Discovery and For Attorney's Fees and Costs | V | AA001128-1143 |
| Exhibits in Support of Defendant's Motion to Compel | VI | AA001144-1279 |
| Supplemental Declaration/Affidavit of Mitchell Stipp | VI | AA001280-1282 |
| Notice of Hearing | VI | AA001283 |
| Ex Parte Application for Order Setting hearing On Motion in Limine | VI | AA00184-1288 |
| Supplement to Opposition to Motion to Compel: Countermotion in Limine | VI | AA001289-1297 |
| Exhibits in Support of Defendant's Supplement: Countermotion in Limine | VI | AA001298-1322 |

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Memorandum of Attorney's Fees and

Costs

VII AA001323-1335

Ex Parte Application for Order Shortening Time on

Defendant's Motion to Compel

VII AA001336-1497

Stipulation and Order Vacating February 7, 2020 Hearing before the Discovery

Commissioner

VII AA001498-1500

Plaintiff's Opposition to Defendant's Motion to Compel Responses to Discovery

and for Attorney's Fees and Cost; and

Counter-Motion for Attorney's Fees

VII AA001501-1517

Plaintiff's Exhibits in Support of: Plaintiff's Opposition to Defendant's Motion to

Compel Responses to Discovery and for Attorney's Fees and Cost; and

Counter-Motion for Attorney's Fees

VII AA001518-1540

Notice of Hearing

VII AA001541

Opposition to Plaintiff's Request for Attorney's

Fees and Costs

VIII AA001542-1700

Defendant's Reply to Opposition to Motion to Compel and Opposition to

Counter-motion for Attorney's Fees and Costs

VIII AA001701-1760

Notice of Hearing

VIII AA001761

| DOCUMENT | VOLUME NUMBER | BATE NO(S) |
|---|--------------------------|-----------------------|
| Order Shortening Time | VIII | AA001762-1763 |
| Notice of Telephone Conference Required by Discovery Commissioner to Discuss Plaintiff's Deficient Discovery Responses | IX | AA1764-1791 |
| Application for an Order Shortening Time | IX | AA1792-1796 |
| Plaintiff's Offers of Proof Regarding Witnesses for Evidentiary Hearing | IX | AA1797-1802 |
| Plaintiff's Opposition to Defendant's Motion In Limine and Counter-Motion for Attorney's Fees | IX | AA001803-1820 |
| Plaintiff's Supplemental Production of Documents And List of Witnesses Pursuant to NRCP 16.2 | IX | AA001821-1830 |
| Status Report | IX | AA001831-1844 |
| Notice of Entry of Stipulation and Order Resolving Discovery Disputes and Trial Matter | IX | AA001845-1851 |
| Amended Order Setting Evidentiary Hearing | IX | AA001852-1854 |
| Order from Hearing of October 1, 2019 | IX | AA001855-1862 |
| Order from Hearing of October 22, 2019 | IX | AA001863-1867 |
| Order from Hearing of October 1, 2019 | IX | AA001868-1875 |

| DOCUMENT | VOLUME NUMBER | BATE NO(S) |
|--|--------------------------|-----------------------|
| Second Amended Order Setting Evidentiary Hearing | IX | AA001876-1879 |
| Plaintiff's Emergency Motion Pursuant to NRCP Rule 43 | IX | AA001880-1890 |
| Opposition to Plaintiff's Emergency Motion Pursuant to NRCP 43 | IX | AA001891-1895 |
| Notice of Entry of Order | IX | AA001896-1904 |
| Notice of Entry of Order | IX | AA001905-1910 |
| Plaintiff's Renewed Emergency Motion Pursuant to NRCP Rule 43 | IX | AA001911-1921 |
| Ex Parte Application for an Order Shortening Time | IX | AA001922-1926 |
| Opposition to Plaintiff's Renewed Emergency Motion pursuant to NRCP Rule 43 | IX | AA001927-1929 |
| Order Shortening Time | IX | AA001930-1932 |
| Notice of Entry of Order | IX | AA001933-1937 |
| Notice of Hearing | IX | AA001938 |

| DOCUMENT | VOLUME NUMBER | BATE NO(S) |
|--|--------------------------|-----------------------|
| Plaintiff's Second Supplemental Production of Documents and List of Witnesses Pursuant to NRCP 16.2 | IX | AA001939-1948 |
| Receipt of Copy | IX | AA001949 |
| Plaintiff's Memorandum of Points and Authorities Following Evidentiary Hearing | IX | AA1950-1969 |
| Defendant's Closing Brief | IX | AA001979-1987 |
| Notice of Entry of Order | IX | AA001988-2012 |
| Transcripts: January 23, 2020 | X | AA2013-2269 |
| Transcripts: March 5, 2020 | XI | AA2070-2512 |
| Transcripts: August 27, 2020 | XII | AA2513-2763 |

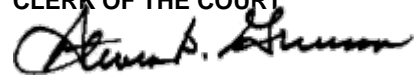
CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 20th day of September, 2021,
a copy of the foregoing Appellant's Appendix V was served as follows:

BY ELECTRONIC FILING TO

Radford J. Smith, Esq.
Radford J. Smith, CHTD
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Respondent

/s/Aaron Grigsby _____
Employee of The Grigsby Law Group



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Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**REQUEST FOR HEARING ON
DEFENDANT'S COUNTERMOTION
IN LIMINE**

Defendant, Mitchell Stipp, as co-counsel of record, hereby files the above-referenced request for hearing on the matters attached.

///

///

1 Dated: January 17, 2019

2 **LAW OFFICE OF MITCHELL STIPP**

3 /s/ Mitchell Stipp, Esq.
4 MITCHELL STIPP, ESQ.
Nevada Bar No. 7531
5 LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
6 Las Vegas, Nevada 89147
Telephone: 702.602.1242
7 mstipp@stipplaw.com
Attorneys for Defendant
8

9
10 **CERTIFICATE OF SERVICE**

11 I HEREBY CERTIFY that on the 17th day of January, 2020, I filed the foregoing
12 using the Court's E-filing system, which provided notice to the e-service participants
13 registered in this case.
14

15
16 By: /s/ Amy Hernandez
17

18 _____
19 An employee of the Law Office of Mitchell Stipp
20
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1 exhibits filed concurrently herewith. Mitchell incorporates by reference his opposition
2 to the motion to compel and related relief filed on January 14, 2020.

3 ///
4
5

6 Dated: January 15, 2020
7

8 **LAW OFFICE OF MITCHELL STIPP**

9 /s/ Mitchell Stipp, Esq.
10 MITCHELL STIPP, ESQ.
11 Nevada Bar No. 7531
12 LAW OFFICE OF MITCHELL STIPP
13 10120 W. Flamingo Rd., Suite 4-124
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Telephone: 702.602.1242
mstipp@stipplaw.com
Attorneys for Defendant

14 **MEMORANDUM OF POINTS AND AUTHORITIES**
15

16 **I. Witnesses**

17 Christina Calderon (“Christina”) e-served her **initial** list of witnesses and
18 disclosure of documents on **January 13, 2020** (the end of discovery). See Exhibit A.¹

19 **None of these witnesses** were disclosed as trial witness prior to the end of discovery.

20 Mitchell expected Christina to identify the parties, Amy Stipp (“Amy”), and Mia and
21 Ethan Stipp. Christina seeks the trial testimony of the following **13 additional** persons:

22 Gerardo Hernandez (Dad to Amy Stipp); Martha Hernandez (Mother to Amy Stipp);
23
24
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27 ¹ Mitchell served his witness list and disclose of documents (including trial exhibits) on the same
28 date. Ms. Fujii claims these disclosures were not made. This statement is demonstrably false. See Exhibit B.

1 Donna Wilburn (Purported Expert/Personal Therapist of Christina); Peter Calderon
2 (Christina's Dad); Antonia Calderon (Christina's Mom); Anthony Calderon (Christina's
3 Brother); Elena Calderon (Christina's Sister), Nick Petsas (Husband of Elena
4 Calderon/Brother-in-Law to Christina); Allison Morris (Mother of Ethan's close friend);
5 Mindi Gellner (former girlfriend of Marshall Stipp—brother to Mitchell); Misayo Lopez
6 (Mother to Mia's boyfriend); Mauricio Molina (Ethan's baseball coach); and Scott Fogo
7 (Faith Lutheran High School Principal).
8
9

10 The court was clear at the last hearing. Christina refused to stipulate to the
11 admission of the child interview report. Therefore, Mia and Ethan are being forced to
12 testify. The point of the evidentiary hearing is to provide the opportunity for Mia and
13 Ethan to confirm their statements in the report, and Christina the opportunity to confront
14 them consistent with her due process rights. Mitchell, Amy and Christina may also be
15 asked to testify. The hearing is not intended to allow Christina's relatives who were not
16 disclosed to testify. Why would Christina want to give the impression to the children
17 that her entire family will be testifying against them? The hearing is not intended to
18 allow Christina to harass the relatives and friends of Mia and Ethan (parents of
19 Amy/grandparents to Mia and Ethan), Ethan's baseball coach, and Mia's principal. The
20 issue before the court is the relationship of the children with Christina (not the other
21 persons).
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26 The hearing also is not intended to allow Christina to have her personal therapist
27 (who claims to be an expert) to testify. The court set the trial at the earliest time available
28

1 at the request of Christina. This schedule did not allow either party to retain an expert
2 for trial. To get around this, Christina has changed Donna Wilburn's role—from expert
3 to personal therapist.
4

5 NRCP 37(c)(1) provides as follows:

6 (c) **Failure to Disclose, to Supplement an Earlier Response, or to Admit.**

7 (1) **Failure to Disclose or Supplement.** If a party fails to provide
8 information or identify a witness as required by Rule 16.1(a)(1), 16.2(d) or (e),
9 16.205(d) or (e), or 26(e), the party is not allowed to use that information or
10 witness to supply evidence on a motion, at a hearing, or at a trial, unless the
11 failure was substantially justified or is harmless.

12 To allow any of these witnesses to testify is prejudicial. If timely disclosed,
13 Mitchell would have had the opportunity to depose these witnesses and complete written
14 discovery. Further, Christina should not be permitted to harass or intimidate the
15 children by exposing their friends, family, and others to trial. It was her decision to have
16 them testify. The harm should not be compounded by the weight of these peripheral
17 witnesses which were untimely disclosed. Mitchell cannot imagine the effect of 13
18 witness (many of which are family members) outside of court waiting to testify.
19

20 **II. Documents.**

21
22 Other than text messages purportedly by and between Christina and the children,
23 **Christina never disclosed any of the documents which she now asserts to be trial**
24 **exhibits.** The following items should be excluded from the trial.
25

- 26 1. An audio of a meeting she secretly recorded at Starbucks in April/May of 2019.

27 Christina did not disclose the audio file until January 13, 2020---the last day
28

1 of discovery. A transcript was prepared of this meeting according to Christina
2 and her attorney. Yet, Christina did not produce the transcript. The transcript
3 should be produced. However, neither the audio file nor the transcript should
4 be permitted by Christina to be used at trial.
5

- 6 2. Communications and documents which involve therapy with Nicholas Ponzo
7 are confidential and privileged. See Stipulation and Order, filed on July 9,
8 2014 (lines 15-26, page 13) and (lines 1-19, page 14); NRS 49.246-.249.
9 Mitchell has subpoenaed Mr. Ponzo who has agreed to appear at the trial (if
10 needed). If Christina wants to waive all confidentiality and privilege, Mitchell
11 and Amy are willing to do the same. In that case, Mr. Ponzo should be
12 permitted to testify, and the parties should be permitted to discuss matters of
13 therapy at the trial. Mr. Ponzo prepared an assessment of family therapy which
14 he provided to Christina via email on December 30, 2010 at 5:14 p.m.
15 Interesting, she did not include that assessment in her disclosures (only self-
16 serving emails). In anticipation of Christina's argument that she is the only
17 client of therapy, Mr. Ponzo has confirmed that Mitchell, Amy and the children
18 are clients. See Declaration of Mr. Ponzo attached as **Exhibit C** (Paragraph
19 4: "Ms. Calderon, Mr. Stipp, Ms. Stipp and their children are my clients for
20 purposes of family therapy. I recently provided services at the request of the
21 parties to address the relationship between Ms. Calderon and her children with
22 Mr. Stipp (Mia and Ethan Stipp).")
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1 3. Mitchell provided a settlement offer to Christina on December 21, 2019.

2 Christina discloses this document and identifies it as a trial exhibit. Use of
3 settlement communications violates applicable settlement privileges. See
4 NRS 48.105. This settlement communication should be excluded.
5

6
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8 EDCR 5.510 provides as follows:

9 **Rule 5.510. Motions in limine.**

10 (a) Except as otherwise provided herein or by court order, a motion in limine to exclude or
admit evidence must ordinarily be in writing and must be heard not less than 5 calendar days prior
to trial.

11 (b) Where the facts that would support a motion in limine arise or become known after it is
practicable to file a motion in the ordinary course as set forth above, the filing party may seek an
12 order shortening time to hear the motion as provided by these rules, or bring an oral motion in limine
at a hearing. The court may refuse to sign any such order shortening time or to consider any such
13 oral motion.

14 (c) A written motion in limine must be supported by affidavit and, if not filed in the ordinary
course, must detail how and when the facts arose or became known. The motion shall also set forth
that after a conference or a good-faith effort to confer, counsel were unable to resolve the matter
satisfactorily, detailing what attempts to resolve the dispute were made, what was resolved and what
15 was not resolved, and why. A conference requires either a personal or telephone conference between
or among the parties. If a personal or telephone conference was not possible, the motion shall set
16 forth the reasons.

17
18 Mitchell was not aware that Christina intended to call any witness other than the
19 parties and the children until she disclosed the same at the end of discovery. Mitchell
20 learned after Christina's deposition and during his own deposition on January 7, 2020
21 that she viewed confidentiality and privilege with respect to family therapy as being only
22 applicable to her. Mitchell and Amy were involved in therapy. The point was to address
23 the relationship between Christina and the children. See Paragraph 4 of the Declaration
24 of Mr. Ponzo. However, they deserve the protections of confidentiality and privilege
25 afforded to Christina (because the family is the client). Mitchell and Amy are open to
26
27
28

1 waiving these protections upon agreement of Christina to waive the same. Otherwise,
2 all matters involving therapy including communications with Mr. Ponzo should be
3 excluded.

4
5 Although the communication to Christina on December 21, 2019 was not
6 “marked” as “settlement communication,” it is an offer to compromise protected by NRS
7 48.105. Therefore, it should be excluded.

8
9 For the reasons set forth above, Mitchell’s countermotion should be granted.

10 Dated: January 15, 2020

11
12 **LAW OFFICE OF MITCHELL STIPP**

13 /s/ Mitchell Stipp, Esq.
14 MITCHELL STIPP, ESQ.
15 Nevada Bar No. 7531
16 LAW OFFICE OF MITCHELL STIPP
17 10120 W. Flamingo Rd., Suite 4-124
18 Las Vegas, Nevada 89147
19 Telephone: 702.602.1242
20 mstipp@stipplaw.com

21
22 **DECLARATION OF MITCHELL STIPP**

23 I hereby declare and state as follows:

24 1. Radford Smith and I made good faith efforts to resolve the matters described in
25 this supplement with Valerie Fujii and her client, Christina Calderon. Neither Ms. Fujii
26 nor Ms. Calderon will respond to my objections.

27 2. Mr. Smith discussed these matters via telephone on January 14, 2020. Ms. Fujii
28 excluded me from participating on the call. My correspondence to Ms. Fujii was

1 ignored. Ms. Calderon offered to address the issue of confidentiality and privilege with
2 respect to family therapy; however, she has not responded to date.

3 3. I am competent and willing to testify in a court of law as to the facts contained in
4 this opposition (which are incorporated herein by this reference).
5

6 4. I have personal knowledge of these facts, save those stated upon information
7 and/or belief, and as to those matters, I believe them to be true.
8

9 /s/ Mitchell Stipp

10 Mitchell Stipp
11
12

13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that on the 15th day of January, 2020, I filed the foregoing
15 using the Court's E-filing system, which provided notice to the e-service participants
16 registered in this case.
17
18

19 By: /s/ Amy Hernandez
20

21 An employee of the Law Office of Mitchell Stipp
22
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MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Christina Calderon

Plaintiff/Petitioner

v.
Mitchell Stipp

Defendant/Respondent

Case No. D-08-389203-Z

Dept. H

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

| | |
|---|--|
| <input checked="" type="checkbox"/> \$25 | The Motion/Opposition being filed with this form is subject to the \$25 reopen fee. |
| -OR- | |
| <input type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because: |
| <input type="checkbox"/> | The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered. |
| <input type="checkbox"/> | The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order. |
| <input type="checkbox"/> | The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____. |
| <input type="checkbox"/> | Other Excluded Motion (must specify) _____. |

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

| | |
|--|--|
| <input checked="" type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because: |
| <input type="checkbox"/> | The Motion/Opposition is being filed in a case that was not initiated by joint petition. |
| <input checked="" type="checkbox"/> | The party filing the Motion/Opposition previously paid a fee of \$129 or \$57. |
| -OR- | |
| <input type="checkbox"/> \$129 | The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order. |
| -OR- | |
| <input type="checkbox"/> \$57 | The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129. |

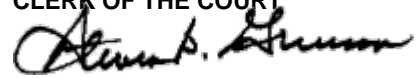
Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☐ **\$0** ☒ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Mitchell Stipp Date 1/15/2020

Signature of Party or Preparer /s/ Mitchell Stipp



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
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Telephone: 702.602.1242
mstipp@stipplaw.com

RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

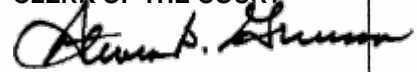
Dept. No.: H

**EXHIBITS IN SUPPORT OF
DEFENDANT'S
SUPPLEMENT:
COUNTERMOTION IN LIMINE**

Defendant, Mitchell Stipp, hereby files the above-referenced exhibits (which are
identified below):

///

EXHIBIT A



1 **PROD**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)

15 Plaintiff,)

16 vs.)

17 **MITCHELL STIPP,**)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

19 **PLAINTIFF'S PRODUCTION OF DOCUMENTS AND**
20 **LIST OF WITNESSES PURSUANT TO NRCP 16.2**

21 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
22 attorney of record, VALARIE I. FUJII, ESQ. of the law firm of VALARIE I.
23 FUJII & ASSOCIATES, and hereby submits the following Production of
24 Documents and List of Witnesses Pursuant to NRCP 16.2. as follows:

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I.

LIST OF EXHIBITS

| <u>Exhibit</u> | <u>Document Title</u> |
|-----------------------|--|
| 1. | Decree of Divorce filed on March 6, 2008, incorporating the Marital Settlement Agreement (MSA) (BATES STAMPS PL00001-PL00035) |
| 2. | Stipulation and Order Resolving Physical Custody, Timeshare, Child Support, and Parenting Matters filed on July 9, 2014 (BATES STAMPS PL00036-PL00051) |
| 3. | Emails between the parties dated August 2019, which proves the Defendant's Contempt in his withholding the children from CHRISTINA (BATES STAMPS PL00052-PL00058) |
| 4. | Pictures of MIA and CHRISTINA at Middle School Graduation on May 22, 2019; and picture of MIA that CHRISTINA took of her at summer music camp on June 21, 2019 (BATES STAMPS PL00059-PL00061) |
| 5. | Email from CHRISTINA to the Defendant when MIA was found with her boyfriend at the park alone (co-parenting) (BATES STAMPS PL00062) |
| 6. | Email from ETHAN's teacher Ms. Wandel regarding him receiving special recognition for showing kindness to a special needs child at school (BATES STAMPS PL00063) |
| 7. | Donna Wilburn, MS, LMFT, Letter dated September 11, 2019, entitled "Urgent: Children in Crisis, Recommended Protocol Regarding Child Visitation Refusal" (BATES STAMPS PL00064-PL00067) |
| 8. | Notice of Appearance by Radford J. Smith, Esq. as counsel on behalf of Defendant filed on September 24, 2019 (BATES STAMPS PL00068-PL00070) |
| 9. | Reply to Opposition to Motion for Child Interview and Teenage Discretion filed on September 25, 2019 by Defendant solely and e-served by his wife Amy; Exhibits in Support of Reply to Opposition filed by Defendant on September 25, 2019, solely and e-served by his wife (BATES STAMPS PL00071-PL00115) |
| 10. | Status Report filed by Defendant listing himself as co-counsel with Radford Smith, Esq., filed on October 7, 2019, and e-served by his wife Amy (BATES STAMPS PL00116-PL00121) |

| | |
|-----|--|
| 11. | Counsel's many objections to pleadings filed by Defendant: Objection to Status Report filed on 10-7-19; Objection to letter from Dr. Roy Lubits; Objection to Exhibits Improperly cut and pasted within Defendant's Motion for Child Interview in support of Motion (BATES STAMPS PL00122-PL00128) |
| 12. | Affidavit of Plaintiff Christina Calderon in Support Of Order to Show Cause Against the Defendant for Willfully Disobeying the Custody Order; a Request for Immediate Return of the Children, Make up Visitation and an Award of Attorneys Fees dated August 29, 2019 (BATES STAMPS PL00129-PL00135) |
| 13. | Affidavit of Christina Calderon in support of Emergency Motion for Temporary Primary Physical Custody dated October 9, 2019 (BATES STAMPS PL00136-PL00139) |
| 14. | Supplemental Affidavit of Plaintiff Christina Calderon in Support Emergency Motion for Temporary Primary Physical Custody dated October 21, 2019 (BATES STAMPS PL00140-PL00143) |
| 15. | Affidavit of Plaintiff Christina Calderon regarding Donna's House |
| 16. | Declaration of Amy Stipp filed on September 6, 2019 (BATES STAMPS PL00144-PL00160) |
| 17. | Declaration of Defendant Mitchell D. Stipp, attorney for Mitchell Stipp, Defendant filed on September 6, 2019 (BATES STAMPS PL00161-PL00177) |
| 18. | Court Minutes from Hearings of October 1, 2019, and October 22, 2019 (BATES STAMPS PL00178-PL00181) |
| 19. | Texts between Plaintiff Christina Calderon and the children from October 4, 2019 to the present (Responses to RPD's) (BATES STAMPS PL00182-PL00266) |
| 20. | Proof that Plaintiff Christina Calderon paid attorney's fees to Valarie I. Fujii, Esq. (BATES STAMPS PL00267-PL00268) |
| 21. | Emails by and between the parties (BATES STAMPS PL000269-PL00279) |
| 22. | Additional Emails by and between the parties (BATES STAMPS PL00280-PL00487) |
| 23. | Audio of conversation between the parties at Starbucks on May 17, 2019 |
| | Any and all exhibits produced by Plaintiff; |

Any and all pleadings in this matter filed by either party, including any and all exhibits attached thereto; and any and all correspondence and emails between the parties and/or counsel.

Plaintiff CHRISTINA CALDERON reserves the right to use any and all documentation produced or listed by the Defendant herein; and the Plaintiff further reserves the right to supplement this list prior to trial.

II.

LIST OF WITNESSES

1. CHRISTINA CALDERON (Plaintiff)
c/o Valarie I. Fujii, Esq.
704 South Sixth Street
Las Vegas, Nevada 89101

She is the Plaintiff and is expected to testify as to the relationship of the parties; her relationship with the children MIA and ETHAN; Defendant's relationship with the children; Plaintiff's parenting skills; Defendant's parenting skills; the actions of the Defendant; Defendant's motive for withholding the children; Defendant's reliance upon third parties for the physical and emotional welfare of the children; the affect the litigation has had on her, the children and their relationship; the physical and mental health of the parties and the children; Defendant's abuse, including its affects on the minor children; and/or any other matters related to the litigation of this action.

2. MITCHELL STIPP (Defendant)
c/o Radford Smith, Esq.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074

He is the Defendant and is expected to testify as to the relationship of the parties; Plaintiff's relationship with the children MIA and ETHAN; Defendant's

1 relationship with the children; Plaintiff's parenting skills; Defendant's parenting
2 skills; the actions and motives of the Defendant in withholding the children from
3 Plaintiff; Defendant's reliance upon third parties for the emotional and physical
4 welfare of the children; the physical and mental health of the parties and the
5 children; and/or any other matters related to the litigation of this action.

6
7 3. Amy Stipp
8 c/o Radford Smith, Esq.
9 2470 St. Rose Parkway, #206
10 Henderson, Nevada 89074

11 She is the Defendant's wife and is expected to testify as to her relationship
12 with the children MIA and ETHAN; her relationship with the Plaintiff;
13 Defendant's relationship with the children; Plaintiff's parenting skills;
14 Defendant's parenting skills; her parenting skills and her actions/inactions in
15 improving, worsening and/or aggravating the co-parenting problems between the
16 parties; her actions and motives in assisting and abetting the Defendant in
17 withholding the children from Plaintiff; Defendant's reliance upon third parties for
18 the emotional and physical welfare of the children; the physical and mental health
19 of herself, Defendant, and the children; and/or any other matters related to the
20 litigation of this action.

21 4. GERARDO HERNANDEZ
22 c/o Radford Smith, Esq.
23 2470 St. Rose Parkway, #206
24 Henderson, Nevada 89074

25 He is Amy Stipp's father and is expected to testify as to his care-giving of
26 the children MIA and ETHAN, and/or any other matters related to the litigation of
27 this action.

28

1 5. Martha Hernandez
2 c/o Radford Smith, Esq.
3 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

4 She is Amy Stipp's mother and is expected to testify as to her care-giving of
5 the children MIA and ETHAN, and/or any other matters related to the litigation of
6 this action.

7 6. Mia Stipp (minor child of the parties)
8 c/o Radford Smith, Esq.
9 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

10 Mia, Date of Birth: October 19, 2004, currently age 15 years and 3 months,
11 is the minor child of the parties, and is expected to testify regarding matters related
12 to the litigation of this action based upon the Court's direction.

13 7. Ethan Stipp (minor child of the parties)
14 c/o Radford Smith, Esq.
15 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

16 Ethan, Date of Birth: March 24, 2007, currently age 12 years and 10
17 months, is the minor child of the parties, and is expected to testify regarding
18 matters related to the litigation of this action based upon the Court's direction.

19 8. Donna Wilburn, LMFT
20 10655 Park Run Drive, #210
21 Las Vegas, Nevada 89144
 702-234-9325

22 Donna Wilburn is Plaintiff's therapist and is expected to testify as to her
23 Letter dated September 11, 2019, entitled "Urgent: Children in Crisis,
24 Recommended Protocol Regarding Child Visitation Refusal", and/or any other
25 matters related to the litigation of this action.
26

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1 6. Elena Calderon
2 913 Hickory Park Street
3 Las Vegas, Nevada 89138
4 702-575-7465

5 Elena will testify as to the relationship between Plaintiff Christina Calderon
6 and the children MIA and ETHAN, and the relationship between the children and
7 their maternal relatives, and/or any other matters related to the litigation of this
8 action.

9 7. Nicholas Petsas
10 913 Hickory Park Street
11 Las Vegas, Nevada 89138
12 408-706-0636

13 Nicholas will testify as to the relationship between Plaintiff Christina
14 Calderon and the children MIA and ETHAN, and the relationship between the
15 children and their maternal relatives, and/or any other matters related to the
16 litigation of this action.

17 8. Peter Calderon
18 3136 Donnegal Bay Drive
19 Las Vegas, Nevada 89117
20 702-321-7819

21 Peter will testify as to the relationship between Plaintiff Christina Calderon
22 and the children MIA and ETHAN, and the relationship between the children and
23 their maternal relatives, and/or any other matters related to the litigation of this
24 action.

25 9. Antonia Calderon
26 3136 Donnegal Bay Drive
27 Las Vegas, Nevada 89117
28 702-759-5626

 Antonia will testify as to the relationship between Plaintiff Christina
Calderon and the children MIA and ETHAN, and the relationship between the

1 children and their maternal relatives, and/or any other matters related to the
2 litigation of this action.

3 10. Anthony Calderon
4 3136 Donnegal Bay Drive
5 Las Vegas, Nevada 89117
6 725-212-0747

7 Anthony will testify as to the relationship between Plaintiff Christina
8 Calderon and the children MIA and ETHAN, and the relationship between the
9 children and their maternal relatives, and/or any other matters related to the
10 litigation of this action.

11 11. Allison Morris
12 8725 Newport Isle Court
13 Las Vegas, Nevada 89117
14 702-219-4880

15 Allison will testify as to the relationship between Plaintiff Christina
16 Calderon and the children MIA and ETHAN, and/or any other matters related to
17 the litigation of this action.

18 12. Mindi Gellner
19 702-278-3213

20 Mindi will testify as to the relationship of the parties, the relationship
21 between Plaintiff Christina Calderon and the children MIA and ETHAN, and
22 Defendant's relationship with the children. Mindi will also testify as to her
23 experiences attempting to co-parent and raise a child with Defendant Mitchell
24 Stipp's brother, Marshal Stipp, and/or any other matters related to the litigation of
25 this action.

26 13. Misayo Lopez
27 702-510-0922
28

1 Misayo is the mother of Mia's boyfriend Joey Lopez, and is expected to
2 testify as to the Mia's relationship with Joey, and her interactions and experiences
3 with the parties, and/or any other matters related to the litigation of this action.

4 14. Mauricio Molina
5 702-767-1557

6 Mauricio will testify as to Ethan's baseball experience and his interactions
7 with the parties, and/or any other matters related to the litigation of this action.

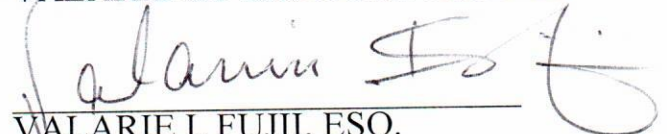
8 15. Scott Fogo
9 Faith Lutheran Middle & High School Principal
10 2015 South Hualapai Way
11 Las Vegas, Nevada 89117
12 702-804-4400

13 Scott will testify as to his interactions and experiences with the parties and
14 the children, and/or any other matters related to the litigation of this action.

15 Any and all witnesses identified by Defendant, including rebuttal witnesses.
16 Plaintiff reserves the right to supplement this list of witnesses, including those for
17 rebuttal and impeachment purposes.

18 DATED this 13th day of January, 2020.

19 VALARIE I. FUJII & ASSOCIATES

20 

21 VALARIE I. FUJII, ESQ.
22 Nevada Bar No. 005955
23 704 South Sixth Street
24 Las Vegas, Nevada 89101
25 Attorney for Plaintiff
26 CHRISTINA CALDERON
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AA000996

EXHIBIT B

WITNESSES

1. Mitchell Stipp
c/o RADFORD J. SMITH, ESQ.
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074

2. Amy Stipp
10120 W. Flamingo Rd., #4124
Las Vegas, Nevada 89147

3. Mia Stipp
10120 W. Flamingo Rd., #4124
Las Vegas, Nevada 89147

4. Ethan Stipp
10120 W. Flaming Rd., #4124
Las Vegas, Nevada 89147

5. Christina Calderon
c/o VALERIE FUJII, ESQ.
VALERIE I. FUJII & ASSOCIATES
704 South Sixth Street
Las Vegas, Nevada 89101

6. Nicholas Ponzio*
10161 Park Run Drive,
Suite 150
Las Vegas, Nevada, 89145

* Plaintiff has disclosed that she intends to use matters of therapy protected by the parties' Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters Filed on July 9, 2014 and NRS 49.246-49.249 at trial. Mr. Ponzio has voluntarily agreed to appear and will testify if the confidentiality and privileges are waived and/or as permitted, directed or otherwise ordered by the court.

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DOCUMENTS

Defendant discloses documents identified as **DEFENDANT BATES NOS. 000001-001129**, which are attached hereto. These documents also are offered as trial exhibits in accordance with the court's order setting an evidentiary hearing on January 23, 2020.

RESERVATIONS

Defendant reserves the right to call any witness named by Plaintiff.

Defendant reserves the right to call any witnesses as may be necessary for the purpose of rebuttal or impeachment and to name such other witnesses as may become known before trial.

Defendant reserves the right to designate as an exhibit any document designated by Plaintiff as an exhibit or filed in this case on or before trial.

Defendant reserves all objections as to the admissibility of all documents filed or produced in this matter.

Dated: January 13, 2020

LAW OFFICE OF MITCHELL STIPP

/s/ Mitchell Stipp, Esq.
MITCHELL STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of January, 2020, I served the foregoing using the Court's E-filing system, which provided notice to the e-service participants registered in this case:

Valerie Fujii

Christina Calderon

The Audio and Video Files referenced herein were delivered by Mitchell Stipp to Ms. Fujii via email as follows: Audio was delivered on August 28, 2019, and Video was delivered on January 13, 2020.

By: */s/ Amy Hernandez*

An employee of the Law Office of Mitchell Stipp

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| Exhibit | Description | Offered Date | Objected | Admitted Date |
|---------|---|--------------|----------|---------------|
| 1 A | Decree of Divorce filed March 6, 2008 (Defendant Nos. 000001-000038) | | | |
| 2 B | Judge Frank Sullivan's Order Filed on November 4, 2010 (Defendant Nos. 000039-000058) | | | |
| 3 C | Judge William Potter's Order Filed on October 11, 2011 (Defendant Nos. 000059-000061) | | | |
| 4 D | Judge William Potter's Order Filed on July 30, 2013 (Defendant Nos. 000062-000065) | | | |
| 5 E | Judge Frank Sullivan's Order Filed on May 27, 2014 (Defendant Nos. 000066-000074) | | | |
| 6 F | Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters Filed on July 9, 2014 (Defendant Nos. 000075-000091) | | | |
| 7 G | Child Psychological Evaluation by Dr. Lewis Etcoff dated July 27, 2011 (Defendant Nos. 000092-000105) | | | |
| 8 H | Declaration of Amy Stipp In Support of Defendant's Motion for Child Interview by FMC, Mediation and To Permit Children to Exercise Teenage Discretion on Timeshare filed on September 6, 2019 (Defendant Nos. 000106-000123) | | | |
| 9 I | Audio File Transcribed by Depo International (08/23/2019) | | | |
| 10 J | Declaration of Mitchell Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and To Permit Children to Exercise Teenage Discretion on Timeshare filed on September 6, 2019 (Defendant Nos. 000124-000141) | | | |
| 11 K | Video File Transcribed by Depo International (09/6/2019) | | | |
| 12 L | Defendant's Objection to Letter by Christina Calderon's Therapist Donna Wilburn and Notice of Letter from Dr. Roy Lubit in Support of Objection filed on September 13, 2019 (Defendant Nos. 000142-000196) | | | |
| 13 M | Exhibits in Support of Defendant's Opposition to Ex Parte Application for Order Shortening Time on Plaintiff's Motion for Primary Physical Custody (Redacted to | | | |

| | | | | | |
|----|----|---|--|--|--|
| 1 | | Remove Exhibit A) (Defendant Nos. 000197-000217) | | | |
| 2 | N | Transcript of Deposition of Christina Calderon-December 20, 2019 (Defendant Nos. 000218-000351) | | | |
| 3 | O | Transcript of Deposition of Christina Calderon-January 7, 2020 (Defendant Nos. 000352-000540) | | | |
| 4 | P | Transcript of Deposition of Mitchell Stipp-January 7, 2020 (Defendant Nos. 000541-000749) | | | |
| 5 | Q | Defendant's Interrogatories and Requests for Production of Documents and Admissions e-served on December 3, 2019 (Defendant Nos. 000750-000763) | | | |
| 6 | R | Plaintiff's Responses to Defendant's Requests for Admissions e-served on December 31, 2019 (Defendant Nos. 000764-000768) | | | |
| 7 | S | Plaintiff's Responses to Defendant's Interrogatories e-served on January 2, 2020 (Defendant Nos. 000769-000784) | | | |
| 8 | T | Plaintiff's Responses to Defendant's Requests for Production of Documents e-served on January 2, 2020 (Defendant Nos. 000785-000883) | | | |
| 9 | U | Plaintiff's Requests for Admissions e-served on December 12, 2019 (Defendant Nos. 000884-000892) | | | |
| 10 | V | Plaintiff's Interrogatories e-served on December 12, 2019 (Defendant Nos. 000893-000911) | | | |
| 11 | W | Plaintiff's Requests for Production of Documents e-served on December 12, 2019 (Defendant Nos. 000912-000920) | | | |
| 12 | X | Emails by and between Mitchell Stipp and Christina Calderon (Defendant Nos. 000921-001097) | | | |
| 13 | Y | Email to Dr. Knorr dated September 24, 2019 (Defendant Nos. 001098-001101) | | | |
| 14 | Z | Schedules for Mia and Ethan Stipp (August 2019-January 2020) (Defendant Nos. 001102-001111) | | | |
| 15 | AA | Grades and Awards (Defendant Nos. 001112-001129) | | | |
| 16 | BB | Child Interview Report by m'Ryah Littleton from Interview on October 23, 2019 at 3:30 p.m. | | | |

EXHIBIT C

DECLARATION OF NICHOLAS PONZO

I hereby declare and state as follows:

1. I have an extensive and varied history of providing mental health and related assessment and treatment services in a variety of settings and specific areas of practice. My educational background includes undergraduate degrees in Philosophy and Psychology, and graduate degrees in Clinical Social Work and Counseling Psychology. I have been in practice for approximately 30 years, and have worked and offered consultation services in psychiatric hospitals, child and adolescent treatment centers, addiction treatment and research centers, corporate and federal occupational settings, as well as in the area of program design and consultation, training, workshop, and in educational and teaching capacities. I am experienced in high-conflict and dispute resolution issues and offer mediation and parent coordination services to parents involved with such issues. In addition, I provide Specialized Assessments and Reports, Child Interviews, and Reunification Therapy services. I am an approved provider of services for the Family Courts of Las Vegas, Nevada. My background, training and practice experience involves treatment and counseling with adults, children and adolescents, as well as in relationship and marital therapy, and family counseling.

2. I am the family therapist for Christina Calderon, Mitchell Stipp, Amy Stipp, and their children (including Mia and Ethan Stipp).

3. I have a copy of the parties' parenting plan which I understand prohibits matters of therapy to be used in any child custody litigation.



1 4. Ms. Calderon, Mr. Stipp, Ms. Stipp and their children are my clients for
2 purposes of family therapy. I recently provided services at the request of the parties to
3 address the relationship between Ms. Calderon and her children with Mr. Stipp (Mia and
4 Ethan Stipp).
5

6 5. It is my understanding that matters of therapy including statements of the
7 parties during sessions and my observations, assessments, and recommendations are
8 confidential and privileged unless all parties agree to waive such confidentiality and
9 privilege or there is a requirement by Nevada law to provide disclosure. For example,
10 my office policy on privacy and confidentiality is as follows:
11

12 The law protects the relationship between a client and a
13 psychotherapist, and information cannot be disclosed without
14 written permission.

15 Exceptions include:

16 Suspected child abuse or dependent adult or elder abuse, for
17 which I am required by law to report this to the appropriate
18 authorities immediately.

19 If a client is threatening serious bodily harm to another person/s,
20 I must notify the police and inform the intended victim.

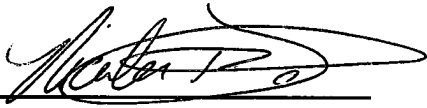
21 If a client intends to harm himself or herself, I will make every
22 effort to enlist their cooperation in ensuring their safety. If they
23 do not cooperate, I will take further measures without their
24 permission that are provided to me by law in order to ensure their
25 safety.
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1 6. Mr. Stipp has asked me to appear at the trial on January 23, 2020 in the
2 event I am asked to testify. However, I will need all parties to waive the confidentiality
3 and privilege applicable to my testimony.
4

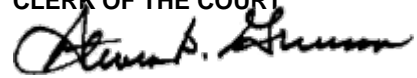
5 7. I have personal knowledge of these facts, save those stated upon
6 information and/or belief, and as to those matters, I believe them to be true.
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8 January 14, 2020
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12 Nicholas Ponzo
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MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
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Nevada Bar No. 2791
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**EX PARTE APPLICATION FOR
ORDER SETTING
HEARING/SHORTENING TIME**

Defendant, Mitchell Stipp ("Mitchell"), hereby files the above-referenced ex parte application for the request for hearing which is attached.

///

///

DECLARATION OF MITCHELL STIPP

I hereby declare and state as follows:

1. Plaintiff filed a motion to compel before the court on January 14, 2020. Defendant filed an opposition with supporting exhibits on the same date. A hearing was set for February 28, 2020. Plaintiff filed an ex parte application for an order shortening time. The matter was referred to the Discovery Commissioner.
2. Defendant also filed a supplement to the opposition (countermotion in limine) with supporting exhibits on January 15, 2020. A request for a hearing on that matter was made on January 17, 2020. As of the date of this filing, a hearing has not been scheduled. **This matter should be heard at or before the trial at 9:00 a.m. on January 23, 2020.** Defendant filed his opposition/supplement in response to Plaintiff's motion before this court. However, the Discovery Commissioner does not have jurisdiction to consider the relief set forth in Defendant's supplement (trial matters).
3. I am competent and willing to testify in a court of law as to the facts contained in this application for an order shortening time (which are incorporated herein by this reference).

///

///

1 4. I have personal knowledge of these facts, save those stated upon information
2 and/or belief, and as to those matters, I believe them to be true.

3
4 /s/ Mitchell Stipp

5 Mitchell Stipp
6

7
8 **[PROPOSED ORDER FOLLOWS]**
9

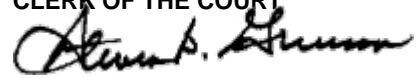
ORDER SCHEDULING HEARING/SHORTENING TIME

TO: CHRISTINA CALDERON AND HER COUNSEL OF RECORD (IF
ANY)

IT IS HEREBY ORDERED THAT DEFENDANT'S SUPPLEMENT
(COUNTERMOTION IN LIMINE) will be heard on the _____ day
of _____, 20_____, at the hour of
_____.m or as soon thereafter as counsel may be heard.

IT IS SO ORDERED this _____ day of _____,
2020.

DISTRICT COURT JUDGE



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

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Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**REQUEST FOR HEARING ON
DEFENDANT'S COUNTERMOTION
IN LIMINE**

Defendant, Mitchell Stipp, as co-counsel of record, hereby files the above-referenced request for hearing on the matters attached.

///

///

1 Dated: January 17, 2019

2 **LAW OFFICE OF MITCHELL STIPP**

3 /s/ Mitchell Stipp, Esq.
4 MITCHELL STIPP, ESQ.
Nevada Bar No. 7531
5 LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
6 Las Vegas, Nevada 89147
Telephone: 702.602.1242
7 mstipp@stipplaw.com
Attorneys for Defendant
8

9
10 **CERTIFICATE OF SERVICE**

11 I HEREBY CERTIFY that on the 17th day of January, 2020, I filed the foregoing
12 using the Court's E-filing system, which provided notice to the e-service participants
13 registered in this case.
14

15
16 By: /s/ Amy Hernandez
17

18 _____
19 An employee of the Law Office of Mitchell Stipp
20
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23
24
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28

1 exhibits filed concurrently herewith. Mitchell incorporates by reference his opposition
2 to the motion to compel and related relief filed on January 14, 2020.

3 ///
4
5

6 Dated: January 15, 2020
7

8 **LAW OFFICE OF MITCHELL STIPP**

9 /s/ Mitchell Stipp, Esq.
10 MITCHELL STIPP, ESQ.
11 Nevada Bar No. 7531
12 LAW OFFICE OF MITCHELL STIPP
13 10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com
Attorneys for Defendant

14 **MEMORANDUM OF POINTS AND AUTHORITIES**
15

16 **I. Witnesses**

17 Christina Calderon (“Christina”) e-served her **initial** list of witnesses and
18 disclosure of documents on **January 13, 2020** (the end of discovery). See Exhibit A.¹
19

20 **None of these witnesses** were disclosed as trial witness prior to the end of discovery.
21

22 Mitchell expected Christina to identify the parties, Amy Stipp (“Amy”), and Mia and
23 Ethan Stipp. Christina seeks the trial testimony of the following **13 additional** persons:
24

25 Gerardo Hernandez (Dad to Amy Stipp); Martha Hernandez (Mother to Amy Stipp);
26

27 ¹ Mitchell served his witness list and disclose of documents (including trial exhibits) on the same
28 date. Ms. Fujii claims these disclosures were not made. This statement is demonstrably false. See
Exhibit B.

1 Donna Wilburn (Purported Expert/Personal Therapist of Christina); Peter Calderon
2 (Christina's Dad); Antonia Calderon (Christina's Mom); Anthony Calderon (Christina's
3 Brother); Elena Calderon (Christina's Sister), Nick Petsas (Husband of Elena
4 Calderon/Brother-in-Law to Christina); Allison Morris (Mother of Ethan's close friend);
5 Mindi Gellner (former girlfriend of Marshall Stipp—brother to Mitchell); Misayo Lopez
6 (Mother to Mia's boyfriend); Mauricio Molina (Ethan's baseball coach); and Scott Fogo
7 (Faith Lutheran High School Principal).
8
9

10 The court was clear at the last hearing. Christina refused to stipulate to the
11 admission of the child interview report. Therefore, Mia and Ethan are being forced to
12 testify. The point of the evidentiary hearing is to provide the opportunity for Mia and
13 Ethan to confirm their statements in the report, and Christina the opportunity to confront
14 them consistent with her due process rights. Mitchell, Amy and Christina may also be
15 asked to testify. The hearing is not intended to allow Christina's relatives who were not
16 disclosed to testify. Why would Christina want to give the impression to the children
17 that her entire family will be testifying against them? The hearing is not intended to
18 allow Christina to harass the relatives and friends of Mia and Ethan (parents of
19 Amy/grandparents to Mia and Ethan), Ethan's baseball coach, and Mia's principal. The
20 issue before the court is the relationship of the children with Christina (not the other
21 persons).
22
23
24
25

26 The hearing also is not intended to allow Christina to have her personal therapist
27 (who claims to be an expert) to testify. The court set the trial at the earliest time available
28

1 at the request of Christina. This schedule did not allow either party to retain an expert
2 for trial. To get around this, Christina has changed Donna Wilburn's role—from expert
3 to personal therapist.
4

5 NRCP 37(c)(1) provides as follows:

6 (c) **Failure to Disclose, to Supplement an Earlier Response, or to Admit.**

7 (1) **Failure to Disclose or Supplement.** If a party fails to provide
8 information or identify a witness as required by Rule 16.1(a)(1), 16.2(d) or (e),
9 16.205(d) or (e), or 26(e), the party is not allowed to use that information or
10 witness to supply evidence on a motion, at a hearing, or at a trial, unless the
11 failure was substantially justified or is harmless.

12 To allow any of these witnesses to testify is prejudicial. If timely disclosed,
13 Mitchell would have had the opportunity to depose these witnesses and complete written
14 discovery. Further, Christina should not be permitted to harass or intimidate the
15 children by exposing their friends, family, and others to trial. It was her decision to have
16 them testify. The harm should not be compounded by the weight of these peripheral
17 witnesses which were untimely disclosed. Mitchell cannot imagine the effect of 13
18 witness (many of which are family members) outside of court waiting to testify.
19

20 **II. Documents.**

21
22 Other than text messages purportedly by and between Christina and the children,
23 **Christina never disclosed any of the documents which she now asserts to be trial**
24 **exhibits.** The following items should be excluded from the trial.
25

- 26 1. An audio of a meeting she secretly recorded at Starbucks in April/May of 2019.

27 Christina did not disclose the audio file until January 13, 2020---the last day
28

1 of discovery. A transcript was prepared of this meeting according to Christina
2 and her attorney. Yet, Christina did not produce the transcript. The transcript
3 should be produced. However, neither the audio file nor the transcript should
4 be permitted by Christina to be used at trial.
5

- 6 2. Communications and documents which involve therapy with Nicholas Ponzo
7 are confidential and privileged. See Stipulation and Order, filed on July 9,
8 2014 (lines 15-26, page 13) and (lines 1-19, page 14); NRS 49.246-.249.
9 Mitchell has subpoenaed Mr. Ponzo who has agreed to appear at the trial (if
10 needed). If Christina wants to waive all confidentiality and privilege, Mitchell
11 and Amy are willing to do the same. In that case, Mr. Ponzo should be
12 permitted to testify, and the parties should be permitted to discuss matters of
13 therapy at the trial. Mr. Ponzo prepared an assessment of family therapy which
14 he provided to Christina via email on December 30, 2010 at 5:14 p.m.
15 Interesting, she did not include that assessment in her disclosures (only self-
16 serving emails). In anticipation of Christina's argument that she is the only
17 client of therapy, Mr. Ponzo has confirmed that Mitchell, Amy and the children
18 are clients. See Declaration of Mr. Ponzo attached as **Exhibit C** (Paragraph
19 4: "Ms. Calderon, Mr. Stipp, Ms. Stipp and their children are my clients for
20 purposes of family therapy. I recently provided services at the request of the
21 parties to address the relationship between Ms. Calderon and her children with
22 Mr. Stipp (Mia and Ethan Stipp).")
23
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1 3. Mitchell provided a settlement offer to Christina on December 21, 2019.

2 Christina discloses this document and identifies it as a trial exhibit. Use of
3 settlement communications violates applicable settlement privileges. See
4 NRS 48.105. This settlement communication should be excluded.
5

6
7
8 EDCR 5.510 provides as follows:

9 **Rule 5.510. Motions in limine.**

10 (a) Except as otherwise provided herein or by court order, a motion in limine to exclude or
admit evidence must ordinarily be in writing and must be heard not less than 5 calendar days prior
to trial.

11 (b) Where the facts that would support a motion in limine arise or become known after it is
practicable to file a motion in the ordinary course as set forth above, the filing party may seek an
12 order shortening time to hear the motion as provided by these rules, or bring an oral motion in limine
at a hearing. The court may refuse to sign any such order shortening time or to consider any such
13 oral motion.

14 (c) A written motion in limine must be supported by affidavit and, if not filed in the ordinary
course, must detail how and when the facts arose or became known. The motion shall also set forth
that after a conference or a good-faith effort to confer, counsel were unable to resolve the matter
satisfactorily, detailing what attempts to resolve the dispute were made, what was resolved and what
15 was not resolved, and why. A conference requires either a personal or telephone conference between
or among the parties. If a personal or telephone conference was not possible, the motion shall set
16 forth the reasons.
17

18 Mitchell was not aware that Christina intended to call any witness other than the
19 parties and the children until she disclosed the same at the end of discovery. Mitchell
20 learned after Christina's deposition and during his own deposition on January 7, 2020
21 that she viewed confidentiality and privilege with respect to family therapy as being only
22 applicable to her. Mitchell and Amy were involved in therapy. The point was to address
23 the relationship between Christina and the children. See Paragraph 4 of the Declaration
24 of Mr. Ponzo. However, they deserve the protections of confidentiality and privilege
25 afforded to Christina (because the family is the client). Mitchell and Amy are open to
26
27
28

1 waiving these protections upon agreement of Christina to waive the same. Otherwise,
2 all matters involving therapy including communications with Mr. Ponzo should be
3 excluded.

4
5 Although the communication to Christina on December 21, 2019 was not
6 “marked” as “settlement communication,” it is an offer to compromise protected by NRS
7 48.105. Therefore, it should be excluded.

8
9 For the reasons set forth above, Mitchell’s countermotion should be granted.

10 Dated: January 15, 2020

11
12 **LAW OFFICE OF MITCHELL STIPP**

13 /s/ Mitchell Stipp, Esq.
14 MITCHELL STIPP, ESQ.
15 Nevada Bar No. 7531
16 LAW OFFICE OF MITCHELL STIPP
17 10120 W. Flamingo Rd., Suite 4-124
18 Las Vegas, Nevada 89147
19 Telephone: 702.602.1242
20 mstipp@stipplaw.com

21
22 **DECLARATION OF MITCHELL STIPP**

23 I hereby declare and state as follows:

24 1. Radford Smith and I made good faith efforts to resolve the matters described in
25 this supplement with Valerie Fujii and her client, Christina Calderon. Neither Ms. Fujii
26 nor Ms. Calderon will respond to my objections.

27 2. Mr. Smith discussed these matters via telephone on January 14, 2020. Ms. Fujii
28 excluded me from participating on the call. My correspondence to Ms. Fujii was

1 ignored. Ms. Calderon offered to address the issue of confidentiality and privilege with
2 respect to family therapy; however, she has not responded to date.

3 3. I am competent and willing to testify in a court of law as to the facts contained in
4 this opposition (which are incorporated herein by this reference).
5

6 4. I have personal knowledge of these facts, save those stated upon information
7 and/or belief, and as to those matters, I believe them to be true.
8

9 /s/ Mitchell Stipp

10 Mitchell Stipp
11
12

13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that on the 15th day of January, 2020, I filed the foregoing
15 using the Court's E-filing system, which provided notice to the e-service participants
16 registered in this case.
17
18

19 By: /s/ Amy Hernandez
20

21 An employee of the Law Office of Mitchell Stipp
22
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28

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Christina Calderon

Plaintiff/Petitioner

v.
Mitchell Stipp

Defendant/Respondent

Case No. D-08-389203-Z

Dept. H

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

| | |
|---|--|
| <input checked="" type="checkbox"/> \$25 | The Motion/Opposition being filed with this form is subject to the \$25 reopen fee. |
| -OR- | |
| <input type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because: |
| <input type="checkbox"/> | The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered. |
| <input type="checkbox"/> | The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order. |
| <input type="checkbox"/> | The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____. |
| <input type="checkbox"/> | Other Excluded Motion (must specify) _____. |

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

| | |
|--|--|
| <input checked="" type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because: |
| <input type="checkbox"/> | The Motion/Opposition is being filed in a case that was not initiated by joint petition. |
| <input checked="" type="checkbox"/> | The party filing the Motion/Opposition previously paid a fee of \$129 or \$57. |
| -OR- | |
| <input type="checkbox"/> \$129 | The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order. |
| -OR- | |
| <input type="checkbox"/> \$57 | The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129. |

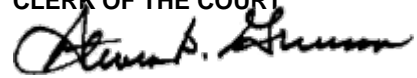
Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☐ **\$0** ☒ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Mitchell Stipp Date 1/15/2020

Signature of Party or Preparer /s/ Mitchell Stipp



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
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rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
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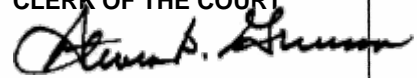
Dept. No.: H

**EXHIBITS IN SUPPORT OF
DEFENDANT'S
SUPPLEMENT:
COUNTERMOTION IN LIMINE**

Defendant, Mitchell Stipp, hereby files the above-referenced exhibits (which are
identified below):

///

EXHIBIT A



1 **PROD**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)

15 Plaintiff,)

16 vs.)

17 **MITCHELL STIPP,**)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

19 **PLAINTIFF'S PRODUCTION OF DOCUMENTS AND**
20 **LIST OF WITNESSES PURSUANT TO NRCP 16.2**

21 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
22 attorney of record, VALARIE I. FUJII, ESQ. of the law firm of VALARIE I.
23 FUJII & ASSOCIATES, and hereby submits the following Production of
24 Documents and List of Witnesses Pursuant to NRCP 16.2. as follows:

25

26

27

28

I.

LIST OF EXHIBITS

| <u>Exhibit</u> | <u>Document Title</u> |
|-----------------------|--|
| 1. | Decree of Divorce filed on March 6, 2008, incorporating the Marital Settlement Agreement (MSA) (BATES STAMPS PL00001-PL00035) |
| 2. | Stipulation and Order Resolving Physical Custody, Timeshare, Child Support, and Parenting Matters filed on July 9, 2014 (BATES STAMPS PL00036-PL00051) |
| 3. | Emails between the parties dated August 2019, which proves the Defendant's Contempt in his withholding the children from CHRISTINA (BATES STAMPS PL00052-PL00058) |
| 4. | Pictures of MIA and CHRISTINA at Middle School Graduation on May 22, 2019; and picture of MIA that CHRISTINA took of her at summer music camp on June 21, 2019 (BATES STAMPS PL00059-PL00061) |
| 5. | Email from CHRISTINA to the Defendant when MIA was found with her boyfriend at the park alone (co-parenting) (BATES STAMPS PL00062) |
| 6. | Email from ETHAN's teacher Ms. Wandel regarding him receiving special recognition for showing kindness to a special needs child at school (BATES STAMPS PL00063) |
| 7. | Donna Wilburn, MS, LMFT, Letter dated September 11, 2019, entitled "Urgent: Children in Crisis, Recommended Protocol Regarding Child Visitation Refusal" (BATES STAMPS PL00064-PL00067) |
| 8. | Notice of Appearance by Radford J. Smith, Esq. as counsel on behalf of Defendant filed on September 24, 2019 (BATES STAMPS PL00068-PL00070) |
| 9. | Reply to Opposition to Motion for Child Interview and Teenage Discretion filed on September 25, 2019 by Defendant solely and e-served by his wife Amy; Exhibits in Support of Reply to Opposition filed by Defendant on September 25, 2019, solely and e-served by his wife (BATES STAMPS PL00071-PL00115) |
| 10. | Status Report filed by Defendant listing himself as co-counsel with Radford Smith, Esq., filed on October 7, 2019, and e-served by his wife Amy (BATES STAMPS PL00116-PL00121) |

| | |
|-----|--|
| 11. | Counsel's many objections to pleadings filed by Defendant: Objection to Status Report filed on 10-7-19; Objection to letter from Dr. Roy Lubits; Objection to Exhibits Improperly cut and pasted within Defendant's Motion for Child Interview in support of Motion (BATES STAMPS PL00122-PL00128) |
| 12. | Affidavit of Plaintiff Christina Calderon in Support Of Order to Show Cause Against the Defendant for Willfully Disobeying the Custody Order; a Request for Immediate Return of the Children, Make up Visitation and an Award of Attorneys Fees dated August 29, 2019 (BATES STAMPS PL00129-PL00135) |
| 13. | Affidavit of Christina Calderon in support of Emergency Motion for Temporary Primary Physical Custody dated October 9, 2019 (BATES STAMPS PL00136-PL00139) |
| 14. | Supplemental Affidavit of Plaintiff Christina Calderon in Support Emergency Motion for Temporary Primary Physical Custody dated October 21, 2019 (BATES STAMPS PL00140-PL00143) |
| 15. | Affidavit of Plaintiff Christina Calderon regarding Donna's House |
| 16. | Declaration of Amy Stipp filed on September 6, 2019 (BATES STAMPS PL00144-PL00160) |
| 17. | Declaration of Defendant Mitchell D. Stipp, attorney for Mitchell Stipp, Defendant filed on September 6, 2019 (BATES STAMPS PL00161-PL00177) |
| 18. | Court Minutes from Hearings of October 1, 2019, and October 22, 2019 (BATES STAMPS PL00178-PL00181) |
| 19. | Texts between Plaintiff Christina Calderon and the children from October 4, 2019 to the present (Responses to RPD's) (BATES STAMPS PL00182-PL00266) |
| 20. | Proof that Plaintiff Christina Calderon paid attorney's fees to Valarie I. Fujii, Esq. (BATES STAMPS PL00267-PL00268) |
| 21. | Emails by and between the parties (BATES STAMPS PL000269-PL00279) |
| 22. | Additional Emails by and between the parties (BATES STAMPS PL00280-PL00487) |
| 23. | Audio of conversation between the parties at Starbucks on May 17, 2019 |
| | Any and all exhibits produced by Plaintiff; |

Any and all pleadings in this matter filed by either party, including any and all exhibits attached thereto; and any and all correspondence and emails between the parties and/or counsel.

Plaintiff CHRISTINA CALDERON reserves the right to use any and all documentation produced or listed by the Defendant herein; and the Plaintiff further reserves the right to supplement this list prior to trial.

II.

LIST OF WITNESSES

1. CHRISTINA CALDERON (Plaintiff)
c/o Valarie I. Fujii, Esq.
704 South Sixth Street
Las Vegas, Nevada 89101

She is the Plaintiff and is expected to testify as to the relationship of the parties; her relationship with the children MIA and ETHAN; Defendant's relationship with the children; Plaintiff's parenting skills; Defendant's parenting skills; the actions of the Defendant; Defendant's motive for withholding the children; Defendant's reliance upon third parties for the physical and emotional welfare of the children; the affect the litigation has had on her, the children and their relationship; the physical and mental health of the parties and the children; Defendant's abuse, including its affects on the minor children; and/or any other matters related to the litigation of this action.

2. MITCHELL STIPP (Defendant)
c/o Radford Smith, Esq.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074

He is the Defendant and is expected to testify as to the relationship of the parties; Plaintiff's relationship with the children MIA and ETHAN; Defendant's

1 relationship with the children; Plaintiff's parenting skills; Defendant's parenting
2 skills; the actions and motives of the Defendant in withholding the children from
3 Plaintiff; Defendant's reliance upon third parties for the emotional and physical
4 welfare of the children; the physical and mental health of the parties and the
5 children; and/or any other matters related to the litigation of this action.

6
7 3. Amy Stipp
8 c/o Radford Smith, Esq.
9 2470 St. Rose Parkway, #206
10 Henderson, Nevada 89074

11 She is the Defendant's wife and is expected to testify as to her relationship
12 with the children MIA and ETHAN; her relationship with the Plaintiff;
13 Defendant's relationship with the children; Plaintiff's parenting skills;
14 Defendant's parenting skills; her parenting skills and her actions/inactions in
15 improving, worsening and/or aggravating the co-parenting problems between the
16 parties; her actions and motives in assisting and abetting the Defendant in
17 withholding the children from Plaintiff; Defendant's reliance upon third parties for
18 the emotional and physical welfare of the children; the physical and mental health
19 of herself, Defendant, and the children; and/or any other matters related to the
20 litigation of this action.

21 4. GERARDO HERNANDEZ
22 c/o Radford Smith, Esq.
23 2470 St. Rose Parkway, #206
24 Henderson, Nevada 89074

25 He is Amy Stipp's father and is expected to testify as to his care-giving of
26 the children MIA and ETHAN, and/or any other matters related to the litigation of
27 this action.

28

1 5. Martha Hernandez
2 c/o Radford Smith, Esq.
3 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

4 She is Amy Stipp's mother and is expected to testify as to her care-giving of
5 the children MIA and ETHAN, and/or any other matters related to the litigation of
6 this action.

7 6. Mia Stipp (minor child of the parties)
8 c/o Radford Smith, Esq.
9 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

10 Mia, Date of Birth: October 19, 2004, currently age 15 years and 3 months,
11 is the minor child of the parties, and is expected to testify regarding matters related
12 to the litigation of this action based upon the Court's direction.

13 7. Ethan Stipp (minor child of the parties)
14 c/o Radford Smith, Esq.
15 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

16 Ethan, Date of Birth: March 24, 2007, currently age 12 years and 10
17 months, is the minor child of the parties, and is expected to testify regarding
18 matters related to the litigation of this action based upon the Court's direction.

19 8. Donna Wilburn, LMFT
20 10655 Park Run Drive, #210
21 Las Vegas, Nevada 89144
 702-234-9325

22 Donna Wilburn is Plaintiff's therapist and is expected to testify as to her
23 Letter dated September 11, 2019, entitled "Urgent: Children in Crisis,
24 Recommended Protocol Regarding Child Visitation Refusal", and/or any other
25 matters related to the litigation of this action.
26

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28

1 6. Elena Calderon
2 913 Hickory Park Street
3 Las Vegas, Nevada 89138
4 702-575-7465

5 Elena will testify as to the relationship between Plaintiff Christina Calderon
6 and the children MIA and ETHAN, and the relationship between the children and
7 their maternal relatives, and/or any other matters related to the litigation of this
8 action.

9 7. Nicholas Petsas
10 913 Hickory Park Street
11 Las Vegas, Nevada 89138
12 408-706-0636

13 Nicholas will testify as to the relationship between Plaintiff Christina
14 Calderon and the children MIA and ETHAN, and the relationship between the
15 children and their maternal relatives, and/or any other matters related to the
16 litigation of this action.

17 8. Peter Calderon
18 3136 Donnegal Bay Drive
19 Las Vegas, Nevada 89117
20 702-321-7819

21 Peter will testify as to the relationship between Plaintiff Christina Calderon
22 and the children MIA and ETHAN, and the relationship between the children and
23 their maternal relatives, and/or any other matters related to the litigation of this
24 action.

25 9. Antonia Calderon
26 3136 Donnegal Bay Drive
27 Las Vegas, Nevada 89117
28 702-759-5626

 Antonia will testify as to the relationship between Plaintiff Christina
 Calderon and the children MIA and ETHAN, and the relationship between the

1 children and their maternal relatives, and/or any other matters related to the
2 litigation of this action.

3 10. Anthony Calderon
4 3136 Donnegal Bay Drive
5 Las Vegas, Nevada 89117
6 725-212-0747

7 Anthony will testify as to the relationship between Plaintiff Christina
8 Calderon and the children MIA and ETHAN, and the relationship between the
9 children and their maternal relatives, and/or any other matters related to the
10 litigation of this action.

11 11. Allison Morris
12 8725 Newport Isle Court
13 Las Vegas, Nevada 89117
14 702-219-4880

15 Allison will testify as to the relationship between Plaintiff Christina
16 Calderon and the children MIA and ETHAN, and/or any other matters related to
17 the litigation of this action.

18 12. Mindi Gellner
19 702-278-3213

20 Mindi will testify as to the relationship of the parties, the relationship
21 between Plaintiff Christina Calderon and the children MIA and ETHAN, and
22 Defendant's relationship with the children. Mindi will also testify as to her
23 experiences attempting to co-parent and raise a child with Defendant Mitchell
24 Stipp's brother, Marshal Stipp, and/or any other matters related to the litigation of
25 this action.

26 13. Misayo Lopez
27 702-510-0922
28

1 Misayo is the mother of Mia's boyfriend Joey Lopez, and is expected to
2 testify as to the Mia's relationship with Joey, and her interactions and experiences
3 with the parties, and/or any other matters related to the litigation of this action.

4 14. Mauricio Molina
5 702-767-1557

6 Mauricio will testify as to Ethan's baseball experience and his interactions
7 with the parties, and/or any other matters related to the litigation of this action.

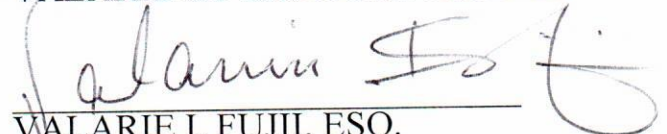
8 15. Scott Fogo
9 Faith Lutheran Middle & High School Principal
10 2015 South Hualapai Way
11 Las Vegas, Nevada 89117
12 702-804-4400

13 Scott will testify as to his interactions and experiences with the parties and
14 the children, and/or any other matters related to the litigation of this action.

15 Any and all witnesses identified by Defendant, including rebuttal witnesses.
16 Plaintiff reserves the right to supplement this list of witnesses, including those for
17 rebuttal and impeachment purposes.

18 DATED this 13th day of January, 2020.

19 VALARIE I. FUJII & ASSOCIATES

20 

21 VALARIE I. FUJII, ESQ.
22 Nevada Bar No. 005955
23 704 South Sixth Street
24 Las Vegas, Nevada 89101
25 Attorney for Plaintiff
26 CHRISTINA CALDERON
27
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RADFORD J. SMITH, CHTD.
Radford Smith, Esq.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Defendant
MITCHELL STIPP

MITCHELL STIPP, ESQ.
1180 North Town Center Drive, #100
Las Vegas, Nevada 89144
Acting as party and counsel for
MITCHELL STIPP

Kathie
An employee of VALARIE I. FUJII, ESQ.

EXHIBIT B

WITNESSES

1. Mitchell Stipp
c/o RADFORD J. SMITH, ESQ.
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074

2. Amy Stipp
10120 W. Flamingo Rd., #4124
Las Vegas, Nevada 89147

3. Mia Stipp
10120 W. Flamingo Rd., #4124
Las Vegas, Nevada 89147

4. Ethan Stipp
10120 W. Flaming Rd., #4124
Las Vegas, Nevada 89147

5. Christina Calderon
c/o VALERIE FUJII, ESQ.
VALERIE I. FUJII & ASSOCIATES
704 South Sixth Street
Las Vegas, Nevada 89101

6. Nicholas Ponzio*
10161 Park Run Drive,
Suite 150
Las Vegas, Nevada, 89145

* Plaintiff has disclosed that she intends to use matters of therapy protected by the parties' Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters Filed on July 9, 2014 and NRS 49.246-49.249 at trial. Mr. Ponzio has voluntarily agreed to appear and will testify if the confidentiality and privileges are waived and/or as permitted, directed or otherwise ordered by the court.

///

///

1 **DOCUMENTS**

2 Defendant discloses documents identified as **DEFENDANT BATES**
3 **NOS. 000001-001129**, which are attached hereto. These documents also are offered
4 as trial exhibits in accordance with the court's order setting an evidentiary hearing on
5 January 23, 2020.
6

7 **RESERVATIONS**

8
9 Defendant reserves the right to call any witness named by Plaintiff.

10 Defendant reserves the right to call any witnesses as may be necessary for the
11 purpose of rebuttal or impeachment and to name such other witnesses as may become
12 known before trial.
13

14 Defendant reserves the right to designate as an exhibit any document designated
15 by Plaintiff as an exhibit or filed in this case on or before trial.
16

17 Defendant reserves all objections as to the admissibility of all documents filed
18 or produced in this matter.
19

20 Dated: January 13, 2020

21 **LAW OFFICE OF MITCHELL STIPP**

22 /s/ Mitchell Stipp, Esq.
23 MITCHELL STIPP, ESQ.
24 Nevada Bar No. 7531
25 LAW OFFICE OF MITCHELL STIPP
26 10120 W. Flamingo Rd., Suite 4-124
27 Las Vegas, Nevada 89147
28 Telephone: 702.602.1242
mstipp@stipplaw.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 13th day of January, 2020, I served the foregoing using the Court's E-filing system, which provided notice to the e-service participants registered in this case:

Valerie Fujii

Christina Calderon

The Audio and Video Files referenced herein were delivered by Mitchell Stipp to Ms. Fujii via email as follows: Audio was delivered on August 28, 2019, and Video was delivered on January 13, 2020.

By: */s/ Amy Hernandez*

An employee of the Law Office of Mitchell Stipp

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| Exhibit | Description | Offered Date | Objected | Admitted Date |
|---------|---|--------------|----------|---------------|
| 1 A | Decree of Divorce filed March 6, 2008 (Defendant Nos. 000001-000038) | | | |
| 2 B | Judge Frank Sullivan's Order Filed on November 4, 2010 (Defendant Nos. 000039-000058) | | | |
| 3 C | Judge William Potter's Order Filed on October 11, 2011 (Defendant Nos. 000059-000061) | | | |
| 4 D | Judge William Potter's Order Filed on July 30, 2013 (Defendant Nos. 000062-000065) | | | |
| 5 E | Judge Frank Sullivan's Order Filed on May 27, 2014 (Defendant Nos. 000066-000074) | | | |
| 6 F | Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters Filed on July 9, 2014 (Defendant Nos. 000075-000091) | | | |
| 7 G | Child Psychological Evaluation by Dr. Lewis Etcoff dated July 27, 2011 (Defendant Nos. 000092-000105) | | | |
| 8 H | Declaration of Amy Stipp In Support of Defendant's Motion for Child Interview by FMC, Mediation and To Permit Children to Exercise Teenage Discretion on Timeshare filed on September 6, 2019 (Defendant Nos. 000106-000123) | | | |
| 9 I | Audio File Transcribed by Depo International (08/23/2019) | | | |
| 10 J | Declaration of Mitchell Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and To Permit Children to Exercise Teenage Discretion on Timeshare filed on September 6, 2019 (Defendant Nos. 000124-000141) | | | |
| 11 K | Video File Transcribed by Depo International (09/6/2019) | | | |
| 12 L | Defendant's Objection to Letter by Christina Calderon's Therapist Donna Wilburn and Notice of Letter from Dr. Roy Lubit in Support of Objection filed on September 13, 2019 (Defendant Nos. 000142-000196) | | | |
| 13 M | Exhibits in Support of Defendant's Opposition to Ex Parte Application for Order Shortening Time on Plaintiff's Motion for Primary Physical Custody (Redacted to | | | |

| | | | | | |
|----|----|---|--|--|--|
| 1 | | Remove Exhibit A) (Defendant Nos. 000197-000217) | | | |
| 2 | N | Transcript of Deposition of Christina Calderon-December 20, 2019 (Defendant Nos. 000218-000351) | | | |
| 3 | O | Transcript of Deposition of Christina Calderon-January 7, 2020 (Defendant Nos. 000352-000540) | | | |
| 4 | P | Transcript of Deposition of Mitchell Stipp-January 7, 2020 (Defendant Nos. 000541-000749) | | | |
| 5 | Q | Defendant's Interrogatories and Requests for Production of Documents and Admissions e-served on December 3, 2019 (Defendant Nos. 000750-000763) | | | |
| 6 | R | Plaintiff's Responses to Defendant's Requests for Admissions e-served on December 31, 2019 (Defendant Nos. 000764-000768) | | | |
| 7 | S | Plaintiff's Responses to Defendant's Interrogatories e-served on January 2, 2020 (Defendant Nos. 000769-000784) | | | |
| 8 | T | Plaintiff's Responses to Defendant's Requests for Production of Documents e-served on January 2, 2020 (Defendant Nos. 000785-000883) | | | |
| 9 | U | Plaintiff's Requests for Admissions e-served on December 12, 2019 (Defendant Nos. 000884-000892) | | | |
| 10 | V | Plaintiff's Interrogatories e-served on December 12, 2019 (Defendant Nos. 000893-000911) | | | |
| 11 | W | Plaintiff's Requests for Production of Documents e-served on December 12, 2019 (Defendant Nos. 000912-000920) | | | |
| 12 | X | Emails by and between Mitchell Stipp and Christina Calderon (Defendant Nos. 000921-001097) | | | |
| 13 | Y | Email to Dr. Knorr dated September 24, 2019 (Defendant Nos. 001098-001101) | | | |
| 14 | Z | Schedules for Mia and Ethan Stipp (August 2019-January 2020) (Defendant Nos. 001102-001111) | | | |
| 15 | AA | Grades and Awards (Defendant Nos. 001112-001129) | | | |
| 16 | BB | Child Interview Report by m'Ryah Littleton from Interview on October 23, 2019 at 3:30 p.m. | | | |

EXHIBIT C

DECLARATION OF NICHOLAS PONZO

I hereby declare and state as follows:

1. I have an extensive and varied history of providing mental health and related assessment and treatment services in a variety of settings and specific areas of practice. My educational background includes undergraduate degrees in Philosophy and Psychology, and graduate degrees in Clinical Social Work and Counseling Psychology. I have been in practice for approximately 30 years, and have worked and offered consultation services in psychiatric hospitals, child and adolescent treatment centers, addiction treatment and research centers, corporate and federal occupational settings, as well as in the area of program design and consultation, training, workshop, and in educational and teaching capacities. I am experienced in high-conflict and dispute resolution issues and offer mediation and parent coordination services to parents involved with such issues. In addition, I provide Specialized Assessments and Reports, Child Interviews, and Reunification Therapy services. I am an approved provider of services for the Family Courts of Las Vegas, Nevada. My background, training and practice experience involves treatment and counseling with adults, children and adolescents, as well as in relationship and marital therapy, and family counseling.

2. I am the family therapist for Christina Calderon, Mitchell Stipp, Amy Stipp, and their children (including Mia and Ethan Stipp).

3. I have a copy of the parties' parenting plan which I understand prohibits matters of therapy to be used in any child custody litigation.



1 4. Ms. Calderon, Mr. Stipp, Ms. Stipp and their children are my clients for
2 purposes of family therapy. I recently provided services at the request of the parties to
3 address the relationship between Ms. Calderon and her children with Mr. Stipp (Mia and
4 Ethan Stipp).
5

6 5. It is my understanding that matters of therapy including statements of the
7 parties during sessions and my observations, assessments, and recommendations are
8 confidential and privileged unless all parties agree to waive such confidentiality and
9 privilege or there is a requirement by Nevada law to provide disclosure. For example,
10 my office policy on privacy and confidentiality is as follows:
11

12 The law protects the relationship between a client and a
13 psychotherapist, and information cannot be disclosed without
14 written permission.

15 Exceptions include:

16 Suspected child abuse or dependent adult or elder abuse, for
17 which I am required by law to report this to the appropriate
18 authorities immediately.

19 If a client is threatening serious bodily harm to another person/s,
20 I must notify the police and inform the intended victim.

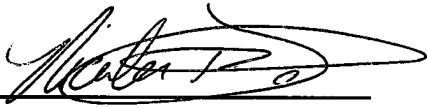
21 If a client intends to harm himself or herself, I will make every
22 effort to enlist their cooperation in ensuring their safety. If they
23 do not cooperate, I will take further measures without their
24 permission that are provided to me by law in order to ensure their
25 safety.
26
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1 6. Mr. Stipp has asked me to appear at the trial on January 23, 2020 in the
2 event I am asked to testify. However, I will need all parties to waive the confidentiality
3 and privilege applicable to my testimony.
4

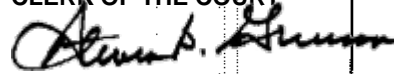
5 7. I have personal knowledge of these facts, save those stated upon
6 information and/or belief, and as to those matters, I believe them to be true.
7

8 January 14, 2020
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12 Nicholas Ponzo
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1 **NEO**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)

15 Plaintiff,)

16 vs.)

17 **MITCHELL STIPP,**)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO. H/CR 3G at RJC

19 **NOTICE OF ENTRY OF ORDER**

20 PLEASE TAKE NOTICE that the *Order Shortening Time on Plaintiff's*
21 *Motion to Compel Defendant's Discovery Responses, Including Responses to*
22 *Requests for Production of Documents, Answers to Interrogatories and Request*
23 *for Admissions; Failure to Make NRCP 16.2 Disclosures and Productions; and*
24 *for an Award of Attorney's Fees and Costs*, in the above-referenced matter was

25

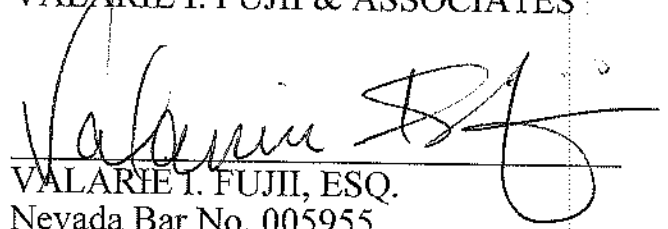
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27

1 entered in the above-referenced Court on January 17, 2020, a copy of which is
2 attached hereto.

3 DATED this 17th day of January, 2020.

4 VALARIE I. FUJII & ASSOCIATES

5
6
7 
8 VALARIE I. FUJII, ESQ.

9 Nevada Bar No. 005955

10 704 South Sixth Street

11 Las Vegas, Nevada 89101

12 Attorney for Plaintiff

13 CHRISTINA CALDERON

14 **CERTIFICATE OF SERVICE**

15 I HEREBY CERTIFY that on this 17th day of January, 2020, I served a true
16 and correct copy of the foregoing *Notice of Entry of Order*, via electronic service
17 pursuant to the Nevada Electronic Filing and Conversion Rules (NEFCR),
18 addressed as follows:

19 Radford J. Smith, Esq.
20 RADFORD J. SMITH, CHTD.
21 2470 St. Rose Parkway, #206
22 Henderson, Nevada 89074
23 Attorney for Defendant
24 MITCHELL STIPP

25 Mitchell Stipp, Esq.
26 LAW OFFICE OF MITCHELL STIPP
27 10120 W. Flamingo Rd., Suite 4-124
28 Las Vegas, Nevada 89147
Attorney for Defendant
MITCHELL STIPP


An employee of VALARIE I. FUJII & ASSOCS.

Steven D. Grierson

1 **OST**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No.: 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
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9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)

15 Plaintiff,)

16 vs.)

17 **MITCHELL STIPP,**)

18 Defendant.)

CASE NO.: D-08-389203-Z

DEPT. NO.: H/RJC CR 3G

DISCOVERY COMMISSIONER

19 **ORDER SHORTENING TIME**

20 After reviewing the *Ex Parte Application for an Order Shortening Time* on
21 *Plaintiff's Motion to Compel Discovery*, and upon good cause showing:

22 IT IS HEREBY ORDERED that the hearing on said *Motion to Compel*,
23 currently scheduled for February 28, 2020, at 1:00 p.m. is shortened to

24 January 24th, 2020, at 1:30 a.m. (p.m.) before the Discovery

25 Commissioner in Courtroom 15 of the Family Courthouse, 601 N. Pecos Road, Las
26 Vegas, NV 89101 (but not on a Wednesday because Plaintiff's counsel Ms. Fujii is
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JAN 16 2020

DISCOVERY

DATED this 17th day of January, 2020.

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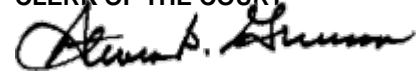
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Yalanie I. Fujii
YALANIE I. FUJII, ESQ.
Jareda Bar No. 005055

2020年12月15日

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MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

RADFORD J. SMITH, ESQ.
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RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK
FAMILY DIVISION**

CHRISTINA CALDERON,

Plaintiff,

v.

MITCHELL STIPP;

Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**DEFENDANT'S
PRETRIAL MEMORANDUM**

**HEARING DATE: January 23, 2020
HEARING TIME: 9:00 a.m.**

MEMORANDUM OF POINTS AND AUTHORITIES

I. STATEMENT OF ESSENTIAL FACTS

A. Divorce-2014 Parenting Plan

1. The parties, Christina Calderon ("Christina"), and Mitchell Stipp ("Mitchell"), filed a joint petition for divorce and were granted that relief pursuant to a stipulated decree on or about March 5, 2008 ("Decree"). The Decree incorporated the terms and conditions of a marital settlement agreement dated February 20, 2008 ("MSA"). In the MSA, the parties agreed to have joint physical and legal custody over

1 their minor children, Mia Elena Stipp (DOB, 10/19/2004, Now Age: 15) and Ethan
2 Christopher Stipp (DOB, 3/24/2004, Now Age: 12).

3 2. The parties have been divorced for more than eleven (11) years. However,
4 post-divorce litigation began on December 17, 2008, when Christina filed a motion to
5 confirm herself as the primary physical custodian of the children. That litigation,
6 together with ancillary motions concerning the mental health of the children, their
7 schooling (private vs. public), Mitchell's child support obligations, and the right of first
8 refusal to care for the children (when Christina returned to work), lasted approximately
9 five (5) years before Judge Frank Sullivan and Judge William Potter and several appeals
10 before the Nevada Supreme Court.

11 3. This court should take note of the following findings by Judge Sullivan in
12 his order filed on November 4, 2010:

- 13 • **THE COURT FURTHER FINDS** that assuming that a
14 joint physical custody arrangement does not currently exist,
15 the following facts evidence a substantial change in
16 circumstances affecting the welfare of the children
supporting a change in custody to joint physical custody:

17 c) The spontaneous statements made by Mia to Dr.
18 Kalodner indicating that she wanted to spend more time
19 with her dad but her mommy or the judge wouldn't let her.

20 d) The parties' extremely litigious nature resulting in the
21 children becoming embroiled in the proceedings as
22 evidenced by Mia's spontaneous statements to Dr.
23 Kalodner indicating **that Plaintiff doesn't like Amy and
that Amy is bad.**

(Lines 1-20, Page 17 (emphasis added)).

24 4. When the case was re-assigned to Judge Potter, Christina commenced years
25 of litigation seeking to prove Mitchell was in fact the culprit for the problems allegedly
26 experienced by the children. Ultimately, the children were evaluated by Christina's
27 selected professionals. Neither therapist concluded Mitchell was the cause of any issue.
28

1 In fact, Dr. Lewis Etcoff in his report dated July 27, 2011 (emphasis added)
2 concluded the following regarding Christina’s parenting skills:

3 Christina Calderon-Stipp appears to perceive more
4 significant behavior problems in her daughter. Her
5 descriptions of discipline methods do not appear to be
6 well-honed or consistently implemented, thus resulting
7 in Mia learning that she can bend the rules at her
8 mother's home. Christina therefore would greatly benefit
9 from behavior management training where she would
10 meet with the therapist to discuss examples of Mia's
11 behaviors and how Christina can adjust routines,
12 consequences, and rewards to manage Mia.

13 5. Judge Potter determined that individual therapy for the children was not
14 medically necessary in his order filed on October 11, 2011.

15 6. Christina began employment at the District Attorney’s Office in 2013.
16 Immediately, Christina refused to honor Mitchell’s right of first refusal to care for the
17 children while she worked. Judge Potter expressly found that Christina “clearly
18 attempted to nullify the Right of First Refusal by means clearly and succinctly denied
19 by this Court, if not expressly articulated” in his order filed on July 30, 2013.

20 7. Judge Sullivan’s original decision was appealed, the case was remanded by
21 the Nevada Supreme Court after briefing to set forth additional findings, and Judge
22 Sullivan entered those findings in another order filed on May 27, 2014 pursuant to which
23 he granted Mitchell additional time and confirmed the parties as joint physical
24 custodians.

25 8. The parties finally settled their disputes in a stipulation and order entered
26 by the court on July 2, 2014 (“2014 Parenting Plan”). Pursuant to the Parenting Plan,
27 the parties agreed that they would have joint physical and legal custody over their
28 children with a 50-50 timeshare split (7/7 schedule—one week on/off). The parties’
2014 Parenting Plan includes a Mutual Behavior Order (Article L) which addresses
the privacy of the children, behavior of the parties, and facilitation of custodial
exchanges, and matters related to individual vs. family therapy (Article N).

B. Post-2014 Parenting Plan Disputes.

The evidence will show that Christina has constantly struggled with raising Mia and Ethan without Mitchell's physical presence. Christina began seeing Ann Nichols in 2006 for individual therapy and continues receiving services. Before the parties agreed upon the 2014 Parenting Plan, she engaged Donna Wilburn as her personal therapist/parenting coach and also continues to receive services. In 2015, the parties agreed to family therapy with Nicholas Ponzo. Mr. Ponzo was needed by Christina to address the dynamics in her home. After the parties agreed upon the 2014 Parting Plan, the parties agreed for Mia to begin individual therapy with Dr. Jamie Austin. Unfortunately, as Mitchell suspected, Christina began to use this therapy for Mia to blame Mitchell for her inability to address Mia's issues. Ultimately after several sessions, Dr. Austin recommended in an email dated December 16, 2014:

Mitch, you are correct in concluding that copying me on all the emails was unnecessary and unwanted. My role is not to serve as a parenting coordinator, however, it does appear there may be a need to involve one in this case, given the highly contentious and litigious nature of the parental relationship and difficulties in coparenting.

Christine, given that you already have a therapist who you have been working with, and since Mitch has now agreed to allow family therapy, *I suggest you utilize the clinical relationship you have already established with Donna and talk with her about incorporating some family sessions to address your concerns regarding parenting and your relationships with the children.*

With regard to Mia, her sensory issues regarding the clothing would be more appropriately addressed in physical therapy, and she has expressed to me a strong desire to continue working with the woman she used to see for help with these issues.

At this time I do not feel that individual therapy for Mia is needed. It appears that the Ethan germs issue would be better addressed in the context of family sessions, where the sibling relationship, family

dynamics, discipline and behavior management, and parent child relationships can all be addressed.

Christina initially desired for Mia and Ethan to participate in family therapy with Ms. Wilburn. However, Mitchell did not agree that it was appropriate for Ms. Wilburn to provide services to the family since she served as Christina's personal therapist/parenting coach. Christina did agree to allow Mia to return to occupational therapy but with a new therapist---Demonica Chong at United Health Services. Christina alleged that Mia had anxiety related behaviors which she could not manage at her home. She would not accept the fact that Mia's behaviors were not occurring in Mitchell's home (regardless of Mia's anxiety).

Family therapy began with Mr. Ponzo in 2015 and stopped in 2017. The exact circumstances are unclear. However, Christina re-started family therapy with Mr. Ponzo in May of 2017. This decision coincided with the circumstances of Mother's Day in 2017. The evidence will show that there was a fight at Christina's home. Apparently, Christina was angry that the children wanted to leave a little early on Mother's Day to go to a family celebration being held at the house of Mitchell's parents (grandparents for Mia and Ethan). The children reported Christina and her family members were disparaging Amy, Mitchell, and their brother, Mitchell, Jr. Mia and Christina were in a physical fight. The fight was broken up, and the children were locked in their rooms. When the children returned to Mitchell's care, they were hysterical. Both claimed that Christina told them that their little brother, Mitchell, Jr., was "going to die" because of his medical conditions. Christina was punishing them for wanting to leave early.

During Christina's deposition on January 7, 2020, she testified as set forth in **Exhibit A** attached hereto and incorporated herein by reference. While Christina will not admit that she told the children that Mitchell, Jr. would die, Christina speculates that the matters before the court are being driven by Amy's desire to have neurotypical

1 children. In other words, Christina thinks Mitchell and Amy want to exclude Christina
2 from the lives of Mia and Ethan because they could not have “normal” children. What
3 is more reasonable? Mitchell and Amy provide a safe and stable environment for the
4 children which they prefer, or they are so upset because Mitchell, Jr. has special needs
5 that they want to remove Christina from the children’s lives through pathogenic
6 parenting and parental alienation? Mitchell, Amy and the children love Mitchell, Jr. He
7 is an essential part of the family. Christina’s theory is absurd.

8
9 While Christina denies ever calling the children derogatory names, her statement
10 is not believable. Christina admits that her own mother called Christina and her siblings
11 names as children. In addition, Christina’s mother recently sent a text message to Mia
12 calling her a “Troutman” and to leave her family alone. The reference to “Troutman”
13 was to the last name of Mitchell’s biological father. In her January 7, 2020 deposition
14 Christina testified as set forth in **Exhibit B** attached hereto and incorporated herein by
15 this reference. Mitchell’s parents divorced when he was 12 years old. Mitchell’s father
16 was abusive (physically, verbally and emotionally). Mitchell’s mother re-married. That
17 person, David Stipp, adopted Mitchell. David is not Mitchell’s step-father. He is
18 Mitchell’s father (as a matter of law). Christina has trouble with this distinction. It is
19 unclear why Christina is bothered by the fact that David adopted Mitchell, and Mitchell
20 refers to David as his father (rather than a step-father). Christina and her family seem
21 to be making some connection between Mitchell’s childhood experiences and the
22 circumstances involving Christina and the children. They are not the same. Mia is not
23 a “Troutman.” She does not know Mitchell’s biological father. Mia has only known
24 Mitchell’s father, David, as his father and her grandfather. Unfortunately, Christina’s
25 behavior is similar to her mother’s.

26 ///

27 ///

28 ///

Christina admits to saving Amy's contact information in her phone as "bruja," which means "witch" in Spanish. She testified as follows at her December 20, 2019 deposition:

Q. Did you ever have her designated on your phone with the name bruja or b-r-u-j-a?

A. When Mia was little.

Q. And what is the -- what does the word "bruja"

signify?

A. Witch in Spanish.

Q. Why did you put Amy's name as witch on your phone you indicate when she was -- Mia was little?

A. It was a nickname I gave Amy.

Q. And why did you give her that nickname?

A. I don't remember why.

Q. Is it because you were jealous of Amy?

A. No.

Q. How would you describe the children's relationship with Amy, as you understand it?

MS. FUJII: Today?

MR. SMITH: Yes.

THE WITNESS: Good.

Christina also later admits during her deposition on January 7, 2020 to referring to Amy as "Mexican trash." She testified as follows:

Let's look at -- have you ever referred to Amy

to -- to -- as Mexican trash?

A. Yes.

Despite these inappropriate labels, Christina admits that Amy is a fit parent and has had a positive impact on the children. Christina testified during her deposition on January 7, 2020 as follows:

Q. Is Amy a good person, in your view?

A. I don't know her well enough to know if she's a good person.

Q. Is she fit to be a parent?

A. Yes.

Q. Do you think that she's had a positive impact on your children?

A. Yes.

Although Christina admits that Amy is fit, she does not accept Amy as an equal. She

1 attempts during the same deposition to explain the difference between her and Amy as
2 set forth in **Exhibit C** attached hereto and incorporated herein by this reference. Despite
3 the fact that Christina testified that Amy has a different role in the lives of the children,
4 she was unable to articulate the substantive differences (other than their titles—mother
5 vs. step-mother--and where they lived). During this same deposition, Christina
6 admitted the following with respect to the scope of family therapy provided by Mr.
7 Ponzio between 2015-2017:
8

9
10 1 A. To assist with the relationship dynamics.
11 2 Though the kids were -- it was at the end of six years
12 3 of litigation that we started seeing Mr. Ponzio. The
13 4 kids had been through that whole tension of conflict.
14 5 And we were transitioning to a new schedule in terms
15 6 of time share. And the kids were resistant to the
16 7 idea of me being their mom. Like that was one of the
17 8 weirdest parts of the therapy. Nick would say, "You
18 9 have one mom." And they would say, "No. We have two
19 10 moms."
20 11 So, it took about a year and a half before
21 12 they stopped being angry and antagonistic about that
22 13 basic concept.

23 While it is not clear what advice Mr. Ponzio provided during this time (i.e., Mitchell
24 doubts Christina's representation), the fact that Christina makes it a point to confirm
25 they spent **18 months of family therapy** to get the children to agree that Christina was
26 the children's **only mother** suggests that Christina's focus was entirely misplaced. It
27 probably should have been focused on Mia's anxiety and parent/child issues. The
28 children understand that Amy is their step-mother. They refer to her as "Amy"—not
mom. The fact that they prefer Amy to Christina does not mean Christina is not their
mother. Rather than address the reasons why the children prefer Amy and learn from
that, Christina was more concerned about the children believing they had "two moms."
Mitchell believes this effort likely wasted valuable time in therapy and caused only
resentment by the children.

1
2 The evidence will show that Mitchell and Amy have allowed Mia and Ethan to
3 have control over their cellular telephones since **2015** with age-appropriate
4 rules/guidelines. This access allowed the children freely to call or text either parent and
5 for either parent to contact the children (without interference). At the time, Christina
6 had no objection. Christina now seems blame Mitchell for the children's behavior while
7 in her care because she claims not to have access to the children's electronic devices (to
8 either reward or punish them). While restricting use of an electronic device can have
9 positive benefits, there is no evidence before the court that any difference in the rules
10 for electronic devices has had any impact on the behavior of the children. Of course,
11 Mitchell is assuming that there are any differences. At Christina's deposition on
12 December 20, 2019, Christina testified as set forth in **Exhibit D** attached hereto and
13 incorporated herein by this reference. Christina complains that her parenting strategies
14 are being undermined. However, she has no recollection of communicating any rules
15 while the children were in her care that she wanted Mitchell also to enforce. Further,
16 she admits that she has no idea about Mitchell's parenting strategies. Christina's
17 complains generally about use of electronics but admits clearly that she has no idea what
18 rules exist while the children are in Mitchell's care. However, remarkably (but
19 typically), she still has objections (even though she has never inquired of Mitchell what
20 rules exist in his home). At her deposition on December 20, 2019, Christina testified as
21 set forth in **Exhibit E** attached hereto and incorporated herein by this reference.

22
23 The evidence will show that Christina took the children on vacation in July of
24 2017 to a summer camp at Pepperdine University. Both Mitchell and Christina attended
25 and graduated from Pepperdine. She summarized the children's behavior during the trip
26 in an email, the substance of which is set forth in **Exhibit F** and incorporated herein by
27 this reference. Mitchell believes the following conclusions are clear from Christina's
28 own observations set forth in her email:

- 1 (a) Christina is aware of Mia's anxiety.
2 (b) Mia is angry with Christina.
3 (c) Christina does not know how to address Mia's alleged behavior.
4 (d) Taking away electronics is not necessarily effective to manage Mia's
5 alleged behavior.
6 (e) Mitchell did not undermine Christina's parenting. Mitchell offered to help.

7 In her deposition on December 20, 2019, Christina testified as follows regarding how
8 she could have done a better job parenting Mia:
9

10 13 Yes. I have discussed with her how I could
11 14 have parented her better.
12 15 Q. How could you have parented her better?
13 16 A. I could have gotten -- and this is what I
14 17 discussed with Mia. Mia has high anxiety. I'm not
15 18 trained. I don't have any training in dealing with
16 19 kids with high anxiety to the extent that Mia has.
17 20 So, normal parenting, like consequences,
18 21 motivating, things I could have addressed to cater to
19 22 her -- cater better to her high anxiety.

20 Christina was aware of Dr. Etcoff's evaluation and recommendations which were made
21 in **July of 2011**. She referenced Mia's anxiety with Dr. Austin in **2015** and again with
22 respect to her Pepperdine trip in **2017**. When asked about her work with Ms. Wilburn
23 as her therapist/parenting coach, Christina testified as follows at her deposition on
24 December 20, 2019:
25
26
27
28

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11 Q. All right. But you continued, even after
12 Mr. Stipp told you that as family therapist he didn't
13 want her to be that person -- you continued to see her
14 individually?

15 A. As needed, like sporadically for parenting
16 issues.

17 Q. Okay. And what were the parenting issues that
18 you presented to Ms. Wilburn?

19 A. Electronic use agreement between parents. She
20 had recommendations about that.

21 Q. What else?

22 A. General parenting, like how to motive kids --
23 the kids to behave better.

24 Q. Anything else?

25 A. Not that I recall.

According to Christina's testimony, Ms. Wilburn provided her advice on the use of electronics by children and general parenting. Christina seems to be fixated on the children's telephones as primary means of rewarding and punishing the children. It does not appear she addressed Mia's "high anxiety" with Ms. Wilburn or the best strategy for managing a child with such condition. This is also the case with Mr. Ponzo in family therapy. These admissions are consistent with her acknowledgment that she could have done a better job "parenting" Mia. However, Christina still struggles with taking any "real responsibility" and instead wants to blame Mitchell and Amy as confirmed by her deposition testimony set forth in **Exhibit G** attached hereto and incorporated herein by this reference.

The evidence will show that both Mitchell and Amy suffered from anxiety as children, and Christina is aware of Mitchell's anxiety. Amy still has anxiety. As such, they are sympathetic to Mia's condition and have been successful in establishing a strong relationship and bond with Mia. In November of 2017, Mia wanted Amy rather than Christina to be her chaperone on her trip to California for a choir trip (which was very stressful for Mia). Christina objected and threatened to contact Mia's school to withdraw her consent for Mia to participate if Mitchell and Amy did not force Mia to go with Christina. Ultimately, the parties conferred and agreed that Mia should go **with**

1 the parent she prefers. Although Christina agreed for Amy to travel with Mia at the
2 time (i.e., deferring to Mia's preference), Christina now accuses Amy of not acting in
3 the best of the children. At her deposition on January 7, 2020, Christina testified as set
4 forth in Exhibit H attached hereto and incorporated herein by this reference.

5
6 In Christina's mind, it is an appropriate parenting technique to contact Mia's
7 school to withdraw her consent for Mia to go on a choir trip because Mia does not want
8 Christina to chaperone. Christina was fully aware of the harm that this would cause
9 Mia. She admits it would be "bad" if Mia was aware of this fact. For this reason, she
10 claims not to remember whether she told Mia she could not go on the trip. However, it
11 is absolutely foreseeable that Mia's school would inform Mia that her mother withdrew
12 her consent. It makes no sense for a parent to claim that it is acceptable to make
13 decisions which are not in the child's best interest (so long as the child is not aware of
14 which parent who is responsible for the decision). This rationale places Mitchell in the
15 position of defending Christina's decisions and behavior with the children which in
16 his view are not defensible. At her deposition on January 7, 2020, Christina admits that
17 Mia may very well view these parenting decisions as "threats" although she still defends
18 her position:

19
20 3 A. She said she feels that I have threatened her
21 4 in the past.

22 5 Q. Did you discuss with her what she was
23 6 referring to as threats?

24 7 A. Yes.

25 8 Q. And what was it that she indicated were the
26 9 threats?

27 10 A. What we discussed before the -- that I would
28 11 threaten to call her teachers to tell them about her
29 12 bad behavior.

30 13 Q. Okay. And did you advise her that you
31 14 believed that was inaccurate, that you hadn't done
32 15 that?

33 16 A. I told her -- and this was in therapy. -- that
34 17 I didn't view it as a threat. But I did say that,
35 18 taking into consideration her anxiety, I could see how
36 19 she could perceive it that way. And we've been
37 20 working on that.

1 The evidence will show that Christina reached out to Mia's school in 2017/2018
2 to get assistance with Mia's alleged behaviors. She admits that she contacted the
3 counselors at Mia's school to get assistance with what Christina now characterizes as
4 "boundary testing." The events described by Christina in her email about their trip to
5 Pepperdine do not seem like "boundary testing." In her deposition on January 7, 2020,
6 Christina testified as set forth in **Exhibit I** attached hereto and incorporated herein by
7 this reference. Christina's description of Mia's behaviors while in her care at her
8 deposition suggests they are typical. They are not when compared to her observations
9 during the Pepperdine trip. Christina seems to minimize these issues during her
10 deposition (compare it with her description of Mia during her trip to Pepperdine when
11 she expressed concerns about Mia's "violence and abusive talk."). With Ms. Nichols,
12 Ms. Wilburn, Mr. Ponzio, and the school's resources, Christina admits to being unable
13 to handle Mia's alleged behaviors. Despite Christina's suggestion, Mia does not want
14 to participate in school counseling (for whatever reason). Although it should not be a
15 surprise to Christina that was Mia's preference, **Christina accepts it.** The 2014
16 Parenting Plan provides as follows:

17
18 8 **IT IS FURTHER STIPULATED AND AGREED** that the children shall be permitted
19 9 to meet with a school counselor if determined by the principal of the school to be in the best
20 10 interests of the children solely to address behavioral matters, and each party shall sign whatever
21 11 necessary consent forms are required for them to do so. Both parties agree that any documents or
22 12 records produced by any school counselor shall be kept strictly confidential between the parties
23 13 and shall not be disclosed to any third-parties (including, without limitation, the family division
24 14 of the district court) under any circumstances, except as otherwise required by NRS 432.B220.

25 While Mitchell may not have been supportive of school counseling for Mia under the
26 circumstances, Christina had every right to pursue it if the school's principal determined
27 it was in Mia's best interest. Instead, Christina deferred to Mia on whether Mia needed
28 school counseling.

Christina wants to frame the issues before the court as stemming from a single incident on August 13, 2019. At her January 7, 2020 deposition, Christina testified as set forth in **Exhibit J** attached hereto and incorporated herein by this reference. The parties are not going to trial because there was a minor dispute between Mia and Christina over Mia talking late on the telephone with her boyfriend in August of 2019. The children were interviewed by FMC, and a child interview report was prepared. On the basis of that report, the court determined there was adequate cause for an evidentiary hearing on custody. Instead of acknowledging the concerns raised by the report or stipulating to the admissibility of the report, Christina wants Mia and Ethan to testify. In fact, Christina confirmed at her deposition on December 20, 2019 as follows:

Q. Do you believe that the children testifying in this case is in their best interest?

A. I believe so. Yes.

Q. Why?

A. Because, otherwise, the court won't have an opportunity to see what's really at play with respect to the kids.

Q. What do you mean by what's really at play?

A. Well, we're talking about the kids being withheld from my custody for the past four or five months, Mitch being the one to take the kids to this family interview and Family Mediation Center interview, and just those statements without any follow-up or ability for the judge to assess those -- the kids.

Christina denies the allegations made by the children as described in the report and appears to look forward to her day in court to challenge them. Christina dismisses the characterization by Mia (and Ethan) that Mia had two (2) "huge fights" in the summer of 2019. She admits to hitting Mia in the past but denies hitting Mia during the incident on August 13, 2019. She also admits to pulling Mia's hair but is evasive when and how this occurred. Christina denies locking the children in their room, she denies throwing water on the children, and she denies threatening to harm Mia's stuffed animals by putting them in a blender. Unfortunately, Christina is not credible. In her December 20, 2019 deposition, Christina speculates the children are lying (either because Mitchell

influenced them, told them what to say, or they made things up to please Mitchell). Despite Christina's multiple therapists and admitted challenges parenting the children (specifically Mia) for which she regularly asked for Mitchell's assistance, she testified ultimately that she did not know why the children communicated the events and circumstances set forth in the child interview:

Q. So, you believe that either Mitch told them what to say or influenced their statements to the interviewer. Correct?

A. Or they felt loyal to him and felt they had to make the interview as bad as possible.

Q. Okay. So, they lied to the interviewer in order to please Mitch. Correct?

A. I don't know if they did.

Q. Well, you do know, because you've stated that you believe they lied to the interviewer.

A. You said to please Mitch.

Q. I'm asking you if you believe that that was the reason why they have stated these things to the interviewer.

A. I don't know why they stated it.

Q. Is there any other reason that you can think of as to why they would say what you would agree are negative things about you to the interviewer?

A. No.

II. CHILD CUSTODY: A SUBSTANTIAL CHANGE IN CIRCUMSTANCES OCCURRED AND IT IS IN THE BEST INTEREST OF THE CHILDREN FOR MITCHELL TO HAVE PRIMARY PHYSICAL CUSTODY.

The court may modify or vacate its child custody order at any time. NRS 125C.0045. When considering whether to modify physical custody, the court must determine what type of physical custody arrangement exists between the parties. The court must look at the actual physical custody timeshare the parties are exercising to determine what custody arrangement is in effect. Rivero v. Rivero, 125 Nev. 410, 430, 216 P.3d 213, 227 (2009). Different tests apply to modify custody depending on the current custody arrangement. Joint physical custody may be modified or terminated if it is in the best interest of the child. NRS 125C.0045; Truax v. Truax, 110 Nev. 473, 874 P.2d 10 (1994). Primary physical custody may be modified only when "(1) there has been a substantial change in circumstances affecting the welfare of the child, and (2) the

1 modification would serve the child's best interest.” Ellis v. Carucci, 123 Nev. 145, 153,
2 161 P.3d 239, 244 (2007).

3
4 A substantial change in circumstances has occurred since the parties agreed to the
5 2014 Parenting Plan. There have been several instances of physical violence during
6 Christina’s timeshare. Mitchell believes the first such event occurred in 2017
7 (Pepperdine Trip). There may have been others. Physical violence is never a solution
8 to disputes with children. The recent instances of physical violence in May and August
9 of 2019 caused the children to decide they did not want to return to Christina’s physical
10 care until the issues were resolved. Unfortunately, those issues still are not resolved.

11
12 The best interest of the children is served by granting Mitchell primary physical
13 custody of the children. The type of physical custody arrangement is particularly
14 important in three situations. First, it determines the standard for modifying physical
15 custody. Rivero v. Rivero, 216 P.3d 213 (2009). Second, it requires a specific procedure
16 if a parent wants to move out of state with the child. Potter v. Potter, 121 Nev. 613, 618,
17 119 P.3d 1246, 1249 (2005). Third, the type of physical custody arrangement affects
18 the child support award. Barbagallo v. Barbagallo, 105 Nev. 546, 549, 779 P.2d 532,
19 534 (1989).

20
21 Under NRS 125C.0035(4), in determining the best interest of the child, the
22 court shall consider and set forth its specific findings concerning, among other
23 things:

24
25 (a) The wishes of the child if the child is of sufficient age and capacity to
26 form an intelligent preference as to his or her physical custody.

27 Mia and Ethan are of sufficient age and capacity to form an intelligence
28 preference as to their physical custody. Both children would like to reside with
Mitchell primarily.

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

3 N/A.
4

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

7 At Christina's deposition on January 7, 2020, Christina contends that forcing
8 the children into her physical care is in the children's best interest and if Mitchell
9 does not do so (because she admittedly cannot), she should have sole custody. Her
10 testimony is set forth in **Exhibit K** attached hereto and incorporated herein by this
11 reference. Christina seems to believe that the children are better off in her sole care
12 rather than with Mitchell---the parent they prefer. Such view suggests that Christina
13 wants 50% percent of the physical time and nothing less.
14

15 Since the last hearing in this case, the evidence will show that Mitchell has
16 made the children available for timeshare with Christina each weekday (Monday-
17 Friday) after 5:30 p.m. when Christina indicated she was available after work.
18 Mitchell coordinated and scheduled with Christina weekly timeshare at Christina's
19 home and/or events outside of her home (including meals—breakfast, lunch and
20 dinner). Mitchell scheduled and ensured the children's participation in weekly
21 therapy with Mr. Ponzio. During these times, he also arranged for the children to
22 be available before and after therapy for timeshare with Christina. Despite the issues
23 between the children and Christina and the prospect of a trial, Mitchell believes he
24 has satisfied his burden of being the parent that is more likely to allow the children
25 to have frequent associations and a continuing relationship with the noncustodial
26 parent.
27

28 (d) The level of conflict between the parents.

The evidence will show that the level of conflict is high. The source of the

1 conflict is as follows: Christina cannot manage the children while they are in her
2 physical care. Rather than work through the issues in family therapy, she insisted
3 on the children testifying and an expedited trial schedule. She is more concerned
4 with “winning” than repairing her relationship with the children. No parent is
5 perfect. However, Christina is more concerned about proving that Mitchell is a
6 pathogenic parent and has alienated the children (because that is what she has
7 communicated to Ms. Wilburn). There is absolutely no evidence of parental
8 alienation syndrome in this case.

9
10 (e) The ability of the parents to cooperate to meet the needs of the child.

11 Christina cannot manage the children while they are in her physical care.
12 Christina admits this fact in her email to Mitchell in 2017 regarding the children’s
13 behavior during their trip to Pepperdine University. Even at her deposition on
14 January 7, 2020, Christina admits she has no ability to ensure that the children
15 transition into her care as set forth in **Exhibit L** attached hereto and incorporated
16 herein by this reference. Even if the children are physically with Christina, she has
17 no ability to ensure they remain with her. This is a problem. Rather than appreciate
18 the gravity of the situation, Christina **laughed** during Mitchell’s deposition on
19 January 7, 2020 when he described Mia jumping out of Christina’s moving car to
20 avoid spending an entire day with Christina on January 5, 2020. This testimony is
21 set forth in **Exhibit M** attached hereto and incorporated herein by this reference.

22 Mitchell has the ability to cooperate with Christina to meet the needs of the
23 children. He has already demonstrated despite very challenging circumstances that
24 he can and will ensure the children have meaningful contact with Christina. He
25 remains committed to therapy and is hopeful Christina and the children repair their
26 relationship.

27
28 (f) The mental and physical health of the parents.

The physical health of the parents is not at issue. However, Mitchell has

1 concerns about Christina's mental state. Mitchell believes that Christina is
2 unnecessarily focused on blaming Mitchell and Amy for her relationship with the
3 children. Rather than take responsibility and repair her relationship with the
4 children, Christina is prepared to go to trial to confront the children. This decision
5 will only cause more harm to the children.

6
7 (g) The physical, developmental and emotional needs of the child.

8 The children are physically, developmentally and emotionally sound. Mia has
9 anxiety. However, Mitchell and Amy provide Mia the necessary support to manage.
10 Mitchell does not have any issues parenting the children. They are not physically
11 or verbally abusive in his care.

12
13 (h) The nature of the relationship of the child with each parent.

14 Mitchell has a great relationship with the children. Christina's relationship is
15 poor (especially with Mia).

16
17 (i) The ability of the child to maintain a relationship with any sibling.

18 Mia is 15 years old. Ethan is 12 years old (13 in March of 2020). The children
19 have been raised together. Both have a brother, Mitchell, Jr., who is the son of
20 Mitchell and Amy. Mitchell, Jr. is 8 years old. He has special needs. Both Mia
21 and Ethan have a strong bond with Mitchell, Jr., and are instrumental to his overall
22 development. Mia and Ethan are also very close and would prefer to remain
23 together.

24
25 (j) Any history of parental abuse or neglect of the child or a sibling of the
26 child.

27 No findings have been made.

28
(k) Whether either parent or any other person seeking physical custody has

engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

Neither parent has been charged with domestic violence. However, Christina and Mia have been in several physical altercations.

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

Neither parent has committed an act of abduction.

None of the above factors support a finding that physical custody should remain the same (or Christina should have primary or sole custody). Until Christina repairs her relationship with the children, there will likely be more physical confrontations, which Mitchell would like to avoid. Mitchell cannot parent the children while the children are in Christina's physical care (especially if such help is met with allegations of pathogenetic parenting and parental alienation). It is clear Christina needs help.

III. STATEMENT OF UNUSUAL LEGAL OR FACTUAL ISSUES

Communications and documents which involve therapy with Mr. Ponzo are confidential and privileged. See 2014 Parenting Plan (lines 15-26, page 13) and (lines 1-19, page 14)); NRS 49.246-.249. Mitchell has subpoenaed Mr. Ponzo who has agreed to appear at the trial (if needed). If Christina wants to waive all confidentiality and privilege, Mitchell and Amy are willing to do the same. In that case, Mr. Ponzo should be permitted to testify, and the parties should be permitted to discuss matters of therapy at the trial. Mr. Ponzo prepared an assessment of family therapy which he provided to Christina via email on December 30, 2019 at 5:14 p.m. Christina did not include that assessment in her disclosures (only self-serving emails many of which are still

1 confidential/privileged). In anticipation of Christina's argument that she is the only
2 client of therapy, Mr. Ponzo has confirmed that Mitchell, Amy and the children are
3 clients in his Declaration dated January 14, 2020.

4 Mitchell filed a supplement as part of his opposition to Christina's motion to
5 compel (Countermotion in Limine) on January 15, 2020. Christina's motion to compel
6 was referred to the Discovery Commissioner. However, Mitchell's request that the
7 court exclude testimony which is confidential/privileged and related matters (see Article
8 IV below regarding Christina's witness list) should be heard by the court. A request for
9 a hearing was made on January 17, 2020 after the Discovery Commissioner set
10 Christina's discovery matter for January 24, 2020 (but has not been scheduled).

11 12 **IV. LIST OF WITNESSES**

13 1. Mitchell Stipp
14 c/o RADFORD J. SMITH, ESQ.
15 RADFORD J. SMITH, CHARTERED
16 2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074

17 2. Amy Stipp
18 10120 W. Flamingo Rd., #4124
19 Las Vegas, Nevada 89147

20 3. Mia Stipp
21 10120 W. Flamingo Rd., #4124
22 Las Vegas, Nevada 89147

23 4. Ethan Stipp
24 10120 W. Flaming Rd., #4124
Las Vegas, Nevada 89147

25 5. Christina Calderon
26 c/o VALERIE FUJII, ESQ.
27 VALERIE I. FUJII & ASSOCIATES
28 704 South Sixth Street
Las Vegas, Nevada 89101

1 6. Nicholas Ponzo*
2 10161 Park Run Drive,
3 Suite 150
4 Las Vegas, Nevada, 89145

5 * Christina disclosed that she intends to use at trial matters of therapy protected by the
6 parties' 2014 Parenting Plan and NRS 49.246-49.249. Mr. Ponzo will testify if the
7 confidentiality and privileges are waived and/or as permitted, directed or otherwise
8 ordered by the court. Mitchell reserves the right to call any witness named by Christina.
9 Mitchell also reserves the right to call any witnesses as may be necessary for the purpose
10 of rebuttal or impeachment.

11 Christina disclosed on January 13, 2020 (last day of discovery) **13 additional**
12 **witnesses**. Mitchell has asked the court to exclude these individuals from providing
13 testimony at the trial. See Supplement/COUNTERMOTION in Limine filed on January 15,
14 2020.

15 **V. EXHIBITS**

16 Mitchell's trial exhibits are listed on **Exhibit N** hereto and incorporated herein by
17 this reference.

18
19 Dated: January 21, 2020

20 /s/ Mitchell Stipp

21 _____
22 MITCHELL D. STIPP, ESQ.
23 Nevada Bar No. 7531
24 **LAW OFFICE OF MITCHELL STIPP**
25 10120 W. Flamingo Rd., Suite 4-124
26 Las Vegas, Nevada 89147
27 Telephone: 702.602.1242
28 mstipp@stipplaw.com

EXHIBIT A

Q. Have you suggested to Mitch that Amy is trying to take your kids because she did not have a normal child with Mitch?

A. That's not what I said.

Q. Do you recall a statement to that effect?

A. I recall speaking to Mitch outside of his home

when he was withholding Mia from an exchange, and I speculated with him, What is the source of your desire and Amy's desire to keep the kids from me.

Q. And what was your speculation?

A. I said, "Does it have to do with Mitch Junior?" I didn't say he wasn't a normal child.

Q. What did you mean by that?

A. I was speculating as to what was the root cause of why Mitch and Amy would want to essentially exclude me from the lives of the kids.

Q. Well, what was it about Mitchell, the child, that caused you to speculate that he had something to do with why they would want to preclude you from having contact with --

A. I couldn't figure out --

Q. -- the other children?

A. I couldn't figure out why, what would the source and the genesis of all of this be.

Q. That I get, but why would Mitchell come to your mind about -- as the source for that action?

A. Because of all the special needs that Mitch documents repeatedly in every pleading.

Q. So, do you think it's excessive that he documents the special needs of Mitchell in his pleadings?

1 1 A. I think he does it unnecessarily much.
2 2 Q. And what would be his motivation for doing
3 3 that, in your mind?
4 4 A. To attempt to get sympathy.
5 5 Q. Do you believe that when you reference
6 6 Mitchell, that your intent was to say that you want to
7 7 take the other children because they don't have
8 8 Mitchell's special needs? Correct?
9 9 A. Yes.
10 10 Q. What -- what is it, in your knowledge, about
11 11 Mitchell Junior's medical conditions?
12 12 A. I only have the knowledge that Mitch has
13 13 articulated --
14 14 Q. But again, what is your knowledge?
15 15 A. Oh, that he has a rare genetic condition.
16 16 Q. And what is the manifestation of that
17 17 condition? What are the -- the symptoms?
18 18 A. He has autism, epilepsy. He's nonverbal. He
19 19 doesn't go to school. He has multiple therapies.
20 20 Q. Anything else?
21 21 A. That's all I know.
22 22 Q. Do you have any reason to believe that any of
23 23 that is not true?
24 24 A. No.
25 25 Q. Did you ever communicate to the children that
16
17 1 you expected that Mitchell Junior would die as a
18 2 result of his condition?
19 3 A. No. Ethan communicated to me that Mitch and
20 4 Amy told him they did not expect Mitchell Junior to
21 5 live past 50 years old or something like that.
22 6 Q. So, that's not something that you ever
23 7 initiated as a statement to the children. It's
24 8 something that you claim that Ethan told you that
25 9 Mitch and Amy had stated about Mitchell Junior.
26 10 A. Yes.
27 11 Q. So, when they indicate that you made the
28 12 statement that you believe that Mitchell would die,
29 13 that's not true.
30 14 A. Correct.
31 15 Q. So, they lied about that.
32 16 A. That's a misstatement.
33 17 Q. Yeah, but it's a lie. I mean, they would know
34 18 whether or not you said that, it was stated. Right?
35 19 A. Yes.
36 20 Q. And this is apparently a conversation you had
37 21 with Ethan on Mother's Day.
38 22 A. When he told me that? I don't recall when he
39 23 told me that.

EXHIBIT B

Q. Did your mother ever refer to you with derogatory names when you were a child?

A. Not that I recall.

Q. So, she's never used a name like something that would be inappropriate, like bitch or whore or any other curse word?

A. She might have.

Q. Did you think that that was acceptable to

parenting behavior?

A. No.

Q. But, to your knowledge, you've never referred to Mia using any of those epithets or any other type of profane name or derogatory name; correct: stupid, whore, bitch, a-hole, whatever?

A. No.

Q. Nothing like that?

A. And I don't recall that she's said I have either.

Q. Who is Mitch's -- Mitchell's biological father?

A. Joseph Robert Troutman.

Q. And what do you know about him?

A. I know that he cheated on his mom and Mitch had no relationship with him after he was 12 years old and that Mitch and his siblings pretended that their stepdad was their actual biological dad for years.

Q. Was your mother aware of this circumstance with Troutman?

A. Yes. I -- my family and I have known Mitch since we were both 12 years old.

Q. Okay. And were you aware of your mom's recent communication to Mia via text referring to Mia as a Troutman?

1 1 A. Mitch made me aware of communications from my
2 mom to Mia. I didn't see them.
3 3 Q. And did you ask your mother about them?
4 4 A. Yes.
5 5 Q. And what was her response?
6 6 A. She had deleted them, but she generally
7 communicated the sentiment to me that she was upset
8 with how the kids were treating me.
9 9 Q. Okay. And why do you believe that your mother
10 referred to them -- how did she explain that she --
11 why she referred to them as a Troutman?
12 12 A. I don't know why.
13 13 Q. Well, it was to insult them. Correct?
14 14 A. Okay.
15 15 Q. Well, you tell me.
16 16 A. I don't know. I didn't see that. Mitch told
17 me that.
18 18 Q. So, did you ask your mom, "Mom, did you say
19 that" -- you know, "text something to Mia that said
20 she was a Troutman?"
21 21 A. No.
22 22 Q. Would you want your mother to refer to Mia as
23 a Troutman?
24 24 A. No.
25 25 Q. Do you think that if she used that, assuming

1 that she used that phrase, that she was attempting to
2 vex or annoy or harass Mia?

3 A. I don't know.

4 Q. Do you recall whether Mitch told you that in
5 the communication in which your mother referred to Mia
6 as a Troutman, she also advised her that -- not to
7 contact her, being your mother, or her family again?

8 A. I don't recall that Mitch communicated to me
9 the Troutman thing. The latter part I believe he did
10 say.

11 Q. And did you ask your mother about that?

12 A. Yes.

13 Q. And is that when she said that, well, she was
14 just upset?

15 A. Yes.

16 Q. And she doesn't really mean that, even though
17 she said it in a text.

18 A. I don't know that she said she didn't mean it.

19 Q. Okay. Does she -- is it her intent to have --
20 or is her desire that Mia not communicate with her or
21 her family again?

22 A. No.

23 Q. Have you ever had any conversations with your
24 mom and dad in which you've asked them not to
25 communicate with Mia?

1 1 A. I -- when I learned that the e-mail from Mitch
2 2 saying that my mom text Mia that -- I had a discussion
3 3 with my mom where I was upset and told her that she
4 4 should not have communicated that with Mia if that's
5 5 what she said.

6 6 Q. And did you ask them not to communicate with
7 7 Mia in the future?

8 8 A. I asked my mom not to --

9 9 Q. So, the answer to that question is yes or no.
10 10 You asked them not to communicate with her or you
11 11 didn't.

12 12 A. No. No.

13 13 Q. What did you ask your mom to do or not do in
14 14 regard to communication with Mia?

15 15 A. Not to send communications like that in the
16 16 future.

17 17 Q. Communications that were designed to be
18 18 insulting?

19 19 A. To say -- to restrict access, to say when
20 20 they're not to contact them in the future. But my dad
21 21 I didn't -- I never said anything to my dad about
22 22 communicating or not communicating to Mia. He still
23 23 reaches out to Mia.

EXHIBIT C

Q. Do you believe that you and Amy have different roles in the children's lives?

A. Yes.

Q. And what is that, the difference in those roles?

A. Amy is the stepmom. I'm the mom.

Q. So, what is it about being a stepmom, in your

view, that would be a different role that she would have in the lives of the children?

A. She doesn't reside in my household. I don't reside in hers. She works with her -- their dad to parent the children when they're in his care.

Q. Okay. Have you communicated that there is a difference between you and Amy, when it comes to parenting the children, to the children?

A. No.

Q. Have you ever discussed Amy's role, in parenting them, with the children?

A. No.

Q. What is Mia's relationship with Amy, to your knowledge?

A. Good.

Q. Okay. And does that concern you?

A. Only to the extent that Amy is not supportive of Mia having a healthy relationship with me.

Q. And this goes back to the idea that she's in lockstep with Mitch in regard to what has occurred in this litigation. Correct?

A. Yes.

Q. Do you consider Amy insecure?

A. Yes.

EXHIBIT D

Q. Okay. What -- what do you see as differences in the rules in your household versus the rules in Mitch's household other than your statement about the electronics and the prompting them to come see you?

A. I don't know the rules in his household enough to be able to say what the differences are.

Q. Have you ever expressed to him the rules in your household?

A. I don't remember.

Q. Do you specifically ever recall telling him that this was a rule in your house and that you would like him to abide by that rule as well, other than the electronics or coming to see you?

A. I don't remember.

Q. The -- you've identified a couple of parenting strategies: electronics, not engaging the children with regard to the issues.

Is there anything about Mitchell's parenting strategies that you know or object to?

A. I don't know what his parenting strategies are enough to object to them.

EXHIBIT E

Q. I get it. So, other than, again, the issues associated with your belief that they are not supporting your parenting and that that's the problem that you have with the children and the electronic issue that you mentioned, is there anything about what they do with the children, how they discipline the children, how they provide rules for the children -- is there anything that you can think of that you would identify as their parenting strategies that you could object to other than the things you've just mentioned?

A. To the extent that I don't know what they do to monitor the kids' electronics, I would have an issue with that, because I -- it's not shared with me. So, I don't know -- I know that they have their phones with them all the time. I don't know if there is any limits to that screen time.

EXHIBIT F

Here's some observations of the week and the incidents that will give you an idea of what's been going on:

Mia has been increasingly verbally and physically abusive. She reacts violently when she says that Ethan is teasing her. Yesterday, she grabbed an apple in our dorm room and threw it hard at Ethan. He retaliated in kind, which I have warned him not to, but I have also told Mia that if she hits him, it provokes him to hit back and she needs to learn to not touch people or destroy things, especially when she is angry. I don't recall what provoked her to throw the apple. Ethan was getting ready for the talent show and hadn't even been in the room until right before we were to leave.

Her outburst yesterday preceded a family talent show that she, at the last minute, said she didn't want to participate in. I notice her moods are prone to anger and irritability when she is anxious about something. At first she wanted to do the talent show and then right b4 she didn't. I said she didn't have to but she then didn't even want to watch it it have dinner before it. She was also anxious at the start of the camp.

Mia was upset that Ethan threw the apple at her so she grabbed a banana and proceeded to smash it and splatter it all over our dorm room. I made her clean it up. I took away her phone and iPad. She responds by saying she doesn't want to live with me then.

Today, she got her phone and iPad back in the morning and was rude and sullen and disrespectful the entire car ride back. When we got home she was angry at Ethan. He had been talking about some boy he thought that Mia liked. When Mia demanded the name, Ethan refused to provide it. Mia then charged at and pushed Ethan. Ethan pushed her back and she landed in a bush which scratched her.

I took away her phone and iPad again. She called me a whore. Repeatedly tonight. She said that you divorced me because you didn't love me and that she doesn't love me either. She threw some things out of my car and onto the lawn.

I asked her not to call me a whore again. I told her that she might not like or love me but that she needed to respect me, and I will do the same

1 for her. During the argument with Ethan she repeatedly pushed and hit
2 me.

3 She has made statements about wanting to "die in a hole" or "just kill
4 me." When I talk to her about those sentiments she says she doesn't
5 mean them literally but she keeps saying those things.

6 I would appreciate your support in talking to her about her violence and
7 abusive talk. She says terrible things to Ethan too. Today she told him
8 that even Mitchell Jr. doesn't like him, which hurt Ethan.

9 I have admonished Ethan about how he talks to Mia. He might not see
10 it as teasing, but Mia seems to take anything that Ethan says as an insult
11 or competition.

12 Ethan was very good during the camp. He tried many times and in many
13 ways to get Mia to make friends and enjoy herself. He tried to make
14 friends for her. Mia participated in some activities and had some good
15 moments but the majority of the time she was being anti social and rude.
16 She doesn't seem to like it that Ethan was making friends easily and she
17 was not. She liked it when a couple of the kids told her they didn't like
18 Ethan and wanted her to join their secret club.

19 Some things that Mia enjoyed were finding and playing with sand crabs
20 on the beach. She did the sack races. She participated in water play. At
21 one point during the camp she expressed possibly actually wanting to
22 go to Pepperdine. In the past she has rejected it because "I went there."

23 She seemed to enjoy some aspects of surfing. She had a couple of good
24 mood days in the beginning of camp but it looked like when she failed
25 to sustain any friends she became more and more angry and withdrawn.
26 There were one or two girls her age that tried to befriend her but she
27 didn't reciprocate. Her expression was negative. We talked about how
28 her expression could be perceived as unwelcoming. We shared some
laughs over how she makes her expression friendly at Faith. [E]than
said that during the kid sessions she would stay on her phone.

She didn't want to miss any of the kids camp sessions though. She
wanted to go to them. Insisted on not missing anything until last night.

Ethan was very social and enjoyed his time meeting and making new
friends. He played basketball with the kids and counselors. He
participated in the talent show. He tried to be helpful to Mia but her

1 attitude was negative and resistant to him the majority of the time. He
2 enjoyed learning about Pepperdine and enjoyed the weather.

3 Any suggestions on how to best address these things?
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EXHIBIT G

Q. You had indicated that -- we started this conversation with this notion of you not having training in regard to dealing with a child that has the kind of anxiety that Mia has.

Is there any other portion of Mia's or Ethan's stated indication that they want to live primarily with Mitch that you believe could have been based on any behavior of yours?

A. No.

Q. So, truly you blame all of this, in terms of the children's desire to spend more time with Mitch, on everyone or anyone other than yourself.

MS. FUJII: I'm going to object: argumentative, form.

Go ahead and answer.

THE WITNESS: No.

BY MR. SMITH:

Q. So, you do take some responsibility, and the only responsibility that you've taken in regard to the children's current opinions as to where they want to reside is that -- your lack of training in dealing with the anxiety that Mia has?

MS. FUJII: Same objection.

THE WITNESS: I can't answer that question. It's like two different questions.

BY MR. SMITH:

Q. Well, you've indicated that, in my -- my -- answer to my question that -- do you take any responsibility -- well, let me ask the question this way:

Do you take any responsibility for the way the children feel about you presently?

A. I answered that. Yes.

EXHIBIT H

11 A. She has actively denied me the opportunity to
12 take Mia on a one-on-one trip in the past.

13 Q. And when was that trip?

14 A. 2017, I think.

15 Q. Okay. And what was the trip that you're
16 referring to?

17 A. Choir trip.

18 Q. And what was the choir trip? What was it?
19 What was the choir, first of all, and what was the
20 nature of the trip?

21 A. It was for Mia to sing in the choir.

22 Q. Choir at school or --

23 A. School.

24 Q. So, she sang in the school choir, and there
25 was a school trip with the choir. Correct?

1 A. Correct.

2 Q. And on that trip she needed a chaperone.
3 Correct?

4 A. She did not need a chaperone but -- oh, yeah.
5 She needed an adult to go with her. Yes.

6 Q. All right. So -- and did you ever have any
7 communication with her -- with Mia about who she
8 wanted to go on the trip with her?

9 A. When the e-mail came out about the trip, it
10 was during my time. So, I assumed I was taking Mia.

11 Q. Okay. And did you have a conversation with
12 Mia in regard to who she wanted to have take her on
13 the trip?

14 A. After, yes.

15 Q. After when?

16 A. After the e-mail came out and I made plans to
17 take her.

18 Q. Okay. And what was the conversation with Mia?

19 A. She said, "Oh, Amy said she's taking me."

20 Q. Was that the -- the entirety of the substance
21 you recall about that conversation?

22 A. From what I can recall, yes.

23 Q. That was the only thing you recall.

24 A. Yes.

25 Q. And what was your response to Mia in regard to

1 that statement?

2 A. I said, "The trip is happening on my time.

3 I'm going to be taking you."

4 Q. And what was her response?

5 A. I don't remember.

6 Q. Other than the comments that you provided me,

7 you don't recall anything about the conversation with

8 Mia associated with the trip -- the choir trip in

9 2017. Correct?

10 A. She said Amy was going to take her.

11 Q. And what happened after that in relation to

12 that trip?

13 A. After the trip?

14 Q. No, in relation to the trip.

15 A. Oh. She -- Amy wound up taking her.

16 Q. Did you have a discussion with either Amy or

17 Mitch about Amy chaperoning her trip?

18 A. Both of them.

19 Q. And what was the substance of those

20 conversations?

21 A. I said, "I would like the opportunity to bond

22 with Mia. This would be a great opportunity for me to

23 take her. I would like you to let me take her." And

24 they said no. Amy said, "I made a promise to Mia, and

25 I'm not breaking that promise."

16

17 Q. Was that conversation oral or in writing?

18 A. Both, I believe.

19 Q. So, there were e-mails associated with this?

20 A. Yes.

21 Q. And your understanding, from all of that

22 interaction, was that Mia didn't desire Amy to take --

23 take her but instead she was told that Amy would be

24 taking her. Correct?

25 A. That's not what I said.

26 Q. I'm asking you.

27 A. Yeah. That's not what I said.

28 Q. I'm asking you if you think that's correct.

A. No. Then, no.

Q. Okay. So, what do you think happened in

regard to that trip?

A. I think Amy spoke to Mia about taking her;

they agreed that Amy was going to take her; my request

for me to take her got denied, my alternative request

for me to take her and Mitch and Amy to bring her back

also denied.

So, in other words, yeah, she wound up taking

her.

Q. Do you believe that Mia's desire to have Amy

take her on that trip other -- and not you had

anything to do with why Amy took her to the trip?

1 A. Yeah.

2 Q. So, when did you learn that it was Mia's

3 preference to have Amy take her on the trip?

4 A. When she told me, "Amy's taking me."

5 Q. Well -- but what about that statement

6 suggested that it was Mia's idea? That sounds like it

7 was Amy's idea.

8 A. Because she didn't say, "I don't want to go

9 with Amy."

10 Q. So, it was her lack of objection to Amy taking

11 her that suggested to you that she wanted Amy and not

12 you to take her.

13 A. Yes.

14 Q. Did you ever ask her why she wanted Amy to

15 take her and not her -- not you?

16 A. I did ask her.

17 Q. And what did she say?

18 A. I don't remember.

19 Q. Did you at any time attempt to cancel the

20 trip, the choir trip, or Mia's participation in the

21 choir trip?

22 A. I told Mitch, "I'm withholding my consent

23 until we work this out as co-parents."

24 Q. Did you ever contact the school in regard to

25 that trip?

17

18 A. I don't remember if I did or not.

19 Q. Did you ever threaten to contact the school

20 and tell them that Mia could not go?

21 A. I don't consider it a threat. I did

22 communicate to Mitch, "I'm withholding my consent for

23 her to travel out of state during my custodial time

24 until we as co-parents have resolved the issue."

25 Q. And that's what you recall the communication

26 both in orally and in writing to suggest.

27 A. Yes.

28 Q. Was Mia looking forward to going on the trip?

29 A. Yes.

30 Q. Did you think that indicating that you would

31 restrict her ability to go on the trip would have an

32 adverse impact on her?

33 A. I didn't communicate that to Mia. I

34 communicated it to the co-parent. If the co-parent

35 communicated that to Mia, that would be bad.

36 Q. So, did you ever advise Mia or give her -- say

37 words to her to the effect that she could not go on

38 the trip to -- with the choir in '17?

39 A. I don't remember.

EXHIBIT I

1 A. So, maybe 2017 or 2018.
2 Q. Okay. And in that time frame what was -- what
3 caused you to contact the school counselors?
4 A. Just the general boundary testing that Mia was
5 exhibiting in my home.
6 Q. What was actually she doing that you're
7 describing as boundary testing?
8 A. Being disrespectful, talking back. That was
9 about it.
10 Q. Why did you believe that the best place to go
11 for that type of behavior would be a school counselor?
12 A. Because when Mia started at Faith, we met with
13 the school counselor, and he said he was open to
14 meeting with us to discuss any dynamics in the home or
15 affecting the students, that he would be open to doing
16 that.
17 Q. Who was that?
18 A. Dr. Knorr.
19 Q. And is that who you contacted in 2017, 2018?
20 A. No, because he was her sixth-grade teachers --
21 or six-grade counselors. I don't recall -- it was a
22 woman, but I don't recall who she was assigned the
23 following year to.
24 Q. And that was again at Faith Lutheran.
25 Correct?

1 1 A. Faith. Uh-huh.
2 2 Q. And did Mia end up seeing that counselor or
3 3 anyone other at Faith Lutheran at any time?
4 4 A. No.
5 5 Q. Why?
6 6 A. She wasn't receptive to it and Mitch was not
7 7 supportive of it.
8 8 Q. And she wasn't receptive. Are your referring
9 9 to Mia?
10 10 A. Yeah. Mia.
11 11 Q. Did you expect her to be receptive toward your
12 12 reaction to what you described as her boundary
13 13 testing, to set her up with counseling?
14 14 A. I didn't expect automatically that she would
15 15 be opposed.
16 16 Q. Did she ever express to you words to the
17 17 effect that caused you to believe that she felt that
18 18 she had an issue that needed counseling?
19 19 A. No.
20 20 Q. No, she's never expressed that to you.
21 21 Correct?
22 22 A. No.
23 23 Q. No, she has not.
24 24 A. No, she has not.

EXHIBIT J

Q. Okay. What -- what factors would you point -- what facts would you point out to -- to the court that suggest that Mia is not of sufficient maturity to form -- or has the capacity to form an intelligent preference to her custody?

A. I would direct the court to what was really going on. Mia is a teenager, testing boundaries. She had a boyfriend. And she did not like me taking away her cell phone when she was late -- up late talking to her boyfriend. She did not like that I contacted the boyfriend's mom. Mitch did not like that.

So, instead of co-parenting with me, he made a mountain out of a molehill. And we're sitting here today. I have not had one overnight visit in six months with either child, either child.

Q. And you believe that the -- the reason that you haven't had the contact with the child all stems from this incident on August 13, 2019.

A. All stems from Mitch's reaction to that incident.

Q. Nothing else.

A. No.

EXHIBIT K

Q. Okay. Is there anything else that you're asking for for the enforcement of the order?

A. No.

Q. How do you anticipate that the children will act if they're forced to go visit you?

A. I think initially they will challenge it, because they have been given this impression, by Mitch keeping them for six months, that -- that it's okay and it's good for them. But when Dad has to actually facilitate a healthy relationship with their mom, they will benefit from that.

Q. One of the things that you requested in this case is that you be provided essentially sole care of the children without Mitchell's interference.

Correct?

A. If he's unable to comply with joint, that

was -- yes. That's my position.

Q. And do you think that would be something that the children will react well to?

A. Not initially, but eventually, yes.

Q. What do you base that on? What do you base -- is it some sort of reading that you've done? Is it somebody that's told you this? Or is it just your own notion that by forcing the children to be in your care, that would be what's best for them?

MS. FUJII: I'm going to object.
argumentative.

THE WITNESS: Yes, just my own belief.

EXHIBIT L

Q. Okay. Well, the children were with you. Why didn't you just take them home?

A. Because I couldn't physically force them to go with me.

Q. But Mitch can?

A. Yeah. He already -- they already coordinated.

Q. Mitch can physically force them. Do you think that would be the proper move by him to get them to go with you?

A. He didn't have to. He already undermined the exchange. Right?

Q. Okay. You think that he has Svengali-like control over the children and can tell them when to go and when not to go --

MS. FUJII: Objection: argumentative.

Go ahead.

BY MR. SMITH:

Q. Do you -- let me rephrase the question.

Do you believe that Mitch can control the

children's desire to be with you or not be with you?

A. Yes.

Q. And you don't think you have that same control.

A. Correct.

EXHIBIT M

1
2
3 Q. BY MS. FUJII: I had asked you why not --
4 what you fear if you and Amy went on vacation for two
5 weeks and you left the kids with Christina right now,
6 and you said my fear is that Mia and Christina would
7 have another physical altercation. Is there anything
8 else?

9 A. Well, look, Mia, Ethan, and Christina
10 spend time together on Sunday. Christina
11 communicated to Mia that she wanted to spend longer
12 than Mia wanted and Mia jumped out of the moving car.
13 That's a problem.

14 Q. And when was this?

15 A. I said Sunday.

16 Q. Okay. So on Sunday it's your
17 understanding that Mia jumped out of a moving car?

18 A. Yeah, because Mia said I have a number of
19 issues that won't allow me to --

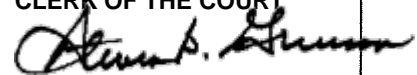
20 THE WITNESS: I mean, I don't think it's
21 funny, Christina. I mean, I think it's not funny at
22 all. In fact, I addressed this with -- with -- with
23 Mia specifically that, one, that kind of behavior is
24 not acceptable. But number two, to think about a
25 child who disagrees that -- with the time that her
26 mother is requiring her to spend with her is willing
27 to jump out of a moving car is frightening to me.
28 So, yeah, that's a fear.

14 Q. BY MS. FUJII: Okay. And the only
15 evidence that you have that Mia jumped out of a
16 moving car is Mia telling you that, correct?

17 A. Correct.

| | Exhibit N: List of Exhibits |
|----------------|---|
| Exhibit | Description |
| A | Decree of Divorce filed March 6, 2008 (Defendant Nos. 000001-000038) |
| B | Judge Frank Sullivan's Order Filed on November 4, 2010 (Defendant Nos. 000039-000058) |
| C | Judge William Potter's Order Filed on October 11, 2011 (Defendant Nos. 000059-000061) |
| D | Judge William Potter's Order Filed on July 30, 2013 (Defendant Nos. 000062-000065) |
| E | Judge Frank Sullivan's Order Filed on May 27, 2014 (Defendant Nos. 000066-000074) |
| F | Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters Filed on July 9, 2014 (Defendant Nos. 000075-000091) |
| G | Child Psychological Evaluation by Dr. Lewis Etcoff dated July 27, 2011 (Defendant Nos. 000092-000105) |
| H | Declaration of Amy Stipp In Support of Defendant's Motion for Child Interview by FMC, Mediation and To Permit Children to Exercise Teenage Discretion on Timeshare filed on September 6, 2019 (Defendant Nos. 000106-000123) |
| I | Audio File Transcribed by Depo International (08/23/2019) |
| J | Declaration of Mitchell Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and To Permit Children to Exercise Teenage Discretion on Timeshare filed on September 6, 2019 (Defendant Nos. 000124-000141) |
| K | Video File Transcribed by Depo International (09/6/2019) |
| L | Defendant's Objection to Letter by Christina Calderon's Therapist Donna Wilburn and Notice of Letter from Dr. Roy Lubit in Support of Objection filed on September 13, 2019 (Defendant Nos. 000142-000196) |
| M | Exhibits in Support of Defendant's Opposition to Ex Parte Application for Order Shortening Time on Plaintiff's Motion for Primary Physical Custody (Redacted to Remove Exhibit A) (Defendant Nos. 000197-000217) |
| N | Transcript of Deposition of Christina Calderon-December 20, 2019 (Defendant Nos. 000218-000351) |
| O | Transcript of Deposition of Christina Calderon-January 7, 2020 (Defendant Nos. 000352-000540) |
| P | Transcript of Deposition of Mitchell Stipp-January 7, 2020 (Defendant Nos. 000541-000749) |

| | |
|----|---|
| Q | Defendant's Interrogatories and Requests for Production of Documents and Admissions e-served on December 3, 2019 (Defendant Nos. 000750-000763) |
| R | Plaintiff's Responses to Defendant's Requests for Admissions e-served on December 31, 2019 (Defendant Nos. 000764-000768) |
| S | Plaintiff's Responses to Defendant's Interrogatories e-served on January 2, 2020 (Defendant Nos. 000769-000784) |
| T | Plaintiff's Responses to Defendant's Requests for Production of Documents e-served on January 2, 2020 (Defendant Nos. 000785-000883) |
| U | Plaintiff's Requests for Admissions e-served on December 12, 2019 (Defendant Nos. 000884-000892) |
| V | Plaintiff's Interrogatories e-served on December 12, 2019 (Defendant Nos. 000893-000911) |
| W | Plaintiff's Requests for Production of Documents e-served on December 12, 2019 (Defendant Nos. 000912-000920) |
| X | Emails by and between Mitchell Stipp and Christina Calderon (Defendant Nos. 000921-001097) |
| Y | Email to Dr. Knorr dated September 24, 2019 (Defendant Nos. 001098-001101) |
| Z | Schedules for Mia and Ethan Stipp (August 2019-January 2020) (Defendant Nos. 001102-001111) |
| AA | Grades and Awards (Defendant Nos. 001112-001129) |
| BB | Child Interview Report by m'Ryah Littleton from Interview on October 23, 2019 at 3:30 p.m. |



1 **ROC**

2 MITCHELL D. STIPP, ESQ.

3 Nevada Bar No.: 007531

4 LAW OFFICE OF MITCHELL STIPP

5 10120 W. Flamingo Rd., Suite 4-124

6 Las Vegas, Nevada 89147

7 Telephone: (702) 602-1242

8 mstipp@stiplaw.com

9 RADFORD J. SMITH, ESQ.

10 Nevada Bar No.: 002791

11 RADFORD J. SMITH, CHARTERED

12 2470 St. Rose Parkway, Suite 206

13 Henderson, Nevada 89074

14 Telephone (702) 990-6448

15 rsmith@radfordsmith.com

16 *Attorneys for Defendant*

17 **DISTRICT COURT**
18 **CLARK COUNTY, NEVADA**

19 CHRISTINA CALDERON,

20 Plaintiff,

CASE NO.: D-08-389203-Z

DEPT NO.: H

21 v.

FAMILY DIVISION

22 MITCHELL STIPP,

23 Defendant.

24 **RECEIPT OF COPY**

25 RECEIPT OF COPY OF Defendant's Evidentiary Hearing Exhibits (Book 1 of 2
26 and Book 2 of 2) is hereby acknowledged this 21st day of January 2020.

27 FUJII LAW OFFICES

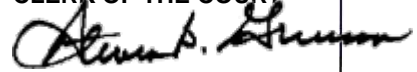


28 Valerie Fujii, Esq.

704 S. 6th Street

Las Vegas, Nevada 89101

Attorney for Plaintiff



1 **WTLT**

2 MITCHELL D. STIPP, ESQ.

3 Nevada Bar No.: 007531

4 LAW OFFICE OF MITCHELL STIPP

5 10120 W. Flamingo Rd., Suite 4-124

6 Las Vegas, Nevada 89147

7 Telephone: (702) 602-1242

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9 RADFORD J. SMITH, ESQ.

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11 RADFORD J. SMITH, CHARTERED

12 2470 St. Rose Parkway, Suite 206

13 Henderson, Nevada 89074

14 Telephone (702) 990-6448

15 rsmith@radfordsmith.com

16 *Attorneys for Defendant*

17 **DISTRICT COURT**
18 **FAMILY DIVISION**
19 **CLARK COUNTY, NEVADA**

20 CHRISTINA CALDERON,
21 Plaintiff,

CASE NO.: D-08-389203-Z
DEPT NO.: H

22 v.

Date of evidentiary hearing: 1/23/2020
Time of evidentiary hearing: 9:00 a.m.

23 MITCHELL STIPP,
24 Defendant.

25 **WITNESS LIST**

26 COMES NOW Defendant, Mitchell Stipp by and through his attorney of record,
27 Radford J. Smith, Esq. of Radford J. Smith, Chartered and designates the following
28 witnesses, who are anticipated to testify at the evidentiary hearing in this matter:

1. Mitchell Stipp
c/o Radford J. Smith, Chartered
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
2. Amy Stipp
10120 W. Flamingo Rd. #4124
Las Vegas, Nevada 89147
3. Mia Stipp
10120 W. Flamingo Rd. #4124
Las Vegas, Nevada 89147
4. Ethan Stipp
10120 W. Flamingo Rd. #4124
Las Vegas, Nevada 89147
5. Christina Calderon
c/o Valeria Fujii, Esq.
704 South Sixth Street
Las Vegas, Nevada 89101
6. Nicholas Ponzo¹
10161 Park Run Drive
Suite 150
Las Vegas, Nevada 89145
7. Defendant reserves the right to call any witnesses named and/or called by Plaintiff.

¹ Plaintiff disclosed that she intends to use at trial matters of therapy protected by the parties' 2014 parenting plan and NRS 49.246 – 49.249. Mr. Ponzo will testify if the confidentiality and privileges are waived and/or as permitted, directed or otherwise ordered by the court.

1 8. Defendant reserves the right to call additional witnesses for purposes of rebuttal
2 and/or impeachment
3
4

5 DATED this 21st day of January, 2020.

6 RADFORD J. SMITH, CHARTERED

7 K. Stutzman #14085

8 RADFORD J. SMITH, ESQ. FOR

9 Nevada Bar No.: 002791

10 2470 St. Rose Parkway, Suite 200

11 Henderson, Nevada 89074

12 (702) 990-6448

13 *Attorney for Defendant*
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Radford J. Smith, Chartered ("the Firm"). I am over the age of 18 and not a party to the within action. I am "readily familiar" with firm's practice of collection and processing correspondence for mailing. Under the Firm's practice, mail is to be deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid.

I served the foregoing document described as "Witness List" on this 21st day of January, 2020 to all interested parties as follows:

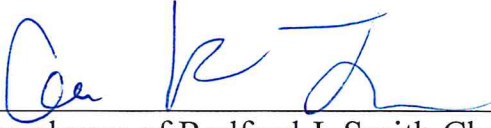
☐ BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

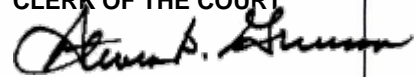
☐ BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via telecopier to the facsimile number shown below;

☒ BY ELECTRONIC SERVICE: I transmitted a copy of the foregoing document this date via the Eighth Judicial District Court's electronic filing system;

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

Valerie Fujii, Esq.
Fujii Law Offices
vip@fujii-lawlv.com
ccstipp@gmail.com
Attorney for Plaintiff


An Employee of Radford J. Smith Chartered



1 **ROC**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

6 Attorney for Plaintiff
7 **CHRISTINA CALDERON**

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

10 **CHRISTINA CALDERON,**
11 **Plaintiff,**


12 **vs.**

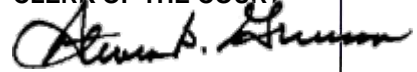
13 **MITCHELL STIPP,**
14 **Defendant.**

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

15
16 **RECEIPT OF COPY**

17 RECEIPT OF COPY of Plaintiff's Evidentiary Hearing Exhibit Binders is
18 hereby acknowledged this 21st day of January, 2020.
19

20
21 
22 **RADFORD J. SMITH, CHTD.**
23 Radford Smith, Esq.
24 2470 St. Rose Parkway, #206
25 Henderson, Nevada 89074
26 Attorney for Defendant
27 **MITCHELL STIPP**
28



1 **WTLT**

2 MITCHELL D. STIPP, ESQ.

3 Nevada Bar No.: 007531

4 LAW OFFICE OF MITCHELL STIPP

5 10120 W. Flamingo Rd., Suite 4-124

6 Las Vegas, Nevada 89147

7 Telephone: (702) 602-1242

8 mstipp@stiplaw.com

9 RADFORD J. SMITH, ESQ.

10 Nevada Bar No.: 002791

11 RADFORD J. SMITH, CHARTERED

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13 Henderson, Nevada 89074

14 Telephone (702) 990-6448

15 rsmith@radfordsmith.com

16 *Attorneys for Defendant*

17 **DISTRICT COURT**
18 **FAMILY DIVISION**
19 **CLARK COUNTY, NEVADA**

20 CHRISTINA CALDERON,
21 Plaintiff,

CASE NO.: D-08-389203-Z
DEPT NO.: H

22 v.

Date of evidentiary hearing: 1/23/2020
Time of evidentiary hearing: 9:00 a.m.

23 MITCHELL STIPP,
24 Defendant.

25 **WITNESS LIST**

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28 witnesses, who are anticipated to testify at the evidentiary hearing in this matter:

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c/o Radford J. Smith, Chartered
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
2. Amy Stipp
10120 W. Flamingo Rd. #4124
Las Vegas, Nevada 89147
3. Mia Stipp
10120 W. Flamingo Rd. #4124
Las Vegas, Nevada 89147
4. Ethan Stipp
10120 W. Flamingo Rd. #4124
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5. Christina Calderon
c/o Valeria Fujii, Esq.
704 South Sixth Street
Las Vegas, Nevada 89101
6. Nicholas Ponzo¹
10161 Park Run Drive
Suite 150
Las Vegas, Nevada 89145
7. Defendant reserves the right to call any witnesses named and/or called by Plaintiff.

¹ Plaintiff disclosed that she intends to use at trial matters of therapy protected by the parties' 2014 parenting plan and NRS 49.246 – 49.249. Mr. Ponzo will testify if the confidentiality and privileges are waived and/or as permitted, directed or otherwise ordered by the court.

1 8. Defendant reserves the right to call additional witnesses for purposes of rebuttal
2 and/or impeachment
3
4

5 DATED this 21st day of January, 2020.

6 RADFORD J. SMITH, CHARTERED

7 K. Stutzman #14085

8 RADFORD J. SMITH, ESQ. *FOR*

9 Nevada Bar No.: 002791

10 2470 St. Rose Parkway, Suite 200

11 Henderson, Nevada 89074

12 (702) 990-6448

13 *Attorney for Defendant*
14
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Radford J. Smith, Chartered ("the Firm"). I am over the age of 18 and not a party to the within action. I am "readily familiar" with firm's practice of collection and processing correspondence for mailing. Under the Firm's practice, mail is to be deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid.

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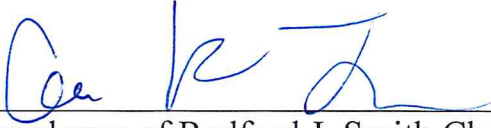
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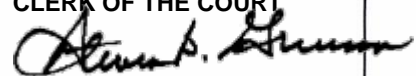
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☐ BY ELECTRONIC MAIL: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via electronic mail to the electronic mail address shown below.

Valerie Fujii, Esq.
Fujii Law Offices
vip@fujii.law.lv.com
ccstipp@gmail.com
Attorney for Plaintiff


An Employee of Radford J. Smith Chartered



ROC
VALARIE I. FUJII, ESQ.
Nevada Bar No. 005955
VALARIE I. FUJII & ASSOCIATES
704 South Sixth Street
Las Vegas, Nevada 89101
(702) 341-6464 phone
(702) 734-6464 facsimile
vip@fujiiilawlv.com

Attorney for Plaintiff
CHRISTINA CALDERON

DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

CHRISTINA CALDERON,
Plaintiff,


vs.

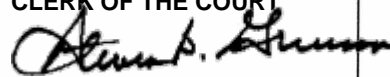
MITCHELL STIPP,
Defendant.

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

RECEIPT OF COPY

RECEIPT OF COPY of Plaintiff's Evidentiary Hearing Exhibit Binders is
hereby acknowledged this 21st day of January, 2020.


RADFORD J. SMITH, CHTD.
Radford Smith, Esq.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Defendant
MITCHELL STIPP



LIST
VALARIE I. FUJII, ESQ.
Nevada Bar No. 005955
VALARIE I. FUJII & ASSOCIATES
704 South Sixth Street
Las Vegas, Nevada 89101
(702) 341-6464 phone
(702) 734-6464 facsimile
vip@fujii-lawlv.com

Attorney for Plaintiff
CHRISTINA CALDERON

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

CHRISTINA CALDERON,

Plaintiff,

vs.

MITCHELL STIPP,

Defendant.

CASE NO.: D-08-389203-Z
DEPT. NO. H/CR 3G at RJC

Date of Evidentiary Hearing: 01-23-20
Time of Evidentiary Hearing: 9:00 a.m.

PLAINTIFF'S LIST OF WITNESSES FOR EVIDENTIARY HEARING

COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her attorney of record, VALARIE I. FUJII, ESQ., of the law office of VALARIE I. FUJII & ASSOCIATES, and hereby submits her List of Witnesses for the Evidentiary Hearing in this matter scheduled for January 23, 2020, as follows (all witnesses were previously disclosed in Plaintiff's Production of Documents and List of Witnesses Pursuant to NRCP 16.2 e-served on January 13, 2020):

1. CHRISTINA CALDERON (Plaintiff)
c/o Valarie I. Fujii, Esq.
704 South Sixth Street
Las Vegas, Nevada 89101

1 She is the Plaintiff and is expected to testify as to the relationship of the
2 parties; her relationship with the children MIA and ETHAN; Defendant's
3 relationship with the children; Plaintiff's parenting skills; Defendant's parenting
4 skills; the actions of the Defendant; Defendant's motive for withholding the
5 children; Defendant's reliance upon third parties for the physical and emotional
6 welfare of the children; the affect the litigation has had on her, the children and
7 their relationship; the physical and mental health of the parties and the children;
8 Defendant's abuse, including its affects on the minor children; and/or any other
9 matters related to the litigation of this action.
10
11

12 2. MITCHELL STIPP (Defendant)
13 c/o Radford Smith, Esq.
14 2470 St. Rose Parkway, #206
Henderson, Nevada 89074

15 He is the Defendant and is expected to testify as to the relationship of the
16 parties; Plaintiff's relationship with the children MIA and ETHAN; Defendant's
17 relationship with the children; Plaintiff's parenting skills; Defendant's parenting
18 skills; the actions and motives of the Defendant in withholding the children from
19 Plaintiff; Defendant's reliance upon third parties for the emotional and physical
20 welfare of the children; the physical and mental health of the parties and the
21 children; and/or any other matters related to the litigation of this action.
22

23 3. Amy Stipp
24 c/o Radford Smith, Esq.
25 2470 St. Rose Parkway, #206
Henderson, Nevada 89074

26 She is the Defendant's wife and is expected to testify as to her relationship
27 with the children MIA and ETHAN; her relationship with the Plaintiff;
28

1 Defendant's relationship with the children; Plaintiff's parenting skills;
2 Defendant's parenting skills; her parenting skills and her actions/inactions in
3 improving, worsening and/or aggravating the co-parenting problems between the
4 parties; her actions and motives in assisting and abetting the Defendant in
5 withholding the children from Plaintiff; Defendant's reliance upon third parties for
6 the emotional and physical welfare of the children; the physical and mental health
7 of herself, Defendant, and the children; and/or any other matters related to the
8 litigation of this action.
9

10 4. GERARDO HERNANDEZ
11 c/o Radford Smith, Esq.
12 2470 St. Rose Parkway, #206
13 Henderson, Nevada 89074

14 He is Amy Stipp's father and is expected to testify as to his care-giving of
15 the children MIA and ETHAN, and/or any other matters related to the litigation of
16 this action.

17 5. Martha Hernandez
18 c/o Radford Smith, Esq.
19 2470 St. Rose Parkway, #206
Henderson, Nevada 89074

20 She is Amy Stipp's mother and is expected to testify as to her care-giving of
21 the children MIA and ETHAN, and/or any other matters related to the litigation of
22 this action.

23 6. Mia Stipp (minor child of the parties)
24 c/o Radford Smith, Esq.
25 2470 St. Rose Parkway, #206
26 Henderson, Nevada 89074
27
28

1 Mia, Date of Birth: October 19, 2004, currently age 15 years and 3 months,
2 is the minor child of the parties, and is expected to testify regarding matters related
3 to the litigation of this action based upon the Court's direction.
4

5 7. Ethan Stipp (minor child of the parties)
6 c/o Radford Smith, Esq.
7 2470 St. Rose Parkway, #206
8 Henderson, Nevada 89074

9 Ethan, Date of Birth: March 24, 2007, currently age 12 years and 10
10 months, is the minor child of the parties, and is expected to testify regarding
11 matters related to the litigation of this action based upon the Court's direction.

12 8. Donna Wilburn, LMFT
13 10655 Park Run Drive, #210
14 Las Vegas, Nevada 89144
15 702-234-9325

16 Donna Wilburn is Plaintiff's therapist and is expected to testify as to her
17 Letter dated September 11, 2019, entitled "Urgent: Children in Crisis,
18 Recommended Protocol Regarding Child Visitation Refusal", and/or any other
19 matters related to the litigation of this action.

20 6. Elena Calderon
21 913 Hickory Park Street
22 Las Vegas, Nevada 89138
23 702-575-7465

24 Elena will testify as to the relationship between Plaintiff Christina Calderon
25 and the children MIA and ETHAN, and the relationship between the children and
26 their maternal relatives, and/or any other matters related to the litigation of this
27 action.

28

1 7. Nicholas Petsas
2 913 Hickory Park Street
3 Las Vegas, Nevada 89138
4 408-706-0636

5 Nicholas will testify as to the relationship between Plaintiff Christina
6 Calderon and the children MIA and ETHAN, and the relationship between the
7 children and their maternal relatives, and/or any other matters related to the
8 litigation of this action.

9 8. Peter Calderon
10 3136 Donnegal Bay Drive
11 Las Vegas, Nevada 89117
12 702-321-7819

13 Peter will testify as to the relationship between Plaintiff Christina Calderon
14 and the children MIA and ETHAN, and the relationship between the children and
15 their maternal relatives, and/or any other matters related to the litigation of this
16 action.

17 9. Antonia Calderon
18 3136 Donnegal Bay Drive
19 Las Vegas, Nevada 89117
20 702-759-5626

21 Antonia will testify as to the relationship between Plaintiff Christina
22 Calderon and the children MIA and ETHAN, and the relationship between the
23 children and their maternal relatives, and/or any other matters related to the
24 litigation of this action.

25 10. Anthony Calderon
26 3136 Donnegal Bay Drive
27 Las Vegas, Nevada 89117
28 725-212-0747

1 Anthony will testify as to the relationship between Plaintiff Christina
2 Calderon and the children MIA and ETHAN, and the relationship between the
3 children and their maternal relatives, and/or any other matters related to the
4 litigation of this action.
5

6 11. Allison Morris
7 8725 Newport Isle Court
8 Las Vegas, Nevada 89117
9 702-219-4880

10 Allison will testify as to the relationship between Plaintiff Christina
11 Calderon and the children MIA and ETHAN, and/or any other matters related to
12 the litigation of this action.

13 12. Mindi Gellner
14 702-278-3213

15 Mindi will testify as to the relationship of the parties, the relationship
16 between Plaintiff Christina Calderon and the children MIA and ETHAN, and
17 Defendant's relationship with the children. Mindi will also testify as to her
18 experiences attempting to co-parent and raise a child with Defendant Mitchell
19 Stipp's brother, Marshal Stipp, and/or any other matters related to the litigation of
20 this action.

21 13. Misayo Lopez
22 702-510-0922

23 Misayo is the mother of Mia's boyfriend Joey Lopez, and is expected to
24 testify as to the Mia's relationship with Joey, and her interactions and experiences
25 with the parties, and/or any other matters related to the litigation of this action.
26

27 14. Mauricio Molina
28 702-767-1557

1 Mauricio will testify as to Ethan's baseball experience and his interactions
2 with the parties, and/or any other matters related to the litigation of this action.


3 15. Scott Fogo
4 Faith Lutheran Middle & High School Principal
5 2015 South Hualapai Way
6 Las Vegas, Nevada 89117
7 702-804-4400

8 Scott will testify as to his interactions and experiences with the parties and
9 the children, and/or any other matters related to the litigation of this action.

10 Any and all witnesses identified by Defendant, including rebuttal witnesses.
11 Plaintiff reserves the right to supplement this list of witnesses, including those for
12 rebuttal and impeachment purposes.

13 DATED this 21st day of January, 2020.

14 VALARIE I. FUJII & ASSOCIATES

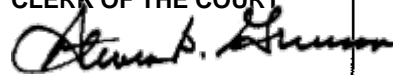
15 
16 VALARIE I. FUJII, ESQ.
17 Nevada Bar No. 005955
18 704 South Sixth Street
19 Las Vegas, Nevada 89101
20 Attorney for Plaintiff
21 CHRISTINA CALDERON
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Radford J. Smith, Esq.
RADFORD J. SMITH, CHTD.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Defendant
MITCHELL STIPP

Mitchell Stipp, Esq.
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Attorney for Defendant
MITCHELL STIPP

Sheresa Lockar
An employee of VALARIE I. FUJII & ASSOCS.



SUBP
VALARIE I. FUJII, ESQ.
Nevada Bar No. 005955
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vip@fujiiilawlv.com

Attorney for Plaintiff
CHRISTINA CALDERON

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

CHRISTINA CALDERON,

Plaintiff,

vs.

MITCHELL STIPP,

Defendant.

CASE NO.: D-08-389203-Z
DEPT. NO. H/CR 3G at RJC

Date of Appearance: January 23, 2020
Time of Appearance: 9:30 a.m.

TRIAL SUBPOENA

SUBPOENA X Regular Duces Tecum

THE STATE OF NEVADA SENDS GREETINGS TO:

Mia Stipp, a minor
c/o Mitchell Stipp
c/o Radford J. Smith, Esq.
RADFORD J. SMITH, CHTD.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074

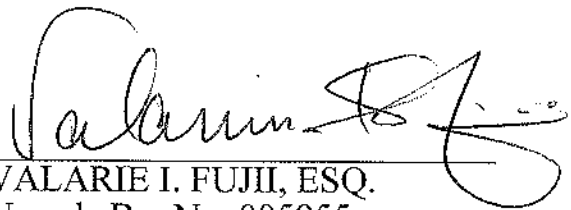
We command you, that all and singular, business and excuses being set
aside, you appear and attend, before a Notary Public, or before some other officer
authorized by law to administer oaths, at **the REGIONAL JUSTICE CENTER,**

1 The Honorable District Court Judge T. Arthur Ritchie, Family Division,
2 Department H, Courtroom 3G, Third Floor, 200 Lewis Avenue, Las Vegas,
3 Nevada 89155, on the 23rd day of January, 2020, at the hour of 9:30 a.m., then
4 and there to testify, pursuant to the Order of this Court.
5

6 If you fail to attend, you will be deemed guilty of contempt of Court and
7 liable to pay all losses and damages sustained thereby to the parties aggrieved and
8 forfeit ONE HUNDRED (\$100.00) DOLLARS in addition thereto.

9 DATED this 23rd day of January, 2020.

10 VALARIE I. FUJII & ASSOCIATES

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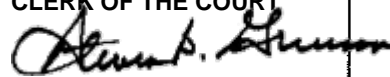
15 VALARIE I. FUJII, ESQ.
16 Nevada Bar No. 005955
17 704 South Sixth Street
18 Las Vegas, Nevada 89101
19 Attorney for Plaintiff
20 CHRISTINA CALDERON
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Radford J. Smith, Esq.
RADFORD J. SMITH, CHTD.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Defendant
MITCHELL STIPP

Mitchell Stipp, Esq.
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147

- 3 -



SUBP
VALARIE I. FUJII, ESQ.
Nevada Bar No. 005955
VALARIE I. FUJII & ASSOCIATES
704 South Sixth Street
Las Vegas, Nevada 89101
(702) 341-6464 phone
(702) 734-6464 facsimile
vip@fujiiilawlv.com

Attorney for Plaintiff
CHRISTINA CALDERON

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

CHRISTINA CALDERON,

Plaintiff,

vs.

MITCHELL STIPP,

Defendant.

CASE NO.: D-08-389203-Z
DEPT. NO. H/CR 3G at RJC

Date of Appearance: January 23, 2020
Time of Appearance: 9:30 a.m.

TRIAL SUBPOENA

SUBPOENA X Regular Duces Tecum

THE STATE OF NEVADA SENDS GREETINGS TO:

Ethan Stipp, a minor
c/o Mitchell Stipp
c/o Radford J. Smith, Esq.
RADFORD J. SMITH, CHTD.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074

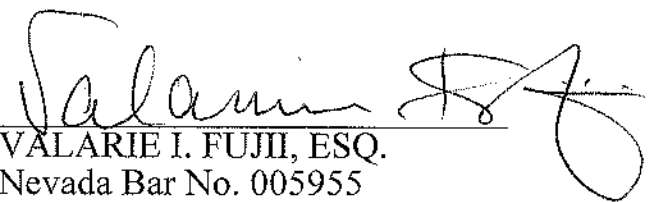
We command you, that all and singular, business and excuses being set aside, you appear and attend, before a Notary Public, or before some other officer authorized by law to administer oaths, at **the REGIONAL JUSTICE CENTER,**

1 The Honorable District Court Judge T. Arthur Ritchie, Family Division,
2 Department H, Courtroom 3G, Third Floor, 200 Lewis Avenue, Las Vegas,
3 Nevada 89155, on the 23rd day of January, 2020, at the hour of 9:30 a.m., then
4 and there to testify, pursuant to the Order of this Court.
5

6 If you fail to attend, you will be deemed guilty of contempt of Court and
7 liable to pay all losses and damages sustained thereby to the parties aggrieved and
8 forfeit ONE HUNDRED (\$100.00) DOLLARS in addition thereto.

9 DATED this 22nd day of January, 2020.

10 VALARIE I. FUJII & ASSOCIATES
11

12 
13 VALARIE I. FUJII, ESQ.
14 Nevada Bar No. 005955
15 704 South Sixth Street
16 Las Vegas, Nevada 89101
17 Attorney for Plaintiff
18 CHRISTINA CALDERON
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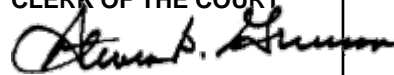
1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on this 22nd day of January, 2020, I served a
3 true copy of the ***Trial Subpoena for Ethan Stipp***, via electronic service pursuant
4 to the Nevada Electronic Filing and Conversion Rules (NEFCR), addressed as
5 follows:
6

7 Radford J. Smith, Esq.
8 RADFORD J. SMITH, CHTD.
9 2470 St. Rose Parkway, #206
10 Henderson, Nevada 89074
11 Attorney for Defendant
12 MITCHELL STIPP

11 Mitchell Stipp, Esq.
12 LAW OFFICE OF MITCHELL STIPP
13 10120 W. Flamingo Rd., Suite 4-124
14 Las Vegas, Nevada 89147

14 
15 An Employee of VALARIE I. FUJII, ESQ.
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1 **OBJ**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
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vip@fujii-lawlv.com

7 Attorney for Plaintiff
8 CHRISTINA CALDERON

9 **DISTRICT COURT, FAMILY DIVISION**

10 **CLARK COUNTY, NEVADA**

11 CHRISTINA CALDERON,)

12 Plaintiff,)

13 vs.)

14 MITCHELL STIPP,)

15 Defendant.)
16

CASE NO.: D-08-389203-Z
DEPT. NO. H/CR 3G at RJC

Date of Evidentiary Hearing: 01-23-20
Time of Evidentiary Hearing: 9:00 a.m.

17
18 **PLAINTIFF'S OBJECTION TO DEFENDANT'S PRE-TRIAL**
19 **MEMORANDUM FILED JANUARY 21, 2020**

20 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
21 attorney of record, VALARIE I. FUJII, ESQ., of the law offices of VALARIE I.
22 FUJII & ASSOCIATES, and hereby objects to Defendant MITCHELL STIPP's
23 Pre-Trial Memorandum filed on January 21, 2020.

24 Specifically, Defendant's Pre-Trial Memorandum improperly contains only
25 portions of Plaintiff's deposition testimony. The deposition is meant to be the
26 equivalent of live testimony. *Nicklo v. Peter Pan Playskool*, 624 P.2d 22, 97 Nev.
27 73 (Nev. 1981).
28

1 Plaintiff further objects to Defendant's Pre-Trial Memorandum under NRS
2 48.025(2) (providing that "[e]vidence which is not relevant is not admissible"), as
3 well as NRS 48.035(2) (allowing the exclusion of relevant evidence "if its
4 probative value is substantially outweighed by considerations of undue delay,
5 waste of time or needless presentation of cumulative evidence"); Chorney v.
6 A-Cab Co., 381 P.3d 601(Table) (Nev. 2012). If Defendant's Pre-Trial
7 Memorandum is not a needless presentation of cumulative evidence, Plaintiff's
8 counsel does not know what is.

10 Defendant's Pre-Trial Memorandum also violates NRCP Rule 32(a)(6).

11 DATED this 22nd day of January, 2020.

13 VALARIE I. FUJII & ASSOCIATES

14 
15 VALARIE I. FUJII, ESQ.

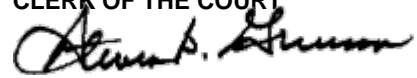
16 Nevada Bar No. 005955
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Theresa Hocklar
An employee of VALARIE I. FUJII, ESQ.



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
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2470 St. Rose Parkway, Suite 206
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Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**MOTION TO COMPEL
RESPONSES TO DISCOVERY AND
FOR ATTORNEY'S FEES AND
COSTS**

**[HEARING REQUESTED BEFORE
DISCOVERY COMMISSIONER]**

Defendant, Mitchell Stipp, as co-counsel of record, hereby files the above-referenced motion. This motion is based on the papers and pleadings on file in this case, the memorandum of points and authorities that follow, and Defendant's exhibits filed concurrently herewith.

1 Dated: January 29, 2020

2 **LAW OFFICE OF MITCHELL STIPP**

3 /s/ Mitchell Stipp, Esq.
4 MITCHELL STIPP, ESQ.
Nevada Bar No. 7531
5 LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
6 Las Vegas, Nevada 89147
Telephone: 702.602.1242
7 mstipp@stipplaw.com
Attorneys for Defendant
8

9 **MEMORANDUM OF POINTS AND AUTHORITIES**

10 There was an evidentiary hearing on January 23, 2020 and continued hearing
11 scheduled on March 5, 2020 to address physical custody. Defendant served written
12 discovery on December 3, 2019. **See Exhibit A.** Plaintiff, Christina Calderon
13 (“Plaintiff”), e-served her responses on December 31, 2019 (responses to requests for
14 admissions) and January 2, 2020 (responses to interrogatories and requests for
15 production of documents). Plaintiff’s responses to Defendant’s interrogatories and
16 requests for production of documents are included as part of **Exhibit B.**
17
18
19

20 NRCP 37(a) provides as follows (emphasis added):

21 Rule 37. Failure to Make Disclosures or to Cooperate in
22 Discovery; Sanctions

23 (a) Motion for an Order Compelling Disclosure or Discovery.

24 (1) In General. On notice to other parties and all affected
25 persons, a party may move for an order compelling disclosure or
26 discovery. The motion must include a certification that the movant has
27 in good faith conferred or attempted to confer with the person or party
28 failing to make disclosure or discovery in an effort to obtain it without
court action.

(2) Appropriate Court. A motion for an order to a party must
be made in the court where the action is pending. A motion for an order
to a nonparty must be made in the court where the discovery is or will

1 be taken.

2 (3) Specific Motions.

3 (A) To Compel Disclosure. If a party fails to make a
4 disclosure required by Rule 16.1(a), 16.2(d), or 16.205(d), any other
5 party may move to compel disclosure and for appropriate sanctions.

6 (B) To Compel a Discovery Response. A party seeking
7 discovery may move for an order compelling an answer, designation,
8 production, or inspection. This motion may be made if:

9 (i) a deponent fails to answer a question asked
10 under Rule 30 or 31;

11 (ii) a corporation or other entity fails to make a
12 designation under Rule 30(b)(6) or 31(a)(4);

13 (iii) a party fails to answer an interrogatory
14 submitted under Rule 33; or

15 (iv) a party fails to produce documents or fails to
16 respond that inspection will be permitted — or fails to permit inspection
17 — as requested under Rule 34.

18 (C) Related to a Deposition. When taking an oral
19 deposition, the party asking a question may complete or adjourn the
20 examination before moving for an order.

21 (4) Evasive or Incomplete Disclosure, Answer, or Response.
22 For purposes of Rule 37(a), an evasive or incomplete disclosure,
23 answer, or response must be treated as a failure to disclose, answer, or
24 respond. A party's production of documents that is not in compliance
25 with Rule 34(b)(2)(E)(i) may also be treated as a failure to produce
26 documents.

27 (5) Payment of Expenses; Protective Orders.

28 (A) If the Motion Is Granted (or Disclosure or Discovery
Is Provided After Filing). If the motion is granted — or if the
disclosure or requested discovery is provided after the motion was filed
— the court must, after giving an opportunity to be heard, require the
party or deponent whose conduct necessitated the motion, the party or
attorney advising that conduct, or both to pay the movant's reasonable
expenses incurred in making the motion, including attorney fees. But
the court must not order this payment if:

(i) the movant filed the motion before attempting
in good faith to obtain the disclosure or discovery without court action;

(ii) the opposing party's nondisclosure, response,
or objection was substantially justified; or

(iii) other circumstances make an award of
expenses unjust.

(B) If the Motion Is Denied. If the motion is denied, the

1 court may issue any protective order authorized under Rule 26(c) and
2 must, after giving an opportunity to be heard, require the movant, the
3 attorney filing the motion, or both to pay the party or deponent who
4 opposed the motion its reasonable expenses incurred in opposing the
5 motion, including attorney fees. But the court must not order this
6 payment if the motion was substantially justified or other circumstances
7 make an award of expenses unjust.

8 (C) If the Motion Is Granted in Part and Denied in Part.
9 If the motion is granted in part and denied in part, the court may issue
10 any protective order authorized under Rule 26(c) and may, after giving
11 an opportunity to be heard, apportion the reasonable expenses for the
12 motion.

13 If a party resists discovery, the requesting party may file a motion to compel. See
14 NRCP 37. A facially valid motion to compel has two components. First, the motion
15 must certify that the movant has in good faith conferred or attempted to confer with the
16 party resisting discovery. ShuffleMaster, Inc. v. Progressive Games, Inc., 170 F.R.D.
17 166, 171 (D. Nev. 1996). Second, the motion must include a threshold showing that
18 the information in controversy is relevant and discoverable under NRCP 26. See Hofer
19 v. Mack Trucks, Inc., 981 F.2d 377, 380 (8th Cir. 1992) (citing Oppenheimer Fund, Inc.
20 v. Sanders, 437 U.S. 340, 352 (1978)).

21 Defendant and his co-counsel, Radford Smith, have in good faith conferred with
22 Plaintiff's attorney, Valerie Fujii, regarding the deficiencies in Plaintiff's responses to
23 Defendant's discovery, and the disputes have not been resolved. See Exhibit C.

24 ///

25 ///

26 ///

27 ///

1 A. Plaintiff fails properly to answer Defendant's Interrogatories

2 Defendant propounded Interrogatory # 8 which provides as follows:

3 **INTERROGATORY #8:**

4 Do you claim to have been denied access to the children by the adverse
5 party? If so, describe each such event by providing the date access was
6 requested, the response date (if any), and the content of the response.
7

8
9 Plaintiff's response to Interrogatory #8 was as follows:

10
11 **ANSWER NO. 8:**

12 The circumstances involved with respect to Mitchell's unwillingness to
13 abide by the stipulation and Court Order of joint custody is fully set forth in all of
14 the documents that I have filed following Mitch's August 23, 2019, refusal to
15 abide by the existing custodial order, to wit: a) Plaintiff's Motion for Order to
16 Show Cause Against Defendant for Wilfully Disobeying the Custody Order; a
17 Request for Immediate Return of the Children, Make Up Visitation and an Award
18 of Attorney's Fees, filed on August 29, 2019; b) Ex Parte Application for Order to
19 Show Cause filed on August 30, 2019; c) Plaintiff's Opposition to Defendant's
20 Motion for Child Interview by FMC and Related Relief; and Countermotion for
21 Immediate Return of the Children, Make-up Visitation, Sanctions, and Award of
22 Attorney's Fees, filed on September 11, 2019; d) Plaintiff's Ex Parte Application
23 for Order Shortening Time filed on September 26, 2019; e) Plaintiff's Emergency
24 Motion for Temporary Primary Physical Custody and Request for Writ of
25 Attachment Order and Attorney's Fees filed on October 9, 2019; and all related
26 affidavits and exhibits in support of the above-referenced filings.

27 No objections were provided. Instead, Plaintiff fails to answer the interrogatory and
28 refers Defendant to the filings in the case. Plaintiff's allegation is Defendant has denied

1 her access to the children in accordance with the parties' parenting plan. Reference to
2 the docket is non-responsive.

3 Defendant propounded Interrogatory # 9 which provides as follows:

4
5 **INTERROGATORY #9:**

6 Do you claim that it is the preference of either child to be in your physical
7 custody, and if so, state each date when such preference was expressed, the
8 circumstances giving rise to such expression, and the words used in
9 expressing the preference, and the names of any witnesses to such
10 expressions.
11

12
13 Plaintiff's response to Interrogatory #9 was as follows:

14
15
16 1 **ANSWER NO. 9:**

17 2 Mia and Ethan should be exercising custodial time with me as set forth in
18 3 our existing custodial order, which the Court has affirmed is still valid and
19 4 operative in our case.
20 5

21
22 No objections were provided. Instead, Plaintiff fails to answer the interrogatory and
23 provides an argument. If it is not her claim, then the answer is "no." If it is her claim,
24 then the answer is "yes," and she is obligated to provide the explanation requested.
25

26 ///

27 ///

1 Defendant propounded Interrogatory # 11 which provides as follows:

2 **INTERROGATORY #11:**

3 Describe in detail what efforts you have undertaken to spend time with each
4 of the children since August 23, 2019.

5 Plaintiff's response to Interrogatory #11 was as follows:

6
7 **ANSWER NO. 11:**

8 The efforts I have undertaken to spend time with each of the children since
9 August 23, 2019, consist of multiple written communications to Mitchell via text
10 message and email to request his compliance with the existing custodial order and
11 are detailed in the following court filings: a) Plaintiff's Motion for Order to Show
12 Cause Against Defendant for Wilfully Disobeying the Custody Order; a Request

13 for Immediate Return of the Children, Make Up Visitation and an Award of
14 Attorney's Fees, filed on August 29, 2019; b) Ex Parte Application for Order to
15 Show Cause filed on August 30, 2019; c) Plaintiff's Opposition to Defendant's
16 Motion for Child Interview by FMC and Related Relief; and Countermotion for
17 Immediate Return of the Children, Make-up Visitation, Sanctions, and Award of
18 Attorney's Fees, filed on September 11, 2019; d) Plaintiff's Ex Parte Application
19 for Order Shortening Time filed on September 26, 2019; e) Plaintiff's Emergency
20 Motion for Temporary Primary Physical Custody and Request for Writ of
21 Attachment Order and Attorney's Fees filed on October 9, 2019; and all related
22 affidavits and exhibits in support of the above-referenced filings.

23 No objections were provided. Instead, Plaintiff fails to answer the interrogatory and
24 refers Defendant to the filings in the case. Plaintiff's allegation is Defendant has denied
25 her access to the children in accordance with the parties' parenting plan. Defendant is
26 entitled to know what efforts Plaintiff has undertaken to spend time with the children.
27 Reference to the docket is non-responsive.
28

1 Defendant propounded Interrogatory # 12 which provides as follows:

2 **INTERROGATORY #12:**

3 State the general condition of your physical and mental health at the present time,
4 including reference to any physical disabilities or chronic ailments, continuing
5 diagnosis, mental health disorders, prescribed medication, and continuing treatment
6 or care plans, including the name, address and telephone number of any physician,
7 hospital or practitioner, psychologist, psychiatrist, or mental health professional
8 who is presently or has at any time in the past five years treated you for such
9 condition.
10

11
12 Plaintiff's response to Interrogatory #12 was as follows:

13
14 **ANSWER NO. 12:**

15 I am in good health. I do not have any physical disabilities or chronic
16 ailments or mental health disorders for which I am prescribed medication or a
17 continuing treatment or care plan.

18 No objections were provided. Instead, Plaintiff qualifies her response with reference to
19 **physical disabilities or chronic ailments or mental health disorders** for which she is
20 **prescribed medication or a continuing treatment or care plan.** This was not the
21 question. Plaintiff testified at her deposition that she receives counseling services from
22 Ann Nichols (personal therapist), Donna Wilburn (personal therapist/parent coach), and
23 Nicholas Ponzo (family therapy). **See Exhibit D.** These mental health providers were
24 not disclosed and details requested in the response to the interrogatory. Since Plaintiff's
25
26
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1 fitness as a parent is at issue, Defendant is entitled to a complete response to this
2 interrogatory without qualifications.

3 Defendant propounded Interrogatory # 14 which provides as follows:

4 **INTERROGATORY #14:**

5 Identify each person who has knowledge of the facts and events described in the papers and
6 pleadings filed in this case on or after August 26, 2019 or in any answers to these Interrogatories
7 or who may testify at any proceeding in this matter, including the following information:

- 8
- 9 a. Name;
- 10 b. Address;
- 11 c. Telephone;
- 12 d. Email address;
- 13 e. Topic of anticipated testimony;
- 14 f. Identify whether the person is expected to testify; and
- 15 g. Identify any documents in the person's custody or control relevant to any issue in this
- 16 matter.
- 17
- 18
- 19

20 Plaintiff's response to Interrogatory #14 was as follows:

21 **ANSWER NO. 14:**

22 Mitchell Stipp, Amy Stipp, Gerardo Hernandez, Martha Hernandez, James
23 Upp, Joseph Robert Trautman, Misayo Lopez, Allison Morris, Elena Calderon,
24 Peter Calderon, Anthony Calderon, Antonia Calderon, Nicholas Petsas, and Donna
25 Wilburn. In addition, discovery is continuing and Plaintiff reserves her right to
26 supplement this Answer as additional information becomes available.

27

28 No objections were provided. However, Plaintiff lists potential fact witnesses by name

1 but does not provide any other information requested by this interrogatory. Plaintiff's
2 answer is not complete.

3 Defendant propounded Interrogatory # 15 which provides as follows:
4

5 **INTERROGATORY #15:**

6 The factors set forth below are derived from NRS 125C.0035(4) and are
7 used by the court in determining the best interest of the children with respect to
8 custody and timeshare. With respect to the following, state each material fact upon
9 which you rely and the name, address, and telephone number of each witness to
10 such material facts:

11 (a) The wishes of each child if the child is of sufficient age and capacity
12 to form an intelligent preference as to his or her physical custody.
13

14 (b) Any nomination of a guardian for each child by a party.

15 (c) Which party is more likely to allow each child to have frequent
16 associations and a continuing relationship with the non-custodial party.

17 (d) The level of conflict between the parties.

18 (e) The ability of the parties to cooperate to meet the needs of each
19 child.
20

21 (f) The mental and physical health of the parties.

22 (g) The physical, developmental and emotional needs of each child.

23 (h) The nature of the relationship of each child with each party.

24 (i) The ability of each child to maintain a relationship with any sibling.

25 (j) Any history of parental abuse or neglect of each child or a sibling of
26 the child.
27
28

1 (k) Whether either party seeking physical custody has engaged in an act
2 of domestic violence against either child, a parent of either child or any other person
3 residing with either child.

4 (l) Whether either party seeking physical custody has committed any
5 act of abduction against either child or any other child.
6
7

8 Plaintiff's response to Interrogatory #15 was as follows:

9 **ANSWER NO. 15:**

10 Please see the detailed analysis previously provided to you in my Court
11 filings, including, in particular, Plaintiff's Emergency Motion for Temporary
12 Primary Physical Custody and Request for Writ of Attachment Order and
13 Attorney's Fees filed on October 9, 2019, which sets forth the facts in support of
14 the factors identified in this interrogatory, as well as the following: a) Plaintiff's
15 Motion for Order to Show Cause Against Defendant for Wilfully Disobeying the
16 Custody Order; a Request for Immediate Return of the Children, Make Up
17 Visitation and an Award of Attorney's Fees, filed on August 29, 2019; b) Ex Parte

18 Application for Order to Show Cause filed on August 30, 2019; c) Plaintiff's
19 Opposition to Defendant's Motion for Child Interview by FMC and Related
20 Relief; and Countermotion for Immediate Return of the Children, Make-up
21 Visitation, Sanctions, and Award of Attorney's Fees, filed on September 11, 2019;
22 d) Plaintiff's Ex Parte Application for Order Shortening Time filed on September
23 26, 2019; and all related affidavits and exhibits in support of the above-referenced
24 filings.

25 No objections were provided. Instead, Plaintiff fails to answer the interrogatory
26 and refers Defendant to the filings in the case. The best interest of the children is
27 relevant to the analysis of physical custody. Defendant is entitled to know Plaintiff's
28 response to the factors in NRS 125C.0035(4) Reference to the docket is non-

1 responsive.

2 B. Plaintiff fails to produce documents required by Defendant's Request for
3 Production.
4

5 In response to Defendant's requests for production #1, #3, #4, #9, #10, #12, and
6 #15, Plaintiff makes no objections, produces nothing, and refers Plaintiff to the docket
7 in this case. Reference to the docket is non-responsive.
8

9 With respect to Defendant's requests for production #5, Plaintiff stated that she
10 would produce baseball and music performance videos of the children. However, the
11 request was broader. In addition, Plaintiff never produced even these videos.
12

13 Request #7 asks for medical records. Plaintiff provides no objections and
14 produces nothing. Plaintiff responds she does not have chronic illness, physical
15 disability, addiction or rehabilitation treatment, mental health diagnosis, mental health
16 treatment or mental health testing. This statement is not responsive to the request.
17 Moreover, Plaintiff admits during her deposition to receiving services from multiple
18 therapists (Ann Nichols, Donna Wilburn, and Nicholas Ponzo). See Exhibit D.
19
20

21 Request #13 asks for communications and documents provided to Donna
22 Wilburn. Plaintiff responds as follows:
23

24 RESPONSE TO REQUEST NO. 13:

25 I do not recall specifically what documents or communications Donna
26 Wilburn reviewed in connection with her letter dated September 11, 2019, entitled
27 "Recommended Protocol Regarding Child Visitation Refusal." In addition,
28 discovery is continuing and Plaintiff reserves her right to supplement this
Response as additional information and documentation become available.

1 No objections were made. This response is non-responsive. Plaintiff has the ability to
2 review her emails (or other communications) and consult with Ms. Wilburn regarding
3 the documents and communications Plaintiff provided to her. Ms. Wilburn wrote a letter
4 in support of Plaintiff's requested relief. She has listed Ms. Wilburn as a witness.
5 However, Plaintiff has produced nothing.

7 Request #3 provides as follows:

8
9 **REQUEST FOR PRODUCTION # 3:**

10 Provide all documentation which tend to support the ability (or inability) of the parties
11 to work with one another to resolve disputes.

12
13 As discussed above, Plaintiff referred Defendant to the docket in this case:

14
15 **RESPONSE TO REQUEST NO. 3:**

16 Please see all of the documents listed in the 71 pages consisting of the
17 current docket sheet available on Odyssey for Case No. D-08-389203-Z. 52 of 71
18 pages consist of documents filed by the parties from 2008-2014. Ten pages
19 consist of filings from August 29, 2019, to the present. There was NO
20 LITIGATION between July 2014 to August 2019. The remainder are
21 financial/administrative entries. In addition, discovery is continuing and Plaintiff
reserves her right to supplement this Response as additional information and
documentation become available.

22 Clearly, there are documents responsive to this request. Plaintiff testified that she
23 recorded an "in-person" parent meeting at Starbucks after Plaintiff and one of the
24 parties' minor children were in a physical fight. **See Exhibit D.** The term "documents"
25 is defined and includes the audio recording and the transcript of the recording. Plaintiff
26 disclosed the audio recording on the last day of discovery (1/13/2020) despite allegedly
27
28

1 being provided to Plaintiff's attorney (together with the transcript) for disclosure.
2 However, the transcript has not been produced. Reference to the docket is non-
3 responsive.
4

5 For the reasons set forth above, Defendant's motion to compel should be granted,
6 and he should be awarded \$5,000.00 in attorney's fees and costs.

7 Dated: January 29, 2020
8

9 **LAW OFFICE OF MITCHELL STIPP**

10 /s/ Mitchell Stipp, Esq.
11 MITCHELL STIPP, ESQ.
12 Nevada Bar No. 7531
13 LAW OFFICE OF MITCHELL STIPP
14 10120 W. Flamingo Rd., Suite 4-124
15 Las Vegas, Nevada 89147
16 Telephone: 702.602.1242
17

18 **DECLARATION OF MITCHELL STIPP**

19 I hereby declare and state as follows:
20

21 1. I am competent and willing to testify in a court of law as to the facts contained in
22 this motion (which are incorporated herein by this reference) and exhibits which are
23 filed concurrently herewith.
24

25 2. I have personal knowledge of these facts, save those stated upon information
26 and/or belief, and as to those matters, I believe them to be true.
27

28 /s/ Mitchell Stipp

Mitchell Stipp

///

///

1
2 **CERTIFICATE OF SERVICE**

3 I HEREBY CERTIFY that on the 29th day of January, 2020, I filed the foregoing
4 together with Defendant's Exhibits using the Court's E-filing system, which provided
5 notice to the e-service participants registered in this case.
6

7
8 By: */s/ Amy Hernandez*
9

10 _____
11 An employee of the Law Office of Mitchell Stipp
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MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Christina Calderon

Plaintiff/Petitioner

v.
Mitchell Stipp

Defendant/Respondent

Case No. D-08-389203-Z

Dept. H

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

| | |
|---|--|
| <input checked="" type="checkbox"/> \$25 | The Motion/Opposition being filed with this form is subject to the \$25 reopen fee. |
| -OR- | |
| <input type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because: |
| <input type="checkbox"/> | The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered. |
| <input type="checkbox"/> | The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order. |
| <input type="checkbox"/> | The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____. |
| <input type="checkbox"/> | Other Excluded Motion (must specify) _____. |

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

| | |
|--|--|
| <input checked="" type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because: |
| <input type="checkbox"/> | The Motion/Opposition is being filed in a case that was not initiated by joint petition. |
| <input checked="" type="checkbox"/> | The party filing the Motion/Opposition previously paid a fee of \$129 or \$57. |
| -OR- | |
| <input type="checkbox"/> \$129 | The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order. |
| -OR- | |
| <input type="checkbox"/> \$57 | The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129. |

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☐ **\$0** ☒ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Mitchell Stipp Date 1/29/2020

Signature of Party or Preparer /s/ Mitchell Stipp