



	of the Children, for Dissolution of the TPO and for Related Relief		AA000125
8.	Defendant's Motion to Extend the Temporary Protective Order, to Change Custody, for an Interview of the Minor Children, and for Related Relief	3/27/20	AA000126-AA000152
9.	Plaintiff's Opposition to Defendant's Motion to Extend the Temporary Protective Order, to Change Custody, for an Interview of the Minor Children, and for Related Relief	4/10/20	AA000153-AA000182
10.	Plaintiff's Reply to Defendant's Opposition Motion for Immediate Return of the Children, for Dissolution of the TPO and for Related Relief	4/15/20	AA000183-AA000206
	<b>VOLUME 2</b>		
11.	Defendant's Opposition to Plaintiff's Motion for Immediate Return of the Children, for Dissolution of the TPO, and for Related Relief	4/19/20	AA000207-AA000241
12.	Defendant's Reply to Plaintiff's Opposition to Motion to Extend the Temporary Protective Order, to Change Custody, for an Interview of the Minor Children, and for Related Relief	4/20/20	AA000242-AA000275
13.	Notice of Entry of Order from April 22, 2020, Hearing	6/1/20	AA000276-AA000287
14.	Notice of Entry of Decree of Divorce	4/8/21	AA000288-AA000316
15.	Minutes from September 4, 2020, Hearing	9/4/20	AA000317-AA000320
16.	Defendant's Motion to Correct Clerical in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative, Set Aside the Terms in the Decree of Divorce Regarding Division of the 529 Accounts and for Attorney's Fees and Costs	9/27/21	AA000321-AA000334
17.	Plaintiff's Opposition Motion to Correct	10/12/21	AA000335-

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	Clerical in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative, Set Aside the Terms in the Decree of Divorce Regarding Division of the 529 Accounts and for Attorney’s Fees and Costs, and Countermotion for Immediate Return of Hannah to Jim’s Custody, an Order that Hannah Immediately Participate in Therapy with Dee Pierce, Ph.D., an Order that Hannah Have a Forencis Pyschiatric Evaluation, an Order Requiring the Parties to Participate in Co-Parenting Counseling with Bree Mullin, Ph.D., Sole Legal Custody, School Choice Determination, Return of the Children’s Passports, and Attorney’s Fees and Costs		AA000376
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EXHIBIT 11

EXHIBIT 11

EXHIBIT 11



*Steven D. Grierson*

1 **OPPS**

2 FRED PAGE, ESQ.

3 NEVADA STATE BAR NO. 6080

4 PAGE LAW FIRM

5 6930 SOUTH CIMARRON ROAD, SUITE 140

6 LAS VEGAS, NEVADA 89113

7 TELEPHONE: (702) 823-2888

8 FACSIMILE: (702) 628-9884

9 [fredpage.lawfirm.com](http://fredpage.lawfirm.com)

10 *Attorney for Defendant*

11 **EIGHTH JUDICIAL DISTRICT COURT**  
12 **COUNTY OF CLARK**  
13 **STATE OF NEVADA**

14 JAMES W. VAHEY,

15 Plaintiff,

16 v.

17 MINH NGUYET LUONG,

18 Defendant,

) Case No.: D-18-58144-D

) Dept.: H

) **Hearing Date: May 5, 2020**

) **Hearing Time: 10:00 a.m.**

19 **DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR**  
20 **IMMEDIATE RETURN OF THE CHILDREN, DISSOLUTION OF TPO,**  
21 **MODIFICATION OF CHILD CUSTODY, APPOINTMENT OF A NEW**  
22 **THERAPIST FOR THE CHILDREN, AN ORDER TO SHOW CAUSE**  
23 **WHY DEFENDANT SHOULD NOT BE HELD IN CONTEMPT,**  
24 **AND**  
25 **TO RESOLVE OTHER PARENT CHILD ISSUES**

26 COMES NOW Defendant, MINH NGUYET LUONG, by and through her  
27 counsel, Fred Page Esq., of Page Law Firm and hereby submits her Opposition to  
28 Plaintiff's Motion for Immediate Return of the Children, Dissolution of TPO,  
Modification of Child Custody, Appointment of a New Therapist for the

1 Children, an Order to Show Cause Why Defendant Should Not Be Held in  
2 Contempt and to Resolve Other Parent Child Issues. This Opposition is based  
3 upon the papers and pleadings on file, the attached Points and Authorities, and  
4 any oral argument that this Court may wish to entertain.  
5

6 DATED this 17 day of March 2020

7  
8 PAGE LAW FIRM

9  
10 Fred Page, Esq.  
11 Nevada State Bar No. 6080  
12 6930 South Cimarron Road, Suite 140  
13 Las Vegas, Nevada 89113  
14 (702) 823-2888  
15 *Attorney for Defendant*

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I.**

18 **STATEMENT OF FACTS**

19 Defendant, MINH LUONG (hereinafter "Minh") incorporates the  
20 Statement of Facts from her Motion to Extend Temporary Protective Order T-  
21 20-T204489-T to Change Custody on an Interim Basis, for an Interview of the  
22 Minor Children, and to Change Custody by reference as though fully set forth  
23 herein.  
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## II. OPPOSITION

It is apparent that Jim has become excessively aggressive toward Minh in a desperate effort to deflect the Court's attention from the fact that he committed acts of domestic violence against Minh the fact that the children are doing very poorly in his care.

Most distressingly, Jim makes the out and out false statement that Minh has stated that she is not going to return the minor children. **AT NO POINT HAS THAT EVER BEEN STATED BY MINH.** To the contrary, one of the last communications to Jim's counsel **STATED THE EXACT OPPOSITE.**

An email to Jim's counsel dated March 22, 2020, stated,

To protect the integrity of the criminal investigation and prosecution, and thereby protect the children's best interests, a no contact order should be stipulated to by Jim for the protection of the children until the criminal matter is resolved. Dr. Luong and the children need time to heal and feel safe as well. Under Chapter 178 of the Nevada Revised Statutes victim and witness information shall remain confidential. It should go without saying that if victim and witness information shall remain confidential there shall be no contact between the perpetrator of the crime and the witnesses to the crime.

Please provide Jim's agreement.

**AGAIN, AT NO POINT DID MINH EVER STATE SHE WAS GOING TO VIOLATE THE COURT'S ORDER.**

Jim's response was, "the issue will be addressed by the Court." Jim's "Motion" can be summarized as 25 pages of personal attacks against Minh, and

1 her counsel, to avoid the fact that Jim committed acts of domestic violence  
2 against her and was arrested.

3  
4 **A. Jim Has Failed to Comply With EDCR 5.501**

5 It is a jurisdictional requirement to Jim to first try and resolve matters  
6 outside of court. Jim admits that he never tried anything outside of court before  
7 filing his "emergency" Motion.  
8

9 **B. Jim's Misstatements of Fact Should be Addressed**

10 As often occurs in the family division of district court, Jim's claimed  
11 statement of facts is replete with misstatements. Minh will attempt to address  
12 the most significant of those misstatements below.  
13

14 Jim complains that Minh refuses to make eye contact with him. Mot. at  
15 page 3, line 28. Eye contact is irrelevant. Jim betrayed the agreement he and  
16 Minh had to move to California. Jim cannot create the problem and then  
17 complain of the problem he creates.<sup>1</sup> There is no contact at the visitation  
18 exchanges because refuses to assist and then goes back inside the house and  
19 resumes watching television.  
20  
21

22 Jim claims that Minh has called him an "idiot, scum of the earth, and a  
23 piece of shit" in front of the children. Mot. at page 4, lines 2-3. Jim apparently  
24 records everything. If there was an audio recording of Minh calling him any of  
25

26  
27 <sup>1</sup> Jim's narcissistic lack of insight should be seen as troubling.  
28

1 those terms, it would have been attached to his Ex Parte Application for an  
2 Order to Show Cause.

3  
4 Jim complains about the exchange that occurred on March 1, 2020. Jim  
5 admits that he "waited for an hour and a half for the children to get out of  
6 Minh's RV." Mot. at page 4, line 4, to page 5 line 14.

7  
8 After refusing to help Minh for an hour and a half, and apparently  
9 recording the entire hour and a half, as Minh was struggling to get the children  
10 out of her vehicle for an hour and a half, Jim has the temerity to complain Minh  
11 because she paused in her efforts in efforts to get the children out of her vehicle,  
12 "are you helping to bring them in or are you just sitting there."

13  
14 Jim then has the further temerity for complain that after he left her alone  
15 for an hour and a half to try and get the children out of her vehicle that Minh  
16 expresses her frustration after receiving no co-parenting from him.

17  
18 Jim actually complains after he abandoned Minh to leave her to struggle  
19 with the children in the RV for an hour and a half, by herself, that she pointed  
20 out that he is "beneath her" "a low life," and "beneath her."<sup>2</sup> Jim is oblivious as  
21  
22  
23

24  
25 <sup>2</sup> Jim actually complains that after an hour and a half of smugly watching Minh  
26 struggle with the children, who clearly unhappy residing with him that Minh  
27 does not wish to communicate with him.  
28

1 to how he criticizes Minh with "are just sitting there," "you're their mother,  
2 you're their mother."

3  
4 Jim then tries to goad Minh after she tells him that she is not speaking to  
5 him because he refused to with the children, by asking her the "children have  
6 eaten." The children are old enough to tell Jim if he asks them.

7  
8 Jim asked Minh when the children had eaten for the express purpose of  
9 trying to provoke a reaction. Jim could have and should have asked the  
10 children. They are capable of responding. Instead, Jim tried to instigate conflict  
11 by trying to get a response from Minh after she told him that not to speak to her.  
12

13 It is extremely difficult to see how Jim including self-selected excerpts of  
14 this exchange between Minh and Jim helps him in any way. It should be  
15 distressing for everyone to read that Jim admits that he smugly watched the  
16 mother of their children struggle for an hour and a half of trying to get children  
17 who are fighting her and who do not want to return him. Minh's restraint after  
18 struggling in this situation for an hour and a half after receiving no help from  
19 Jim and being taunted should be seen as being remarkable.  
20

21  
22 Jim could have done anything other than have complete disregard for  
23 Minh (and the children) trying to get the children out of her vehicle. Instead  
24 Jim stood there, taunting Minh by doing nothing for an hour and a half while  
25 she struggled. The children watched Jim act in a completely abhorrent way to  
26 their mother for an hour and a half, and then Jim complains about seven words  
27  
28

1 that occurred in a span of less than five seconds and then wants a pat on the  
2 back for the situation he helped create. The children are intelligent. It is little  
3 wonder the children resent him, choose their mother over him, and run away.  
4

5 Jim then claims on page 5 lines 17-19, that he tries "to coax the children  
6 to leave Minh's vehicle with no assistance from Minh." The allegation is  
7 completely false. It is Minh who is the one struggling to get the children out of  
8 her vehicle when her visitation has ended.  
9

10 Jim further claims that another time, no time period is provided, that the  
11 children were sitting in the back bed of the RV and Minh was sitting in the  
12 middle of the RV texting. Mot. at page 5, lines 21-23. The claim is simply  
13 false.  
14

15 Below are examples of texts that Minh sends to Jim trying, in vain, to get  
16 his assistance from him.  
17



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28

Wahay Jim



And you shouldn't. You should just talk to them. They are doing this for you.

---

they don't. please let me know so i can put it away.  
Can you at least help me to take care of the kids?



I've been out there four times. And you wrote and sent that latest text while I was standing out there for the fourth time.



Minh advises that Jim would come out and say "hi" to the children and say that he was going to count to "5" and then he will leave to go back into his house. Jim then turns to tells Minh that it is her responsibility to get them into his house and then leaves Minh with the children.

Minh reports that at one of the events where Minh had to call the police to come and help because Jim was inside his house watching football. The



1 officer went into Jim's house and asked him to come out to help carry the  
2 children in. Jim told the officer that he does not want to do that.<sup>3</sup>

3  
4 Jim made a few threats to the children and then again left to go inside his  
5 house leaving Minh and the officers to deal with the children. With the  
6 officers' authority figure, the children are more willing and at that point Minh  
7 has to carry each one of the three children into Jim's home by herself. At  
8 another event, because Jim did not come out to help bring in the children or  
9 their belongings.

10  
11 If Jim were actually giving an accurate account, there would not be  
12 messages from Minh asking Jim to come out and help with the children.

13  
14 On page 5, line 26, line 24 to page 6, line 14. Jim then attaches an email  
15 exchange that *contradicts* his claim that Minh does not communicate or co-  
16 parent as the parties discuss visitation, Minh responds and the parties cooperate.

17  
18 On page 5, line 26, to page 6, line 20. Jim claims that the he was  
19 "confused" as to when Spring Break was going to occur and that Minh "knew"  
20 of his mistake and should have told him. The claim by Jim is false and is  
21 demonstrably false.

22  
23 On March 15, Jim forwarded the following email to Minh,  
24  
25

26  
27 <sup>3</sup> As indicated in Minh's Motion, she is in the process of trying to get those  
28 Incident Reports.

1 The kids (sic) school made some changes regarding subject  
2 material and timing of spring break. I wanted to make sure you  
3 were aware of it as soon as possible.

4 **From:** Challenger School <noreply@qemailserver.com>  
5 **Date:** March 14, 2020 at 3:52:36 PM PDT  
6 **To:** Jim Vahey <hotsail.jim@gmail.com>  
7 **Subject:** COVID-19 Update  
8 **Reply-To:** Challenger School <noreply@challengerschool.com>

9 March 14, 2020

10 Dear Parents of Challenger Students Attending California,  
11 Nevada, and Utah Campuses,

12 I recognize that, as of yesterday, public schools have closed in  
13 several states. I hear the requests asking for Challenger School  
14 to do the same, and I also hear the statements of gratitude for  
15 keeping our doors open.

- 16 • **March 23–27 will be spring break (rescheduled from April  
17 6–10).**

18 As soon as Minh got Jim's text regarding the change of Spring Break  
19 date, and read the email he forwarded her she responded to him:

20 / vahey, jim <



21 The kids school made some changes regarding  
22 subject material and timing of spring break. I  
23 wanted to make sure you were aware of it as soon  
24 as possible. Spring break is going to be a week  
25 earlier. Let me know what you would like to do. I  
26 can make accommodations for whatever you  
27 would like. Let me know.



28 I forwarded the email to you

1 Jim texted and emailed Minh of the Spring Break changed of date. Minh  
2 read it and texted him back saying that she will take the kids during the new  
3 week and that the previously intended non holiday weekend will need to be  
4 made up another weekend.<sup>4</sup>

6 It is completely apparent that if Jim had read the email from Challenger  
7 School and had actually read Minh's text that he would have understood that  
8 she was referring to Spring Break commencing March 20. The email from  
9 Challenger that Jim forwarded to Minh had in bold typeface exactly when  
10 Spring Break was going to be. It strains credulity for Jim to allege that he did  
11 not know when Spring Break was for their own children.<sup>5</sup>

14 Minh cannot understand how she is to blame when Jim is the one who is  
15 confused and disorganized and not in tune with the children's schedule. How  
16 can one not know when their children are not in school?

18 Minh does not know or understand how Jim could not understand that  
19 simple text and later accused her for not being cooperative for not informing  
20 him that he was mistaken? How much more clear can Minh be?

---

23 <sup>4</sup> School was released at Challenger the week earlier. Since the children would  
24 be at home and Jim would be working, Minh offered to Jim to take care of the  
25 children. Jim rejected the request and would rather have the children be with a  
26 babysitter than their own parent.

27 <sup>5</sup> One should hope for better than Jim trying to Minh for his own clerical error.

1 Jim needs to be responsible for himself. Minh clearly states that she will  
2 take the children for the new Spring Break week. She did not even realize that  
3 Jim had mistaken of when the Spring Break was going to be. When Jim asks if  
4 she will follow court's order and she replied right away that she "will comply  
5 with court order as always."<sup>6</sup>  
6

7  
8 Minh could not understand why her counsel received correspondence  
9 from Jim's attorney later that day saying that she was not responding to his  
10 texts when Jim in the text trails even thank her for giving him a "straight  
11 answer." See Motion at page 7, lines 10-28.  
12

13 From Jim's mistake of getting the date mixed up, Minh is accused of  
14 being uncooperative? Jim needs to take responsibility for his own actions and  
15 mistakes and stop throwing out random accusations and hold Minh liable for  
16 what clearly was his mistake.  
17

18 Minh responded to Jim's email within minutes and yet she got a letter  
19 from Jim's attorney saying she was unresponsive and not cooperating? All these  
20 accusations must stop. It is causing a lot of unnecessary stress, attorney fees  
21 and Minh's time with the children.  
22

23  
24 <sup>6</sup> As to Jim's request that Minh not travel outside Nevada, Minh cannot travel  
25 outside of the state of Nevada per the terms of the Court's orders anyway. See  
26 Findings of Fact, Conclusions of Law, and Order page 30, lines 8-9 ("Minh  
27 Luong may have the children for one non-holiday weekend each calendar  
28 month"). There are no such restrictions for holiday visitation.

1 Jim then takes the time to try and attack Minh's counsel because of a  
2 cryptic email sent by his counsel demanding an immediate response. Mot. at  
3 page 8, lines 6-28. Jim has his counsel send a completely vague "emergency"  
4 email and then complains that the response is specific enough for his  
5 satisfaction.  
6

7  
8 It would have been helpful to try and put some who, what, where and  
9 why the email was being sent instead of making the opening sentence an  
10 attempt at personally attacking Minh and then going into some "stay at home"  
11 order.<sup>7</sup> Jim trying to deflect *his* responsibility for *his* own poorly crafted email  
12 compounded his own failure to know even when his own children are on  
13 Spring Break and then demand a specific response is duly noted.<sup>8</sup>  
14

15  
16 Jim complains that Minh did not provide an itinerary for when she and  
17 the children went to Brianhead. Mot. at page 2-3. Jim knows they were in  
18 Brianhead because the children told him that is where they were going *before*  
19

---

20 <sup>7</sup> The email could have affirmatively stated that Minh only has weekend  
21 visitation that because of the Court's orders that Minh can only exercise her  
22 time in Nevada for weekend visitation. As to traveling, Minh has an RV.  
23 During her weekends, she and children spend those weekends exploring in  
24 Nevada.

25 <sup>8</sup> One would reasonably conclude that since Jim does not even know when his  
26 children's Spring Break is that he does not communicate with the children very  
27 much and they do not communicate with him very much. As to Jim taking the  
28 time to personally attack Minh's counsel, it has been standard operating  
procedure since the outset of this case.

1 they left.<sup>9</sup> The ski trip was on Martin Luther King weekend, so Minh could  
2 leave the Nevada, and was not a "vacation." The trip was party of a long  
3 holiday weekend. Furthermore, Jim never complained and never complained  
4 about an itinerary to Minh.<sup>10</sup>

6 Minh will complain in return that he never provided her with an itinerary  
7  
8 when he took the children on a ski trip he took in February. As it turns out both  
9 of them went to Brianhead and neither one of them provided the other with an  
10 itinerary. It appears that Jim may be engaging in mudslinging in an effort to  
11 create conflict where none should exist.

13 As to the "ski equipment" about which Jim complains, the children had  
14 jackets, gloves, and ski pants, not skis and poles. Mot. at page 9, lines 10-13.  
15 Minh advises that Hannah and Matthew grew out of their jackets so Hannah  
16 ended up wearing Minh's jacket and Matthew ended up wearing his aunt's  
17 jacket. It strains credulity that Jim would spend \$1,000 for jackets, gloves,  
18 pants for children.

21 Jim further admits that he questions the children as to what they have  
22 done with their mother and where they have gone. Mot. at page 9, lines 20-28.

---

25 <sup>9</sup> The children had always skied before but this year they started snowboarding.  
26 When the children told Jim that they were snowboarding Jim was unhappy  
27 because he prefers skiing and Minh prefers snowboarding.

28 <sup>10</sup> Estoppel seems appropriate.

1 Jim's conduct violates what parents are to do and not do in COPE class parents  
2 are supposed to take. Jim's admitted conduct of interrogating the children in  
3 very detrimental to their best interests.  
4

5 Jim alleges that he "believes" Minh took the children on "vacation" to  
6 Northern Nevada during weekend visitation and failed to provide an itinerary.  
7  
8 Mot. at page 9, through page 10, line 6. The claim is false.

9 Holidays and are defined in the Findings of Fact, Conclusions of Law,  
10 and Order specifically defines holidays as Mother's Day, Father's Day, Spring  
11 Break, Summer Break, Thanksgiving Break, and Winter Break. FFCLO at page  
12 30, line 14 to page 31, line 21. No vacations are provided for in the Findings of  
13 Fact, Conclusions of Law, and Order.  
14

15  
16 The weekend was Minh's weekend. She is required, per the terms of the  
17 Court's order, keep the children in the state of Nevada. Minh has done just that.  
18 Minh advises many weekends she and children drive through Nevada in her RV  
19 exploring what Nevada has to offer. Weekend visitation whether it involves  
20 fishing, camping or both in Nevada is not a "vacation," it is the weekend. It  
21 appears that Jim may be trying to mislead.  
22

23  
24 Jim alleges that "[c]onsidering Minh usually does not answer Jim's  
25 phone calls, Facetime calls and text messages during her visitation, it is  
26 extremely concerning that Minh also does not provide Jim with an itinerary  
27  
28

1 when she take the children on vacation . . ." and if something happens he will  
2 not have any information. Mot. at page 10, lines 1-7.

3  
4 The allegation is false. Minh was exercising her weekend visitation.  
5 Visitation over the weekend is not vacation. Furthermore, Minh does answer  
6 phone calls Facetime calls and text messages. It is not necessary to prove a  
7 negative, however, attached Exhibit A are a small sampling of messages  
8 between Minh and Jim, mostly of Minh advising Jim that he has been speaking  
9 to the children should be contacting the Hannah and Matthew directly. Those  
10 messages from Minh to Jim include,  
11  
12

- 13 • Please call them directly.
- 14 • You spoke to them yesterday. Again, please call them directly.
- 15 You don't have to go through me.
- 16 • Please call them directly. I have suggested you do that multiple
- 17 times already. You spoke to Lena the day before. I called you and
- 18 handed them the phone.
- 19 • Matthew is still sleeping. I think he is getting sick. I asked
- 20 Hannah to call you. Lena is playing happily. If I call you and
- 21 hand her the phone she will start crying. If that is what you want I
- 22 will do it.
- 23 • How they respond to you is dependent on your relationship with
- 24 them. I cannot change that. I can only do so much.
- 25 • Please call them directly.
- 26
- 27
- 28



1 • I asked you to call them directly. You know Hannah has her own  
2 cell phone and Matthew has an iPad that I paid for both. . . Why  
3 can't you call them directly?<sup>11</sup>

4 • I encourage them to daily and multiple times a day. I call your  
5 number and give the phone. I insisted [to] them to stay on the  
6 phone to speak with you and you said go ahead and hang up. You  
blaming me is not going to help your relationship with them.

7 Jim complains that Minh will not pay for the extracurricular activities in  
8 which the children participate. Mot. at page 10, lines 14-15. FFCLO has been  
9 reviewed. There is no order which requires Minh to pay, other than activities  
10 that the parties agree that are best for the children. On September 27, 2019,  
11 Minh sent an email to Jim, Exhibit B that read in pertinent part,  
12

13  
14 When I signed up for the kids to take extracurricular activities, I  
15 was told by you that you would not pay for any of it because  
16 you were not involved in it.

17 Since I am not going to be living in NV, I won't be involved in  
18 any of the kids' activities. I am not approving of any of it since  
I don't get to participate them in it. I will not pay for any of it.

19 It is curious that Jim not wanting to pay for extracurricular activities in  
20 which he not involved, but he believes that Minh should have to pay for  
21 extracurricular activities in which she is not involved. Jim's contention should  
22 expire of its own internal contradictions.  
23  
24  
25

26 \_\_\_\_\_  
27 <sup>11</sup> Jim tries to deflect by claiming he does not have Hannah's number of  
28 Matthew's email address.

1 Jim alleges that Minh is not paying for one-half of the tuition expenses  
2 for the children. Mot. at page 10, 18-21. Minh has asked Jim on multiple  
3 occasions for Jim to set up an account so that she can pay the school directly.  
4

5 ☆ luongdds@gmail.com

January 11, 2020 at 4:56 AM

ML

6 Kids tuition

7 To: Jim Vahey

8 **Jim,**  
9 **I had asked you before to set it up where I can pay the kids tuition**  
10 **directly to the school. I have not heard back from you regarding this. Let**  
11 **me know how we can do this. I know you have set it up to pay**  
12 **automatically to them. If possible, you can turn your automatic payment**  
13 **off for the next three months and I can pay for the next three months.**  
14 **Please let me know if we can do this.**  
15 **Thanks**

16  
17  
18  
19 **Minh Nguyet Luong, DDS**  
20 **Toothfairy Children's Dental**  
21 **8000 W. Sahara Ave #180**  
22 **Las Vegas, NV 89117**  
23 **Cell: 702-353-2319**  
24 **Office: 702-222-9700**  
25 **Fax: 702-564-0005**

26 Jim has simply ignored Minh's multiple requests and no claims that Minh  
27 is violating the Court's orders. Minh even offered to pay for three months  
28 straight in order even things up. Minh has made a simple request to Jim on  
multiple occasions now. Jim cannot create the problem and complain of the  
problem he creates.

Jim alleges that Minh is seeking reimbursement for dental work. Mot. at  
page 10, lines 22, to page 11, line 1.

1 Jim complains that Dr. Gravley has not been effective in helping  
2 children's behavior is concerning, especially immediately following their return  
3 from Minh. Mot. at page 11, lines 12-13.  
4

5 The children's behavior is concerning for Minh because the children  
6 refuse to get out of her vehicle. Jim will not help in in getting the children out  
7 of the vehicle and instead stands back and taunts her by watching her struggle  
8 in getting the children out of the car to the point the Henderson Police  
9 Department has to get involved. There are no problems of the children going to  
10 Minh. By contrast the children count down the days until they are able to see  
11 her.  
12  
13

14 In contrast, the children *run* to Minh when it is her time for visitation.  
15 Jim has the children approximately 75 percent of the time and yet Hannah's  
16 grades are deteriorating dramatically and Matthew's grades are significantly  
17 deteriorating and Hannah and Matthew are running away. Yet, Jim blames and  
18 claims that he has "no problems" of any kind and Minh is the one with  
19 problems.  
20  
21

22 Jim claims that Minh refuses to help Jim get the children out of the  
23 vehicle. Mot. at page 11, lines 14-15. The claim is utterly false and is  
24 contradicted by Jim's claims earlier in his own Motion. See Mot. at page 4, line  
25  
26  
27  
28

1 4, to page 5 line 14 ("Jim waited approximately an hour and a half for the  
2 children to get out of Minh's RV.")<sup>12</sup>

3  
4 Jim accuses Minh of manipulating the children and that the children only  
5 misbehave soon after they are with Minh and then they turn back to normal the  
6 next day after being with Jim. Mot. at page 11, lines 24-26. If the children  
7 actually returned to normal in a few days, Hannah and Matthew's grades would  
8 not have dropped by 41 percent and 20 percent respectively, they would not be  
9 seeing a counselor, and they would not be running away.

10  
11 Jim tries to cover up Hannah and Matthew running away by claiming that  
12 the only time the children did not return to normal was before they ran away.  
13 Mot. at page 12, line 1, though page 13 lines 2.

14  
15 In contrary to Jim's claim as to the children doing well under his care, On  
16 December 17, at 5:30 approximately 5:30 a.m., Hannah and Matthew snuck out  
17 of the house while Jim was sleeping and biked uphill in the cold 30 degree  
18 weather 1.7 miles from Jim's house to the guard station.  
19  
20  
21  
22

---

23 <sup>12</sup> Jim is judicially estopped from taking a contrary position. In *Vaile v. Dist.*  
24 *Ct.*, 44 P.3d 506, 522 (Nev. 2002), the Supreme Court held and stated, "judicial  
25 estoppel is designed to "protect the integrity of the judicial process" in order to  
26 "prohibit[ ] parties from deliberately changing positions according to the  
27 exigencies of the moment." There is no integrity when Jim takes two  
28 contradictory positions within the same document.

1        Minh was awakened by a telephone call from the guard station at 5:58  
2 a.m. informing Minh that the children were there and that they wanted to speak  
3 to Minh. Hannah had informed Minh that she and Matthew had ran away from  
4 home because they missed her.

6        Minh advises that she was very concerned about the children. Up until  
7 now, the children have always been well behaved. Minh reports she is  
8 concerned as to what might have driven them to a point of setting up a plan,  
9 waking up in the dark and running away from Jim.

12        Minh spoke to the guard and informed the guard that the children had ran  
13 away from home. The guard informed Minh that Minh should get to the  
14 children as soon as possible otherwise Child Protection Services would be  
15 involved.

17        The guard called the police while Minh was on the phone with her. The  
18 phone call was from 5:58 a.m. to 6:03 a.m. Minh rushed out of bed and got  
19 herself dressed while calling her attorney at 6:05 a.m. to inform him of what has  
20 just happened. Minh got into her car and drove as quickly as she could to the  
21 guard station.

24        Minh advises on her way to the guard station at 6:09 a.m. and 6:12 a.m.,  
25 she called the guard to reassure herself that the children were okay and whether  
26 Jim had arrived to pick up the children. Minh was assured that the children were  
27 doing fine, they missed their mother, and that Jim was not anywhere to be found.

1 At 6:13 a.m. Minh called Jim. Instead of answering, the call went to Jim's  
2 voicemail. Jim did not pick up and the call went into Jim's voice mail. Minh  
3 reports she left Jim a quick message saying the kids ran away and that they were  
4 at the guard station and to please go pick them up otherwise Child Protective  
5 Services would get involved.<sup>13</sup>  
6

7  
8 It took Minh approximately 40 minutes to drive from her house to the  
9 guard station. When Minh got there she was informed that Jim had picked up  
10 Hannah and Matthew already. Minh reports she made four phone calls to Jim,  
11 but all of the phone calls went to voice mail. Minh also asked the guard to call  
12 him because Jim did not even have the courtesy to inform Minh that he had the  
13 children and that they were okay.  
14

15  
16 Jim finally picked up the phone and his first response was not, "the kids  
17 are safe, we have a problem, what should do to solve this," was an accusation,  
18 "what do you know about this?!" He then told Minh that he was not granting  
19 Minh access to get to his house to see the children.  
20

21 Since Jim did not even bother to tell Minh how the children were doing  
22 were after her calling him and driving over 40 minutes to get to the guard  
23 station, she waited at the guard station for the police to be done at Jim's house so  
24 she could speak to them instead. When Minh got there, she was unable to speak  
25

26  
27 <sup>13</sup> As can be seen in Jim's Motion, Jim's concern is not about the children, but  
28 rather, "what about me, what about me, and what took you so long to call me."

1 to the children. Instead of looking out for their children, Jim shut the door in  
2 Minh's face.

3  
4 Jim then complains about the Christmas program. Mot. at page 13, lines  
5 3-15. Later that same day, Minh went to Selena's Christmas Program. Minh  
6 reports that she arrived there early and sat down on the bleachers and waited for  
7  
8 the program to start.

9 After being as rude, hostile, accusatory, and having lied to the Court about  
10 their agreement to move to California, Jim came later and sat next to Minh.  
11 Hannah and Matthew were allowed out of their classrooms so they could watch  
12 Selena's performance.

14 Minh advises that Hannah and Matthew seemed to be very distressed and  
15 asked Minh to move a couple of rows back because they did not want to sit close  
16 to Jim.  
17

18 Minh obliged their requests due to the children's current condition.  
19 Hannah proceeded to tell Minh that Jim had try to choke her after he picked  
20 them up at the guard station. Hannah told Minh that Jim pulled the car over to  
21 the side of the road on the way back to his house and demanded Hannah to turn  
22 over her phone.  
23

25 Hannah at that time was sitting in the middle row of Jim's van started  
26 moving toward the back row where Matthew was sitting so Matthew could help  
27 her. Jim, in a fit of rage, pulled Hannah's purse which was around Hannah's  
28

1 neck, choking her. Jim then pulled on Hannah's collar and almost pulled her off  
2 her feet and dragged her back to her seat and ripped the phone out of her hands,  
3 and screamed in her face.  
4

5 Hannah and Matthew were shaken and traumatized by what Jim had done  
6 and was why they were still frightened of him and they did not want to sit next  
7 to him. Instead of Jim finding out the underlining reason why the children ran  
8 away, address the underlining causes and prevent it from happening again, Jim  
9 acted out in a fit of rage, committed another act of domestic violence, and  
10 managed to further distance himself from the children by physically,  
11 psychologically, and emotionally harming them.  
12

13 The children had mentioned to Minh and the guard that they miss their  
14 mommy and they wanted to be with her. Instead of allowing the children to  
15 have more contact with Minh so they would not miss her so much that drove  
16 them to run away, Jim decided to take their phone and iPads away to even  
17 further prevent them from talking to Minh.  
18

19 Instead of showing understanding, and even compassion, Jim physically,  
20 psychologically and mentally abused the children to instill fear in them of him  
21 that there will be physical consequences to them (and now Minh) if they do not  
22 do exactly what he wants. Jim blames Minh for her ruining his relationship with  
23 the children. It is Jim himself who ruins his own relationship with his own  
24 children.  
25  
26  
27  
28



1 Jim claims the Minh is calling the police to "create a record." Mot. at  
2 page 13, lines 16-17. The record is that children are deteriorating academically,  
3 are running away, and now Jim is committing acts of domestic violence against  
4 Minh, and Hannah. One only has to look at the text messages from above and  
5 see that Minh is asking for Jim's help and he is refusing to provide.  
6

7  
8 Jim claims that the children are beginning to speak like Minh that Jim  
9 only cares about himself and that he loves his job more. Mot. at page 13, line  
10 24, to page 14, line 18. The assertion by Jim assumes that Minh actually made  
11 the claimed statements, and two, Jim is relying on hearsay that he attributes to  
12 the children.<sup>14</sup>  
13

14 Jim complains that the cell phone for Hannah and the iPad for Matthew  
15 has passwords on them. Mot. at page 14, lines 20-24. It is not known if he has  
16 not passwords. The passwords exist to prevent improper parties from accessing  
17 credit card information that Minh has put on the devices so the children can  
18 purchase and download apps.  
19  
20

21 Jim alleges that Minh claims he is recording the children. Mot. at page  
22 15, lines 1-13. It is Jim who instills distrust onto the children by placing  
23 recorders throughout his house, on the dining table, under the sofa and in  
24 Hannah's bedroom. It was Hannah and Matthew who found the recorders and  
25

26  
27 <sup>14</sup> Jim's hearsay claims would be a good reason for the children to be  
28 interviewed.

1 informed Minh of Jim's behavior. The children informed Minh that Jim would  
2 turn on his recorder before handing the phones over to them.

3  
4 Minh advises that Hannah told her that she accidentally stepped on a  
5 recorder in her room and heard her voice. Hannah also found a recorder under a  
6 newspaper next to the couch where she was sitting to talk to Minh and once on  
7 the dining table. At the previous hearing, Jim admitted to doing so and turned  
8 over two of the recordings while Minh was on the phone with the children.  
9 Since the hearing was over, Hannah and Matthew still question "why daddy is  
10 still recording Selena". It is these kinds of behaviors that cause the children to  
11 distrust Jim.  
12

13  
14 Jim claims that Minh has convinced Hannah that there is a camera or  
15 recording device in her room. Mot. at page 15, lines 14-21. This issue was  
16 addressed and dealt with in correspondence between counsels. It is unknown  
17 why Jim should be bringing it up now.  
18

19  
20 Jim accuses Minh of interrogating the children. Mot. at page 15, line 22,  
21 to page 16, line 4. The claim is false. Minh has general discussions with them  
22 about their day. Jim, on the other hand, admits he interrogates them and  
23 demands to know where they went and what they did during Minh's visitations.  
24 And, Jim is apparently completely oblivious to his double standard.  
25  
26  
27  
28

1 Jim claims that Minh has discussed with Hannah her belief that when  
2 Hannah is 13 years old that Hannah can decide on where she wants to live. Mot.  
3  
4 at page 16, lines 5-11. Minh denies. It is not worth discussing.

5 Jim asserts that Minh has a constant irrational belief that Jim has most of  
6 the children's clothing. Mot. at page 16, lines 14-21. The Court has seen this  
7  
8 before. One parent uses the other parent to provide them a wardrobe. It is what  
9 is happening here. Minh picks up the children in uniforms after school, puts  
10 them in regular clothes and then never sees those clothes ever again. And, Minh  
11  
12 has not taken the school uniforms.

13 When the children are with Minh during her visitations, she rarely allows  
14 Jim to speak to the children. Mot. at page 17, lines 1-2. The claim is false and  
15  
16 was addressed above. In addition, Jim is now repeating himself.

17 Jim claims that the children need a therapist who specializes in treating  
18 children who have been subjected to alienation and manipulation. Mot. at page  
19  
20 17, lines 11-13. There are a number of problems with Jim's contention.

21 One, "manipulation" is not a psychological diagnosis, it is an attempt to  
22 attack Minh and deflect away from what Jim has done. Two, Dr. Gravley has  
23  
24 practice with a focus primarily on child and adolescent treatment. One would  
25 think if a mental health provider has a focus on children that they would be well  
26  
27 versed in the alienation. The children have been in therapy for a year and Dr.  
28

1 Gravley has expressed no concerns to anyone that there is any alienation  
2 occurring. Three, Jim is not qualified to make any psychological diagnoses.

3  
4 Jim then spends from page 17, line 21, to page 20, line 20, giving up his  
5 right against self-incrimination and testifies as to what he claims occurred.<sup>15</sup>

6 Jim was not arrested because of what Minh reported. Jim was arrested  
7  
8 and charged with committing acts of domestic violence because of what the  
9 Hannah and Matthew were interviewed and each stated what they witnessed in  
10 their separate interviews. The children were interviewed separately, within  
11 approximately 30-40 minutes after the attack occurred. The children were  
12 interviewed separately to ensure that their recollections were consistent.

13  
14 The children's recollections from their separate interviews were consistent  
15 and Jim was arrested and then criminally charged. Now Jim wants the children  
16 in his possession so that he can intimidate them to get them to recant what the  
17 told the Henderson Police Department on March 20.

18  
19  
20 Jim then inexplicably attaches the email sent to Minh's counsel sent to his  
21 counsel on March 20 and then claims Minh is manipulating her counsel and that  
22 there never have been any prior incidents of domestic violence. Mot. at page 21,  
23 to page 22, line 8. It is unclear as to why Jim would put the full text of Minh's

24  
25  
26  
27 <sup>15</sup> Jim supported everything he claimed by Affidavit which will now be  
28 forwarded to the attorney for the City of Henderson who is prosecuting the case.

1 counsel's email into his Motion. There is nothing helpful to him in the content  
2 of the email and only highlights why the children should be with Minh. Jim's  
3 violent outbursts *are* negatively impacting the children.  
4

5 Jim then complains about the email sent to his counsel from Minh's  
6 counsel dated March 22, and then claims that Minh has never previously made  
7 an allegation of domestic violence. Mot. at page 22, line 27, to page 23, line 8.  
8

9 Without waiving any privileges, Minh reached out to the undersigned  
10 months before the evidentiary hearing was and Jim's prior acts of domestic  
11 violence against her were discussed.  
12

13 Minh's prior counsel ultimately made the decision to not make those prior  
14 incidents part of the evidentiary record. It is presumed that it was a tactical  
15 decision because there was not a separate documentary record, no police reports,  
16 no photographs of bruises, no visits to the emergency room, no adult witnesses,  
17 and at that time Minh chose to protect Jim's reputation. The focus was on prior  
18 agreement of the parties to move and the advantages of Irvine versus Las Vegas.  
19

20 Jim further tries to rehash the claim on which he tried to sandbag Minh as  
21 the evidentiary hearing regard the memo on a check of vacation home. Mot. at  
22 page 22, lines 18-19. The claim by Jim is still false.  
23

24 The parties agreed in 2014 that they would retire in 5 years. In order to do  
25 that in 2015, the parties started looking at houses that they would use as a  
26 vacation house until they retired. That is why the term vacation home was put  
27  
28

1 in the memo portion of the earnest money deposit of the houses in 2015 and  
2 2016 that the parties did not purchase. The house in Irvine was to be a vacation  
3 home until the parties retired. When 2019 arrived, Jim reneged on his agreement  
4 and the divorce commenced.  
5

6 Jim makes the outrageous allegation that Minh would not return the  
7 children to Jim until the criminal trial has been conducted. Mot. at page 23,  
8 lines 9-27. No citation to any document is provided because the assertion  
9

10 **NEVER OCCURRED. AT NO POINT IN ANY COMMUNICATION WITH**  
11  
12 **OPPOSING COUNSEL WAS IT EVER STATED THAT MINH WOULD**  
13  
14 **NOT RETURN TO JIM UNTIL THE CRIMINAL TRIAL WAS**  
15 **CONDUCTED.** See page 3 of this response.

16 The allegation made by Jim is completely and utterly false and Minh  
17 should be awarded the attorney's fees she has incurred in having to respond. See  
18 NRCP 11 (fees for making allegations that are not well grounded in law or fact).  
19 In contrast to Jim's false claim, Minh filed a Motion to extend the TPO in the  
20 "T" case and file her Motion to Extend the TPO as well as for interim sole legal  
21 and sole physical custody.  
22  
23

24 Jim claims that the children return to their normal behavior within a short  
25 period after having visitation. Mot. at page 24, lines 1-17. The facts contradict  
26 the claim. If the children "return to normal" they would not be having  
27 meltdowns when they are dropped off with Jim, would not run to Minh when  
28

1 she picks them up, and their grades would not plummeting at school. In  
2 addition, Hannah refuses to eat and her growth is slowing down to the point  
3 Minh is concerned. Jim's claims should expire of their own self-inflicted  
4 wounds.  
5

## 6 7 II. 8 OPPOSITION

### 9 A. Jim's Request to Dissolve the TPO Should Be Denied

10 Minh incorporates her argument from her Motion to Extend the TPO as  
11 though fully set forth herein. For the reasons indicated, the TPO should be  
12 extended until the criminal proceedings against Jim are concluded.  
13

### 14 B. Jim's Request to Modify Custody Should Be Denied

15 Minh incorporates her argument for interim sole legal and sole physical  
16 custody and for custody to be changed from her Motion for Interim Sole Legal  
17 and Sole Physical Custody and to Change Custody as fully set forth herein. For  
18 the reasons indicated, interim custody should be changed for the protection of  
19 the children as witnesses pending the outcome of the criminal proceedings  
20 against Jim, and an evidentiary hearing should be set to permanently change  
21 custody. There is more than sufficient adequate cause for that hearing to occur.  
22  
23

24 ///

25 ///

26 ///

27 ///

1 **C. A New Therapist Should Be Appointed**

2 Minh and Jim stipulated in December that Dr. Gravley was of no value to  
3 the children and should be replaced. Minh recommends Jen Mitzel an MFT who  
4 has offices on the east side of Las Vegas.  
5  
6  
7

8 **D. There is No Contempt and No Order to Show Cause Should Be Issued**

9 Minh's response to request for an Order to Show Cause was adequately  
10 addressed in her Response/Opposition to Jim's Ex Parte Application for an  
11 Order to Show Cause. Minh incorporates that Response/Opposition as though  
12 fully set forth herein.  
13

14 It should be noted that Jim is attempted to sandbag Minh by filing his  
15 Motion to Dissolve the TPO at approximately 7:10 p.m. on a Friday evening and  
16 then attach that same Motion as an Exhibit to his Ex Parte Application for an  
17 Order to Show Cause. Jim would then apparently hand deliver the Ex Parte  
18 Application to the Court on Monday morning and attempt to unduly prejudice  
19 Minh's ability to respond.  
20  
21

22 It is simply false for Jim to admit that Minh is the one getting the  
23 children out of the vehicle, page 4, lines 4-5, then claims on page 5, lines 1 that  
24 he is the one that gets the children out of the vehicle.  
25  
26  
27  
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**III.  
CONCLUSION**

WHEREFORE, Defendant, MINH LUONG, respectfully requests that the Court enter the following orders

1. Denying Jim's Motion in its entirety and;
2. For any further relief the Court deems proper and just.

DATED this 29<sup>th</sup> day of March 2020

PAGE LAW FIRM



Fred Page, Esq.  
Nevada State Bar No. 6080  
6930 South Cimarron Road, Suite 140  
Las Vegas, Nevada 89113  
(702) 823-2888  
*Attorney for Defendant*

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MOFI

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

JAMES W. VAHEY

Plaintiff Petitioner

Case No. D 18-581444-D

Dept. H

v.

MINH NGUYET LUONG

Defendant Respondent

**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 588 of the 2015 Legislative Session.

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

**\$25** The Motion Opposition being filed with this form is subject to the \$25 reopen fee.

-OR-

☒ **\$0** The Motion Opposition being filed with this form is not subject to the \$25 reopen fee because:

☒ The Motion Opposition is being filed before a Divorce Custody Decree has been entered.

The Motion Opposition is being filed solely to adjust the amount of child support established in a final order.

The Motion Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on \_\_\_\_\_.

Other Excluded Motion (must specify) \_\_\_\_\_.

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

☒ **\$0** The Motion Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:

The Motion Opposition is being filed in a case that was not initiated by joint petition.

The party filing the Motion Opposition previously paid a fee of \$129 or \$57.

-OR-

**\$129** The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.

-OR-

**\$57** The Motion Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

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

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

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

Party filing Motion Opposition: Minh Nguyet Luong

Date 3-29-20

Signature of Party or Preparer

AA000241

EXHIBIT 12

EXHIBIT 12

EXHIBIT 12

*Steven D. Grierson*

**RPLY**  
FRED PAGE, ESQ.  
NEVADA STATE BAR NO. 6080  
PAGE LAW FIRM  
6930 SOUTH CIMARRON ROAD, SUITE 140  
LAS VEGAS, NEVADA 89113  
TELEPHONE: (702) 469-3278  
FACSIMILE: (702) 628-9884  
Email: fpage@pagelawoffices.com  
Attorney for Defendant

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

JAMES W. VAHEY,

Plaintiff,

vs.

MINH NGUYET LUONG,

Defendant.

Case No.: D-18-581444-D

Dept.: H

Hearing Date: April 22, 2020

Hearing Time: 9:00 a.m.

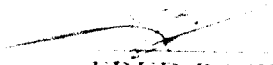
**DEFENDANT'S REPLY TO OPPOSITION TO MOTION TO EXTEND  
TEMPORARY PROTECTIVE ORDER T-20-204489-T, TO CHANGE  
CUSTODY ON AN INTERIM BASIS, TO CHANGE CUSTODY, AND  
FOR AN INTERVIEW OF THE MINOR CHILDREN**

COMES NOW Defendant, MINH NGUYET LUONG, by and through her  
counsel, Fred Page Esq., of Page Law Firm and hereby submits her Reply to  
Opposition to Motion to Extend Temporary Protective Order T-20-204489-T, to  
Change Custody on an Interim Basis, to Change Custody, and for an Interview of  
the Minor Children. This Reply is based upon the papers and pleadings on file, the

attached Points and Authorities and any oral argument that the Court may wish to entertain.

DATED this 20<sup>th</sup> day of April 2020

PAGE LAW FIRM



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FRED PAGE, ESQ.

Nevada Bar No. 6080

6930 South Cimarron Road, Suite 140

Las Vegas, Nevada 89113

(702) 823-2888

Attorney for Defendant

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**POINTS AND AUTHORITIES**

**I.  
REPLY<sup>1</sup>**

Because the matter is being heard on an Order Shortening Time in which the two competing Motions are being consolidated, it is not possible to have the Reply to be filed earlier.

**A. Jim's Misstatements Should Be Addressed**

Jim contends that the children "typically return to their normal well behaved demeanor within 12 hours of returning to his custody." Opp. at page 2, lines 17-20. Jim further claims that the children running away is an "anomaly." The facts contradict Jim's claims. If the children were returning to being well behaved they would *not* be in psychological counseling, running away, Matthew being terrified of Jim, Hannah refusing to eat, and both Hannah and Matthew having deteriorating grades.<sup>2</sup>

---

<sup>1</sup> The Opposition was not received until 6:18 p.m. on Good Friday, meaning that the Opposition was not received until Monday, April 13, 2020. Eighth District Court Rule 5.502(f) states, "[a] moving party may file a reply memorandum of points and authorities not later than 5 days before the matter is set for hearing. A reply memorandum must not be filed within 5 days of the hearing or in open court unless court approval is first obtained." By way of contrast, Jim has had Minh's Opposition since April 1, 2020 and did not file a Reply until April 15, 2020, two weeks after.

<sup>2</sup> Jim *will* confirm that for these past few weeks that the children have been *very happy* being with Minh during this time.

1 Jim claims that "it is not a coincidence" that the children ran away "two  
2 days" after returning from Minh. Opp. at page 2, lines 23-24.<sup>3</sup>

3  
4 Rather than trying to find out what is troubling the children and finding the  
5 root cause, Jim simply blames Minh, "it is all her fault," and denies any  
6 responsibility. The battery Jim committed against Hannah after the incident has  
7 already been documented. Matthew cries that his father is going to kill him,  
8 Selena cries that Jim twists her arm. Selena is still walking around the house  
9 crying and asking for her mommy.<sup>4</sup> Hannah has no appetite and will not eat.<sup>5</sup>

10  
11 Jim claims that Minh is "selfish" for following through on the family plans  
12 for moving to California and actually blames her for the children having to miss  
13 her. Opp. at page 2, line 24, to page 3, line 3. This is another claim that should  
14 expire of its own self-inflicted wounds.

15  
16 The children went along with Minh and Jim when they were looking at  
17 houses in California. They as a family made multiple trips to California and  
18 looked at dozens of houses. They discussed as a family the agreement to move to  
19  
20  
21

22  
23  
24 <sup>3</sup> Attached as Exhibit A is the Henderson Police Department Incident Report dated  
25 December 17, 2019. The report states, "children stated they wanted to see mom  
and that's the reason they ran away to the guard shack."

26 <sup>4</sup> At no point does Selena ever walk around Minh's house crying and asking for  
27 daddy.

28 <sup>5</sup> Hannah's growth is slowing down as a result which is medically concerning.



1 California. They discussed as a family where the children would be going to  
2 school.

3 The children, particularly Hannah and Matthew, recall looking at houses and  
4 the discussions Minh and Jim had about schools.<sup>6</sup> Jim disavows any agreement  
5 when even the children know very well that there was an agreement because they  
6 are present as a family with the agreement was being discussed and acted upon,  
7 and then blames Minh for following through on that agreement.  
8  
9

10 Jim claims the he did not shut the door on Minh's face and that she only  
11 made it to the guard station. Opp. at page 3, lines 7. The fact that Jim refused  
12 Minh to see the children can be rephrased in more delicate terms, but it does not  
13 change the fact that Jim refused to allow Minh access to the children when they  
14 were in distress. When Minh spoke to Jim on the phone, he demanded, "what do  
15 you know about this," Minh asked to see the children, Jim told her "no" and hung  
16 up on her.  
17  
18  
19  
20  
21

---

22 <sup>6</sup> The family had plans to move to Orange County in 2019. The parties had the  
23 financial goal analysis to prove that. There is Jim's email to the financial advisor  
24 that Jim had the intention to retire in Orange County. Jim made the statement to  
25 Minh "give me another five years." 2019 was five years.

26 The parties started looking for houses in 2015. Offers were placed on houses in  
27 2015. There was no intention to move until 2019. The check had a memo of a  
28 vacation home because the family would use the house as a vacation home until  
the move there in 2019.

1 Jim claims that Minh did not immediately call him to notify him the children  
2 had run away. Opp. at page 3, line 17, to page 4, line 2. This was already  
3 addressed in her Opposition to Jim's Motion for immediate return.<sup>7</sup> Jim's concern  
4 for himself is noted.  
5

6 Jim takes issue with Minh beginning to disclose other times that he has been  
7 violent during the marriage. Opp. at page 6, lines 6-8. This was already address in  
8 Minh's Opposition to the Motion for immediate return.<sup>8</sup>  
9

10 Jim claims that Minh is now making a new allegation of abuse that he  
11 choked Hannah by pulling on her purse. Opp. at page 4, lines 3-4, Opp. at page 5,  
12 lines 7-8. That Jim choked Hannah *is not* a new allegation. On January 20, 2020,  
13 when the Henderson Police had to be called to Jim's house Minh raised the fact  
14 that Jim had choked Hannah by pulling on her purse.<sup>9</sup> The report stated,  
15  
16

17 She also advised he choked her daughter Hannah . . . when they ran  
18 away by grabbing her by the shirt and purse to keep her seated."  
19

20 <sup>7</sup> As stated in her Opposition to the Motion for the immediate return of the  
21 children, Minh received the call from the guard station at 5:58 a.m. The phone call  
22 lasted until 6:03 a.m. At 6:05 a.m. Minh called her attorney and then got into her  
23 car. At 6:09 a.m. Minh called the guard station and was on the phone there until  
24 6:12 a.m. At 6:13 a.m. Minh called Jim. Instead of answering, the call went to  
Jim's voicemail. Jim did not pick up and the call went into Jim's voice mail.

25 <sup>8</sup> However, it does appear that there has been an ongoing pattern of conduct from  
26 Jim of being abusive to the children, and to Minh.

27 <sup>9</sup> The Henderson Police Department Incident Report dated January 20, 2020, is  
28 attached for the Court's convenience as Exhibit B.

1 Father stated that he does not physically discipline the children and  
2 talked to officers about the incident when Hannah and her brother  
3 Matthew Vahey . . . ran away. He advised that he did not choke  
4 Hannah.

5 Jim has *known* about the allegation regarding him choking Hannah for  
6 *almost two and one-half months* because the police officers questioned him about  
7 it and instead misrepresents himself to the Court.

8 Jim then denies he never choked Hannah by pulling on her purse or collar.  
9 Opp. at page 4, lines 7-16. Jim's denial is easy to solve. Hannah can be  
10 interviewed.  
11

12 Jim claims that he has never twisted Selena's arm. Opp. at page 4, lines 17-  
13 21. Again, Jim's denial is easy to solve. Selena can be interviewed.<sup>10</sup> The police  
14 report dated January 20, indicates that Selena could not remember when her arm  
15 was twisted or why.<sup>11</sup>  
16  
17  
18  
19  
20

21 <sup>10</sup> See Exhibit B, the January 20, 2020, Incident Report. The report stated, "Male  
22 back inside the house." Jim going back inside the house may be the kindest thing  
23 that could be written down by the officer. Jim going back inside the house before  
24 the police got there could also be seen as fleeing from the police to avoid them as  
25 much as possible because Minh called the Henderson Police and he knew exactly  
26 what he did.

27 <sup>11</sup> See Exhibit B. The report stated,  
28

Today he did grab her arm and twist it two time prior. Minh stated  
that she was concerned about her children being with their father.  
Selena was unable to say when she was grabbed and why.

1 Jim then claims that Minh has been "setting up her case since December  
2 2019." Opp.at page 4, lines 25-26. Jim further claims that Minh provides "the  
3 exact same arguments that Minh includes in her Motion. . . Opp. at page 4, lines  
4 27-28. Jim promptly fails to provide any evidence as to how Minh's arguments are  
5 "exactly the same."  
6

7  
8 Jim further claims that the December 19, 2019, letter is a "summary of  
9 Minh's current Motion, a foreshadowing of her plans to come." Opp. at page 5,  
10 lines 3-4. Not to take away from the seriousness of the matter, if it were not so  
11 sad, it would be funny. In the correspondence to Jim, he was advised that the  
12 children were running away, not doing well in school, the exchanges were not  
13 going well, and that Jim was violating their privacy rights during telephone  
14 contact.  
15  
16

17 What Jim leaves out may be most important. At the conclusion of the  
18 December 19, correspondence, it was advised to Jim, "[r]ather than shutting out  
19 Ms. Luong *it is requested by Ms. Luong that Mr. Vahey engage in co-parenting*  
20 *and look for solutions TOGETHER so that the children are able to thrive.*"<sup>12</sup>  
21  
22

23  
24 <sup>12</sup> A copy of the correspondence sent to Jim's counsel dated December 19, 2019,  
25 outlining those problems and requesting that Jim work on solutions is attached for  
26 the Court's convenience as Exhibit C.

27 It hardly seems that asking Jim to work with Minh for the benefit of the children is  
28 "setting him up" and "a foreshadowing of things to come." The facts of what have  
occurred since Jim assumed caregiving responsibilities speak for themselves.

1 The response from Jim to offer to work together? Everything that has  
2 happened is Minh's fault and only her fault and the children were "thriving" in his  
3 care despite all evidence to the contrary. There was zero effort from Jim work on  
4 the children's academic difficulties, zero effort as to why the children have to  
5 continue seeing a counselor, and zero effort to make the exchanges any better.<sup>13</sup>  
6  
7

8 Jim alleges that Minh must believe that because the children miss her and  
9 struggle leaving her that the must not be thriving with Jim. Opp. at page 5, lines 9-  
10 10. The facts are that the children are failing to thrive because they are in Jim's  
11 primary care. Now that the children are with Minh she reports they do not even  
12 ask about Jim.  
13  
14

15 Jim claims that the children's behavior is "normal." Opp. at page 5, lines  
16 16-18. It should be seen as silly for Jim to minimize and deny the reality that the  
17 children are in distress.  
18

19 Jim admits that the children will not get out of the vehicle, but denies that he  
20 sits there and lets Minh struggle in getting the children out of her vehicle and  
21 claims that he spends "considerable time" to persuade the children to come into the  
22 house. Opp. at page 5, line 19, to page 6, line 2. The claim is easily contradicted.  
23  
24

---

25 <sup>13</sup> What may be seen as prescient in that December 19, correspondence to Jim, was  
26 the observation, "[r]ather than taking the designation of primary physical custodian  
27 as a designation of responsibility and act accordingly, Mr. Vahey has taken the  
28 designation as an excuse to try and exercise power and control over Ms. Luong."

1 On December 15, 2019, Minh sent the following text begging for Jim's help  
2 in getting the children inside the house.

3 Minh: Please come and help with the kids. We are here.

4 Minh: Please come and get the kids.

5 Minh: What do you want me to do?

6 Minh: I have been talking to them.

7 Minh: I am here. And I can't force them physically to get out.

8 Minh: Please come and help me.<sup>14</sup>

9 On January 5, 2020, Minh had to contact the Henderson Police Department  
10 because the children refused to get out of her vehicle and refused to go into Jim's  
11 house. The Henderson police officer reported, "male [Jim] refusing to come out of  
12 the residence."<sup>15</sup>

14 On January 20, 2020, Minh again had to contact the Henderson Police  
15 Department because the children were again refusing to get out of her vehicle and  
16 go into Jim's residence. The Henderson police officer reported that "male [Jim]  
17 now back in residence." See Exhibit B.

19 On February 17, 2020, Minh had to plead with Jim to come out and help get  
20 the children inside the house. Minh texts Jim,  
21

22 Minh: Please come and get the kids. I can't be calling the police every time I  
23 drop off the kids at your house. You need to help me.

25 <sup>14</sup> A copy of the text string is attached as Exhibit D.

27 <sup>15</sup> A copy of the Henderson Police Department incident report dated January 5,  
28 2020, is attached for the Court's convenience as Exhibit E.

1 Jim refuses to help and taunts Minh,

2 Jim: And you shouldn't. You should just talk to them. They are doing this  
3 for you.

4 Minh: Please stop blaming me. It's getting old.

5 Minh: I have been here almost 1 hour now. I can't be doing this every  
6 time.<sup>16</sup>

7  
8 Minh further pleads for Jim's help.

9 Minh: Bring them in. I don't have time for this.

10  
11 Minh: **Every time they refuse to go into your house! Do you even**  
12 **question why?**

13 (Emphasis added).

14 Minh: After staying at your house for an hour and a half and without your  
15 help the kids painfully went into your house and you weren't even there to  
16 see them in.

17 Jim simply ignored Minh's question.

18 Minh advises that Jim has made many comments to her when the children  
19 refuse to come into his house telling her, "it is your responsibility to bring them  
20 into the house," and then leave and go back into his house.

21  
22 It unclear as to why Jim brings up the surveillance camera again. Opp. at  
23 page 6, lines 3-18. It was pointed out in footnote 6, that Jim denied placing a  
24 camera in Hannah's room. Hannah told Minh there was camera in her room.  
25  
26

27  
28 <sup>16</sup> A copy of the text string is attached as Exhibit F.

1 Minh asked her "how do you know that?" Hannah told her "because there is a  
2 blinking light."

3  
4 Hannah told Minh she asked Jim what the blinking light was for and he told  
5 her that "it was for surveillance" and then Hannah told Minh about it.  
6 Correspondence was sent to Jim and Jim denied that it was a surveillance camera,  
7  
8 and claimed that it was a motion detector.<sup>17</sup> Jim's conduct is what made Hannah  
9 uncomfortable.

10  
11 Jim claims that he does not interfere with the children's right of privacy  
12 when having phone calls with Minh. Opp. at page 6, lines 19-23. Minh is advised  
13 differently. The children can be interviewed.

14  
15 Jim again asserts that his recordings contradicts that he committed a battery  
16 against Minh. Jim *knew* he was recording and *still* failed to have any self-control.  
17  
18 The recordings do not help him.

19 Jim alleges that Minh claims that he "routinely" takes away the children's  
20 iPhones and iPads. Opp. at page 7, lines 1-13. Minh's motion has been reviewed.  
21  
22 Minh stated that Jim has taken away the children's iPhones and iPads and the  
23

24  
25 <sup>17</sup> However, Hannah complains to Minh that Jim has put recording devices  
26 throughout the house and in Hannah's room. Hannah found out about it after she  
27 had accidentally stepped on it and heard her own voice on the recorder. Minh  
28 advises that Hannah is now very uncomfortable in her own room because of what  
Jim has done.



1 correspondence has had to be sent out about that (page 6, line 17, page 7, line 5),  
2 but not that it is done routinely.

3 Jim has claimed that Hannah has *always* struggled with school as an excuse  
4 for Hannah's poor academic performance. Opp. at page 7, lines 6-8.

5  
6 Hannah has done very well in school. In 2016, Hannah was an essentially a  
7 straight "A" student 4.0 student.<sup>18</sup> In 2017, Hannah was a 3.89 grade point average  
8 student.<sup>19</sup> In 2018, through the first quarter at the Eastgate campus for Coral  
9 Academy, Hannah as a straight "A" 4.0 student. As stated in Minh's Motion,  
10 Hannah is now a 2.35 grade point average student.<sup>20</sup> Challenger is *not* more  
11 difficult than Coral as Jim tries to provide cover to deflect blame on anyone but  
12 himself and provides zero evidence to support that assertion.  
13  
14  
15

16 Jim additionally tries to claim that Matthew was not a straight "A" student  
17 either and that Matthew's grades have actually improved. Opp. at page 8, lines 6-  
18 20. That claim is false as well. For 2017, Matthew a 3.94 grade point average.<sup>21</sup>  
19 For 2018 for the first quarter at the Eastgate campus for Coral Academy Matthew  
20  
21

22 <sup>18</sup> Quarter 1 was 7 "A's" and 2 "B's." Quarter 2 was 8 "A's" and 1 "B." and  
23 Quarter 3 was all "A's."

24 <sup>19</sup> The 2015, 2016, 2018 grade reports for Hannah are attached as Exhibit G.

25 <sup>20</sup> There is no good reason for a child to go from a 4.0 to 2.35 GPA.

26  
27 <sup>21</sup> A copy of Matthew's grade report for 2017 and 2018 is attached for the Court's  
28 convenience as Exhibit H. Minh is obtaining the grades as quickly as she can.

1 was a 3.8 grade point average student. As stated in Minh's Motion, Matthew is  
2 now a 3.2 grade point average student. The facts remain that both Hannah and  
3 Matthew are having academic difficulties.  
4

5 Jim counsel, in a personal attack against Minh's counsel, which has been  
6 normal operating procedure in this case, claims that "it is not a coincidence that  
7 issues have arisen since Minh retained new counsel; this is clearly a new strategy  
8 to attempt to overturn the Court's custody decision." Opp. at page 9, lines 9-11.<sup>22</sup>  
9

10 The request was made in correspondence dated December 19, to have the  
11 parties work together so the children do better. The effective response back was to  
12 hurl more insults and blame Minh, and now her counsel.  
13

14 Jim actually objects to Minh's contention that Minh's vehicle was not  
15 directly in front of the garage, and impliedly contends that the children could not  
16 see him while he battering her. Opp. at page 9, lines 12-16. Even reviewing the  
17 video Jim started taking after he lost control and battered Minh, the van can clearly  
18 be seen at the end of the driveway in front of the garage.  
19  
20  
21  
22  
23

---

24 <sup>22</sup> The allegation is extremely offensive and utterly false. However, as stated,  
25 engaging in personal attacks against counsel has been the standard operating  
26 procedure since the appearance in this case. The undersigned was retained to  
27 finish up the Marital Settlement Agreement and Decree of Divorce. The current  
28 requests by Minh exists because of the facts that the children are failing to thrive  
and Jim's serial batteries.

1 The photograph Jim attaches as Exhibit 7 and the video Jim included in the  
2 prior Motion only helps prove that the children witnessed that battery, the garage  
3 and Minh's vehicle are clearly visible.  
4

5 If there is any question that the children saw Jim attack Minh, attached is a  
6 text from Hannah to her aunt, Hieu.  
7

8 Hieu: Eta?

9 Hannah: long story short my dad wouldn't give my mom back her stuff that  
10 she forgot and a lot of pushing and shoving happened so we went to the  
11 police and 2 hours later (now) we are finally leaving

12 Hieu: Is everyone ok?

13 Hannah: yes

14 Hieu: Who pushed who?

15 Hannah: my dad pushed my mom

16 Hieu: Did you see it?

17 Hannah: yes

18 Hannah: i think my mom might want to tell u later<sup>23</sup>  
19

20 Jim then apparently tries to claim that Minh did not get her windsurf board  
21 and that she "knew it." Opp. at page 9, line 18, to page 10, line 10. Jim fails to  
22 grasp the larger picture. Jim lost control and battered Minh in front of the children  
23 because he lost his temper yet again.  
24

25 Jim tries to claim that Minh is "lying" when she claimed that Jim told her  
26 "the board is mine." Opp. at page 10, lines 11-20. The audio has a lot of scuffling  
27 in it as Jim is pushing and shoving Minh. Even if the audio is unable to pick it up,  
28

---

<sup>23</sup> Hieu is an attorney as well. A copy of the text string between Hieu and Hannah is attached for the Court's convenience as Exhibit I.

1 Jim is certainly saying with his actions that the "board is mine," by violently  
2 ripping the board out of Minh's hands and throwing it inside the house.

3 Jim, of course, could have said at any point, "that board is mine, yours is the  
4 other one" the entire time while Minh was on the ladder and getting the board, but  
5 instead, Jim waited until Minh got down from the ladder and Minh was walking  
6 out then to aggressively and physically batter her.  
7  
8

9 Jim claims that he did not raise his voice to Minh. Opp. at page 10, lines 19-  
10 20. Even a cursory review of the audio shows such a lack of self-control that he  
11 could not stop himself from yelling, even when he knew he was recording.  
12

13 As to the rest of Jim's claims from page 10, line 20, to page 11, line 24, all  
14 of what Jim is testifying to under oath will be forwarded to the Henderson city  
15 attorney for their prosecution. Jim goes so far as to his that his recording that he  
16 would never hit Minh is somehow dispositive.<sup>24</sup> There is no mention of Minh in  
17 her Motion of trying to hit Jim's car with a handle or the wall of the house with a  
18 ladder because *it never occurred*.  
19  
20  
21

22 Remarkably, Jim tries to claim that while Minh was sitting in her vehicle to  
23 compose herself after being battered by him and while the children were hugging  
24

---

25 <sup>24</sup> There are probably hundreds of thousands of cases in the United States where  
26 the perpetrator of domestic violence states those very same words right *after* they  
27 have struck their spouse. None of Jim's machinations change the fact that he lost  
28 control and committed acts of domestic violence against Minh which was  
*witnessed* by the children. See Exhibit I, *see also*, Jim's own recordings.

1 her and comfort her that Minh was actually trying to coach the children to say the  
2 exact same thing. Opp. at page 12, lines 9-19. Jim's claim should expire of its  
3 own self-inflicted wounds.  
4

5 Jim then tries to claim that even if the children's stories are consistent that  
6 does not actually mean that he battered Minh. Opp. at page 12, lines 19-21.<sup>25</sup> A  
7 jury will make that determination. Minh's and the children's statements to the  
8 investigating officer were consistent.  
9

10 Jim tries to claim the garage is dark and attaches a photograph of the garage  
11 as Exhibit 7. Opp. at page 12 line 25 to page 13, line 5. The garage and  
12 everything in it is clearly visible, including the ability to see Minh being battered.<sup>26</sup>  
13  
14

15 On page 13, lines 5-11, Jim simply blames Minh. Jim has the children 75  
16 percent of the time, or more, but the reason the children are failing to thrive is  
17 because of the less than 25 percent of the time the children spend with her.  
18

19 Jim claims that he is only allows five minutes per child on Mondays,  
20 Wednesdays, and Fridays. The claim is false. Minh originally offered 3:00 p.m. as  
21 the time to speak to the children. Jim rejected that offer and wanted to speak to the  
22

23 <sup>25</sup> There appears to be nothing at this point that will dissuade Jim from trying to get  
24 the children to recant their statements.

25 <sup>26</sup> In Jim's video recording he clearly states, "your kids watched that." Now he  
26 claims that it was too dark inside the garage. Jim has impeached himself. The  
27 video stating the children saw what he did and Jim's sworn declaration wherein he  
28 now impeaches himself will go the Henderson city attorney as well.

1 children at 7:00 p.m. he did not want to speak to them at 3:00 p.m. because he is in  
2 surgery at that time.<sup>27</sup>

3 Jim wanted to speak to the children only on Mondays, Tuesdays, and  
4 Wednesdays, so that is when he speaks to them. It is presumed that Jim did not  
5 want Thursday and Friday because he is working late, contrary to his testimony at  
6 the evidentiary hearing.  
7

8  
9 Minh reports that Hannah will listen to Jim talk for about 5 minutes, will not  
10 respond to him, tells him goodbye, and then turns over the phone to Matthew.  
11 Minh reports that Matthew will speak to Jim for about 5 or 10 minutes and then  
12 turns over the telephone to Selena. Minh reports that Jim and Selena speak for  
13 about 45 minutes.  
14  
15

16 Contrary to Jim's claims, he gets about three hours of telephonic contact per  
17 week. In addition, Selena had her birthday on Saturday, April 4. Jim was invited  
18 to speak to the children on that day as well and wish Selena a "happy birthday."  
19  
20

---

21 <sup>27</sup> The Court may recall that Jim testified under oath at the evidentiary hearing that  
22 he was done working by approximately 2:00 p.m. every day and that he could pick  
23 up the children from school. In part, this is why Jim was awarded primary physical  
24 custody if Minh followed through on the plans they had, as a family, to relocate to  
Irvine. That testimony from Jim is now shown to be a lie.

25 Since the evidentiary hearing, Jim went back to his usual practice of working late.  
26 As a result, the children to stay in daycare after school until the late afternoon/early  
27 evening as Jim is constantly working when instead they could be with their mother  
28 who could assist them with their school work.

1 Minh had the children call Jim on Easter Sunday. Minh additionally had the  
2 children call Jim on a Thursday, but Jim never answered.

3 In footnote 2, Jim claims that he had the Henderson Police Department call  
4 Minh on Saturday for bail is false. A slight correction is in order. Jim gave Aztec  
5 Bail Bonds rather than the Henderson Police Department Minh's number and had  
6 them call her and ask her to bail him out after he battered her.<sup>28</sup> It is unclear why  
7 Jim keeps lying about things like claiming that he never asked Minh to bail him out  
8 that are easily verified.  
9  
10  
11

12 Jim claims that he is not a violent person. Opp. at page 13, lines 24-25. The  
13 facts show differently. Jim has battered Minh, has choked Hannah, screamed in  
14 Hannah's face, twisted Selena's arm, and has been physically violent with Minh's  
15 nephew. Matthew is fearful of Jim.  
16  
17

18 Below is a transcript of a conversation that Minh recorded when she was  
19 taking the children back to Jim on January 3, from Crystal Cove State Park. The  
20 audio can be provided separately.  
21

22 Minh: What's wrong Matthew? (Matthew crying)

23 Matthew: He's going to kill me.

24 Minh: why do you say that?

25 Matthew: (crying and coughing) He's going to kill me.

26 Minh: Why do you say that, Matthew? Matthew, Mathew, it's ok honey.

27 Matthew: No it's not, He's going to kill me.

28 Minh: Why do you say that?

---

<sup>28</sup> A copy of the phone log is attached as Exhibit J. The number for Aztec Bail Bonds is (702) 262-0088.

1 Matthew: He's going to kill me! Mommy, mommy. I don't want to go, I  
2 don't want to go. (coughing crying). I don't want to go!

3 Minh: Matthew, what are you afraid of honey.

4 Matthew: He's going to kill me.

5 Minh: Why do you say that, why do you say that? Matthew.

6 Matthew: I don't want to go back,

7 Minh: Who is going to kill you?

8 Matthew: Daddy.

9 Minh: Why?

10 Matthew: I don't want to be with him. I don't want to be with him. (Crying,  
11 coughing).

12 Minh: What?

13 Matthew: I don't want to be with him, I don't want to...(coughing crying)

14 Selena: mommy...inaudible

15 Minh: Matthew, it's ok honey. Mommy is right here, I'm right here buddy,  
16 I'm right here. shh..shh. It's ok buddy, It's ok honey, it's ok, shh...it's ok.  
17 (Matthew crying) ok, it's ok Matthew. It's ok. Shh. shh.

18 Matthew suffers from stress and trauma witnessing what Jim had done to  
19 Hannah, choking her after the runaway event on December 17. The violence  
20 Matthew witnessed has caused him to undergo a tremendous amount of anxiety  
21 whenever Minh mentions about heading back to Vegas. Jim has zero interest in  
22 finding out why Matthew is in distress. Jim's only interest is in blaming Minh.

23 **B. Minh, and the Minor Children, Should be Granted an Extension of the**  
24 **Temporary Protective Order**

25 The authorities, with the information given, felt confident not only charging  
26 Jim with battery constituting domestic violence but also incarcerating him. The  
27 arraignment is May 18. Minh and the children are fearful of future violent  
28 behavior they experienced and witnessed.



1 The video and audio provided by Jim *does nothing* to help his case and he  
2 even impeaches himself. Even while Jim is surreptitiously recording, he is still  
3 unable to control himself. There is sufficient evidence that an act of domestic  
4 violence occurred; Jim was arrested and criminally charged. There is a concern,  
5 given Jim's demonstrated lack of self-control, pattern of conduct, and the  
6 children's fear that another act of domestic violence may occur.  
7  
8

9 Jim repeating over and over that he "didn't do it," and that "Minh is the  
10 aggressor" like it is some kind of mantra fails to make it true. Jim's own children  
11 stated that he did the battery that result in him being incarcerated and being  
12 charged with domestic violence. Jim, by wresting the board away from Minh, is  
13 by definition the aggressor.<sup>29</sup>  
14  
15

16 Jim claims that Minh is preventing him from having contact with the  
17 children. Opp. at page 15 lines 1-2. That is untrue. Minh turns over the telephone  
18 to the children and lets the children speak to Jim as long as they want.  
19

20 Jim claims that Minh never reported to the police that he choked Hannah.  
21 Opp. at page 15, lines 10-11. That is untrue. See Exhibit B.  
22  
23  
24  
25

---

26 <sup>29</sup> All Jim had to do when Minh was on the ladder was say, "Hey, I think you have  
27 the wrong board." It is what every peaceable person does. Instead, Jim waited  
28 until Minh got down from the ladder and then created the confrontation. The board  
was simply the excuse to attack.

1 Jim claims that Minh has provided no examples of past violence. Opp. at  
2 page 15, lines 17-18. That is untrue. Attached are Declarations from Kha-Nhi  
3 Pham and Lynni Nicole Pham.<sup>30</sup> The Phams are cousins of Minh. Kha-Nhi and her  
4 son, Vincent, who was nine years old at the time, and Lynni were at Minh and  
5 Jim's house for a birthday party. Kha-Ni reports that she heard a loud noise. She  
6 turned around and Vincent was on ground in pain and in tears. Lynni witnessed  
7 Vincent inadvertently bump into Hannah. Jim became enraged and pushed  
8 Vincent so hard he landed on his back, hurt and terrified. *See also*, Exhibit B and  
9 Exhibit I.  
10  
11  
12

13 In the recording Jim provides Minh tells Jim that he pushed her in the home.  
14 Since she did not know that Jim was recording, there is no reason why she would  
15 reference it unless it was true. The incident was when Minh told Jim that she  
16 would be moving out of the house into a house on Tompkins Street. The children  
17 saw the house and were happy with it. Jim was furious took it out on Selena and  
18 she was crying.  
19  
20  
21

22 Minh reported that she was comforting Selena when she ran away from Jim  
23 making him even more upset. Jim pushed Minh while she was carrying Selena so  
24 she started running away from him around the kitchen island into the hallway and  
25 back to the dining table. Selena was so afraid of what Jim was doing and started  
26  
27

28 <sup>30</sup> The Declarations are attached as Exhibit K

1 crying in fear. Minh realized that the nanny was in the house so she screamed out  
2 her name. At that point, Jim calmed down immediately and went to his room.

3 Jim claims that he is not a violent, angry or resentful person. Opp. at page  
4 15, lines 19-20. Jim was arrested for battery. The audio recording shows a person  
5 who lacks self-control. *See also*, Exhibit B (incident report), Exhibit I (text  
6 message), and Exhibit K (declarations).  
7

8 Jim claims that since the Court found that Minh had discussed the divorce  
9 with the children that Minh has coached the children. Opp. at page 15, line 26 to  
10 page 16, 10. It is a false equivalence and a logical fallacy for Jim to try to make  
11 anyone believe that discussing divorce matters equates to coaching the children on  
12 what to see. After a year, Dr. Gravley saw no alienation or manipulations of any  
13 kind from Minh.<sup>31</sup>  
14

15 Instead, Jim wants the children to resume "therapy" that everyone agrees is  
16 providing zero benefit to the children. Jim is only self-interested in finding a  
17 therapist who will support his campaign of blaming Minh for everything.  
18

19  
20  
21  
22 <sup>31</sup> Minh is also perplexed. Jim refers to the Court's findings from its Decision, that  
23 "[t]he Court noted that it received evidence that Minh had discussed the dispute  
24 with the children and advised them to discuss the same with their father." Opp. at  
25 page 15, line 27, to page 16, line 2.

26 Dr. Gravley advised Minh that when the children ask questions why Jim changed  
27 his mind about the move, she should encourage them to speak to Jim, but yet this is  
28 something the Court found is something she should not have said to the children.  
Minh is perplexed that it is held against her that followed Dr. Gravley's directions  
given in therapy.

1 Jim "believes" that the children did not witness his attack on Minh. Opp. at  
2 page 15, lines 24-25. See Exhibit I (Hannah's texts with Hieu) and the witness  
3 statements when they are released. In order to protect Minh and the children's best  
4 interests, the protective order should be extended until the criminal matter is  
5 resolved.  
6

7  
8 **C. Minh Should Receive Interim Sole Legal and Sole Physical Custody**  
9 **Until the Criminal Matter is Resolved**

10 Jim fails to provide any opposition to Minh's request for interim sole legal  
11 and sole physical custody. The children resist returning to Jim to the point the  
12 police have to be called on multiple occasions. The children, particularly Matthew,  
13 are expressing fear of Jim. The recording of Matthew is distressing. The children  
14 are doing poorly in school. Hannah's growth is slowing down.  
15

16  
17 School is currently being conducted online only. The children are doing  
18 daily homework packets that Minh helps them complete. Minh is retired so she is  
19 available the entire day to assist the children with watching their lectures online.  
20  
21 There is no question that Minh has the educational background to help the children  
22 with any and all homework. Minh then assists them with their homework each  
23 day. The children are extremely happy.  
24

25 Jim is still working 50-65 hours per week (he lied to the court when he  
26 claimed less) and has the nanny raising the children. The nanny cannot assist the  
27  
28

1 children with their classroom attendance and cannot assist them with their  
2 homework.

3 During this time, the children would effectively be left alone all day as Jim  
4 is working all day. He is too tired when he comes back in the evening after  
5 working all day to provide any meaningful assistance with homework, in addition  
6 to making dinner, dictating medical reports, and getting the children to bed.  
7

8  
9 Minh is practicing isolation for the coronavirus. Jim is not practicing  
10 isolation. Jim is meeting with patients daily and has the heightened potential to  
11 bring the coronavirus to the children. The maid Jim uses has multiple clients and  
12 is in multiple houses daily.  
13

14  
15 As to contact, Minh lets the children speak to Jim for as long as they want.  
16 It should be fairly straightforward that what is in the children's best interests, until  
17 there is an evidentiary hearing or the criminal is resolved, is that the current  
18 arrangement stay in place.  
19

20 Accordingly, Minh should receive sole legal and sole physical custody until  
21 the battery constituting domestic violence charge is resolved.  
22

23 **D. Minh Should Receive Permanent Primary Physical Custody**

24 Given the facts, it should be axiomatic that there is adequate cause for there to  
25 be an evidentiary hearing.  
26  
27  
28

1       a.    The wishes of the child if the child is of sufficient age and  
2            capacity to form an intelligent preference as to his or her physical  
3            custody

4           Whether the children should be given a say as to their preference is fact and  
5           circumstance dependent. Given the changes in circumstances, it should be  
6           appropriate to inquire of the children as to their likes and dislikes and what has  
7           been going on.  
8

9       b.    Any nomination of a guardian for the child by a parent

10          The facts speak for themselves. The children absolutely *run to* Minh when  
11          it is her time. The children run *away* from Jim. The children *run to* Minh because  
12          she has historically been the primary caregiver.  
13  
14

15       c.    Which parent is more likely to allow frequent associations and a  
16            continuing relationship with the noncustodial parent

17          Minh allows Jim to speak to the children for as long as he wants. Should  
18          Jim dare question that, Minh will provide the phone records. In contrast, Jim tries  
19          to restrict Minh's telephone contact with the children. Attached as Exhibit L are  
20          excerpts of text messages of Minh complaining to Jim that he refuses to allow  
21          phone contact.  
22  
23

24          On the weekends in which Minh had the children, Minh could easily pick up  
25          the children when school lets out on Friday at 3:15 p.m. and 3:30 p.m. Instead,  
26          Jim makes the children stay in extended care until 4:00 p.m., and *only* then can  
27          Minh pick them up.  
28

1 After a school event that both Minh and Jim attended, the children were  
2 allowed to leave and go home with the parents. Minh reports that Matthew was  
3 crying. Matthew complained that he had a headache. Jim had to work so Minh  
4 offered to take Matthew home with her. Jim refused and forced Matthew to stay in  
5 school rather than spend an additional minute with Minh.  
6

7  
8 For Hannah's birthday, her birthday was on a Thursday and school was  
9 dismissed due to the coronavirus. Hannah's birthday wish was to spend the day  
10 with her mother. Minh advises that she texted Jim and asked if it was okay if she  
11 takes the children for the day while he was at work and then bring them back when  
12 he gets back from work. For days, Jim did failed to respond after multiple texts to  
13 him. Jim finally responded with "no." On Hannah's birthday, Jim left for work  
14 and had a babysitter come over and watch the children rather than have the  
15 children spend an additional minute with Minh.<sup>32</sup>  
16  
17  
18

19 When Challenger School was closed early for the coronavirus, Jim rejected  
20 Minh's request to help take care of the children and help them with their online  
21 classwork. Instead, Jim would rather the nanny whose first language is Spanish  
22 and is less than fluent in English, watch the children while he continued to work  
23 rather than take advantage of the offer of assistance from the children's own  
24 mother and give a single additional minute with her beyond what is ordered.  
25  
26

27  
28 <sup>32</sup> Minh reports that Hannah complained to her that Jim left for work that day  
without saying "happy birthday," or even "goodbye."

1 Jim complains that the children keep secrets about what they do with Minh.  
2 Opp. at page 20, lines 13-14. Jim should take the COPE class. He is not to  
3 interrogate the children.  
4

5 d. **The level of conflict between the parents**

6 The current level of conflict is high.  
7

8 e. **The ability of the parents to cooperate to meet the needs of the**  
9 **children**

10 The ability to cooperate at this point is minimal. Nothing has changed since  
11 the motion was filed. Jim relies upon complaining about ski equipment.<sup>33</sup> This  
12 was addressed in Minh's Opposition to the Motion for Immediate Return.  
13

14 Jim complains that Minh will not pay for extracurricular activities. Opp. at  
15 age 21, lines 25-26. This was addressed in Minh's Opposition to Jim's Motion.  
16  
17 See Exhibit M.

18 Jim complains that Minh will not pay for the school tuition. Opp. at page  
19 21, line 21, to page 22, line 1. The issue of school tuition was addressed in Minh's  
20 Opposition. See Exhibit N.<sup>34</sup>  
21  
22  
23  
24  
25

26 <sup>33</sup> Minh advises that she has repeatedly asked Jim to return the children's clothes  
27 she gets for them during her time, but Jim completely refuses to do so.

28 <sup>34</sup> Jim ignores Minh, and then claims *she* will not cooperate.



1 Jim claims that a new therapist is needed, but only one who specializes in  
2 alienation. Opp. at page 22, lines 17-18. After a year therapy, Dr. Gravely did not  
3 see any alienation or manipulations from Minh's part.  
4

5 **f. The mental and physical health of the parents**

6 Minh is mentally healthy. Jim has been arrested for domestic violence, has  
7 committed an act of domestic violence against Hannah, Matthew screams that his  
8 dad is going to kill him if he goes back, and the children are failing to thrive, and  
9 somehow none of this is his fault and all Minh's fault.  
10

11 **g. The physical, developmental and emotional needs of the children**

12 Jim chokes Hannah. Jim attacks Minh, the attack is witnessed by the  
13 children, Jim is arrested, incarcerated, criminally charged, and Jim actually claims  
14 that Minh has psychologically harmed the children. Opp. at page 23, lines 1-7.<sup>35</sup>  
15

16 The physical needs (food, clothing, shelter) are being met. The  
17 developmental needs of the children are not being met by Jim. The children's  
18 grades have declined, Hannah is refusing to eat and her growth is slowing.<sup>36</sup> The  
19

20  
21  
22 <sup>35</sup> When Minh had the children, before and during the divorce, Selena was in swim  
23 and dance class. Hannah was in taekwondo, swim, and tennis lessons. Matthew  
24 was in taekwondo, swim, tennis, and golf lessons. Now they are no longer in any  
25 of those activities. Jim has not been meeting the children's developmental  
26 activities by removing them from what they love to do.

27 <sup>36</sup> Jim will text Minh to have her help Hannah with her homework either because  
28 he cannot or does not have the time.

1 emotional needs of the children are not being met by Jim.<sup>37</sup> The children are still  
2 in counseling, the custody exchanges when the children have to return to Jim are  
3 traumatizing to them, and Matthew is crying out in terror that Jim is going to kill  
4 him.  
5

6 The children love being with their mother. Minh meets their emotional  
7 needs. It is in their mother's care where they thrive. The children cannot wait to go  
8 to her when it is their time to be with her and they refuse to leave her vehicle when  
9 it is time to return to Jim to the point the police have to become involved.<sup>38</sup> Minh  
10 meets their developmental needs. She involves them in activities. Hannah eats  
11 when she is with her mother. The children are very happy attending school with  
12 her and appear to be doing well attending school with her.  
13  
14  
15

16 **h. The nature of the relationship of the child with each parent**

17 The relationship of the children with Minh is excellent. Jim claims that he is  
18 very "closely bonded" with the children. Opp. at page 23, lines 21-22. Being  
19 "closely bonded" has very little relevance as to whether Jim has a good  
20  
21

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22 <sup>37</sup> Dr. Gravley did not feel that Minh needed to have sessions with the children but  
23 she feels that Jim needs to have sessions with the children. Dr. Gravley offered to  
24 initiate and be present with the children when they speak to Jim. Matthew agreed  
25 to speak to Jim in Dr. Gravley's presence once and refused to ever do it again.

26 <sup>38</sup> Jim implies that Minh manipulates the children while they are in her care. If that  
27 is so, why are the children not sad when they leave him? Why is there never any  
28 hesitation from the children to leave Jim? Why do they run to Minh at Minh's pick  
up every time?

relationship with the children. Even a casual observer would conclude that Jim's relationship with the children is poor.

i. **The ability of the child to maintain a relationship with any sibling**

Not applicable.

j. **Any history of parental abuse or neglect of the child or a sibling of the child**

It is submitted that the children having to watch their mother be battered by Jim is abuse and neglect.

k. **Whether either parent or any other person seeking 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**

Jim has choked Hannah. Jim has twisted Selena's arm twice as a way of getting compliance. Matthew cries that Jim is going to kill him, because he saw Jim choking Hannah. Minh has been attacked by Jim, witnessed by the children, and Jim has been arrested, incarcerated, and criminally charged. There is also an incident in which Minh's nephew was attacked by Jim at a party.

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

Not applicable.

**E. The Children Should Be Interviewed**

Jim opposes Minh's request but his opposition fails to make sense. Jim appears to contend that the children should not be interviewed because the request

1 was made last year and because the children are too young. Neither contention is  
2 relevant.

3 Whether children should be interviewed is dependent upon the  
4 circumstances, not their ages, and not whether the request was made in the prior  
5 year. The circumstances are that there are children who are in distress to the point  
6 they are running away, their grades are declining, they refuse to get out of Minh's  
7 vehicle, they are still in counseling, Matthew is crying that his father is going to  
8 kill him, Hannah is refusing to eat, and Jim is battering Minh in front of the  
9 children to name a few reasons.  
10  
11  
12

13 For Jim to suggest that Hannah and Matthew are too young to distinguish  
14 between the truth and a lie is simply silly, and may be seen as desperate. The  
15 Court needs information with which to make an informed decision. Since this case  
16 is about the children, it would make sense to obtain factual information from them  
17 to allow the matter to be heard on its merits.  
18  
19

### 20 **III.**

### 21 **CONCLUSION**

22 WHEREFORE, Defendant, MINH LUONG, respectfully requests that the  
23 Court enter the following orders  
24

- 25 1. Extending the TPO for six months.
- 26 2. Entering an interim change in custody with Minh having sole legal  
27 and sole physical custody until the criminal matter is resolved.  
28

3. Setting an evidentiary hearing on custody being changed.
4. Requiring that the children be interviewed, and;
5. For any further relief the Court deems proper and just.

DATED this 7th day of April 2020

PAGE LAW FIRM

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Fred Page, Esq.  
Nevada State Bar No. 6080  
6930 South Cimarron Road, Suite 140  
Las Vegas, Nevada 89113  
(702) 823-2888  
*Attorney for Defendant*

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20<sup>th</sup> day of April 2020 that the foregoing DEFENDANT'S REPLY TO OPPOSITION as served pursuant to NECFR 9 via e-service to Robert Dickerson, Esq. attorney for Plaintiff.


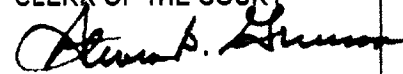
  
An employee of Page Law Firm

EXHIBIT 13

EXHIBIT 13

EXHIBIT 13



1 **NEOJ**  
2 **THE DICKERSON KARACSONYI LAW GROUP**  
3 **ROBERT P. DICKERSON, ESQ.**  
4 Nevada Bar No. 000945  
5 **SABRINA M. DOLSON, ESQ.**  
6 Nevada Bar No. 013105  
7 1745 Village Center Circle  
8 Las Vegas, Nevada 89134  
9 Telephone: (702) 388-8600  
10 Facsimile: (702) 388-0210  
11 Email: info@thedklawgroup.com

12 Attorneys for Plaintiff

13 **DISTRICT COURT**  
14 **FAMILY DIVISION**

15 **CLARK COUNTY, NEVADA**

16 **JAMES W. VAHEY,**

17 Plaintiff,

18 v.

19 **MINH NGUYET LUONG,**

20 Defendant.

21 CASE NO.: D-18-581444-D  
22 DEPT NO.: II

23 **NOTICE OF ENTRY OF ORDER**  
24 **FROM APRIL 22, 2020 HEARING**

25 TO: MINH NGUYET LUONG, Defendant; and

26 TO: FRED PAGE, ESQ. of PAGE LAW FIRM, Attorney for Defendant:

27 ...

28 ...

...

...

...

...


...



1 PLEASE TAKE NOTICE that an ORDER FROM APRIL 22, 2020  
2 HEARING, a true and correct copy of which is attached hereto, was  
3 entered in the above-entitled matter on the 1<sup>st</sup> day of June, 2020.

4 DATED this 1<sup>st</sup> day of June, 2020.

5 THE DICKERSON KARACSONYI  
6 LAW GROUP

7  
8 By   
9 ROBERT P. DICKERSON, ESQ.  
10 Nevada Bar No. 000945  
11 SABRINA M. DOLSON, ESQ.  
12 Nevada Bar No. 013105  
13 1745 Village Center Circle  
14 Las Vegas, Nevada 89134  
15 Attorneys for Plaintiff  
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17  
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*Heather S. Hume*  
CLERK OF THE COURT

1 **ORDER**  
2 THE DICKERSON KARACSONYI LAW GROUP  
3 ROBERT P. DICKERSON, ESQ.  
4 Nevada Bar No. 000945  
5 SABRINA M. DOLSON, ESQ.  
6 Nevada Bar No. 013105  
7 1745 Village Center Circle  
8 Las Vegas, Nevada 89134  
9 Telephone: (702) 388-8600  
10 Facsimile: (702) 388-0210  
11 Email: info@thcdklawgroup.com  
12 Attorneys for Plaintiff

13 DISTRICT COURT  
14 FAMILY DIVISION  
15 CLARK COUNTY, NEVADA

16 JAMES W. VAHEY,  
17  
18 Plaintiff,

19 v.

20 MINH NGUYET LUONG,  
21  
22 Defendant.

23 CASE NO. D-18-581444-D  
24 DEPT NO. II

25 **ORDER FROM APRIL 22, 2020 HEARING**

26 This matter having come before the Honorable Judge T. Arthur  
27 Ritchie, Jr., on the 22<sup>nd</sup> day of April, 2020, for a hearing on Plaintiff's  
28 Emergency Motion for Immediate Return of the Children, Dissolution of  
TPO, Modification of Child Custody, Appointment of a New Therapist for  
the Children, an Order to Show Cause Why Defendant Should Not Be  
Held in Contempt, and to Resolve Other Parent Child Issues ("Jim's  
Emergency Motion"); Defendant's Opposition to Plaintiff's Emergency  
Motion ("Minh's Opposition"); Plaintiff's Reply to Defendant's  
Opposition ("Jim's Reply"); Defendant's Motion to Extend Temporary  
Protective Order T-20-204489-T, to Change Custody on an Interim Basis,  
for an Interview of the Minor Children and to Change Custody ("Minh's  
Motion"); Plaintiff's Opposition to Defendant's Motion ("Jim's

1 Opposition”); Defendant’s Reply to Plaintiff’s Opposition (“Minh’s  
2 Reply”); and Defendant’s Emergency Motion to Extend Protection Order,  
3 filed in Case No. T-20-204489-T; Plaintiff, JAMES W. VAHNEY (“Jim”),  
4 present telephonically with his attorneys, ROBERT P. DICKERSON,  
5 ESQ., and SABRINA M. DOLSON, ESQ., of THE DICKERSON  
6 KARACSONYI LAW GROUP, and Defendant, MINH NGUYET LUONG  
7 (“Minh”), present telephonically with her attorney, FRED PAGE, ESQ., of  
8 PAGE LAW FIRM. The Court, having reviewed the papers and pleadings  
9 on file herein, having considered the argument of each party’s counsel, and  
10 good cause appearing therefore, hereby FINDS and ORDERS as follows:

11 THE COURT HEREBY FINDS that it has subject matter jurisdiction  
12 at any time during the minority of the children to address parent child  
13 issues, including the custody, care, education, maintenance, and support  
14 of the children, even though custody has been resolved in this case,  
15 pursuant to NRS 125C.0045. Video Transcript, 10:14:25.

16 THE COURT FURTHER FINDS that the issue of custody was  
17 reopened by Jim’s Emergency Motion and Minh’s Motion, in which each  
18 party respectively requested a modification of custody. Video Transcript,  
19 10:14:32.

20 THE COURT FURTHER FINDS that it is within the Court’s  
21 discretion whether to reopen or re-litigate the issue of child custody. Video  
22 Transcript, 10:01:23. In determining whether there is adequate cause to  
23 re-litigate the issue of custody, the Court looks at prior custody orders to  
24 determine if there has been a change in circumstances that warrants  
25 modifying or reopening the custody orders. Video Transcript, 10:01:25;  
26 10:14:41.

27 THE COURT FURTHER FINDS that there was an evidentiary  
28 proceeding that spanned three (3) days (i.e., August 8, September 5, and

1 September 11, 2019), and included fifteen (15) hours of testimony from  
2 six (6) witnesses, which supported findings and orders the Court set forth  
3 in its Findings of Fact, Conclusions of Law, Decision and Order entered  
4 September 20, 2019 ("Custody Order"). Video Transcript, 10:15:00. THE  
5 COURT FURTHER FINDS that it analyzed every NRS 125C.0035(4)  
6 best interest consideration in the Custody Order and concluded it was in  
7 the best interest of the children for the parents to share joint physical  
8 custody. Video Transcript, 9:58:05, 10:15:09.

9 THE COURT FURTHER FINDS that, in the Custody Order, Minh's  
10 request to relocate with the children to California was denied for  
11 insufficient proof, and Minh was advised that, based on those findings and  
12 orders, if she had a settled intent to move to California, then physical  
13 custody would be awarded to Jim, almost in the nature of a default  
14 situation. Video Transcript, 10:06:35; 10:15:20. Thus, the Custody Order  
15 was leveraged based on Minh's decision to move to California. Video  
16 Transcript, 10:06:50. Minh was given the option to exercise her right to  
17 joint physical custody in Las Vegas, Nevada. Video Transcript, 10:06:58.  
18 Minh chose to move to California and forego joint physical custody of the  
19 parties' children. Video Transcript, 10:00:36.

20 THE COURT FURTHER FINDS that Minh has alleged a change of  
21 circumstances since the Custody Order was entered that would warrant a  
22 reopening of the issue of custody. Video Transcript, 10:06:35; 10:15:54.  
23 Minh alleges a physical altercation occurred on March 20, 2020. Video  
24 Transcript, 10:16:04. THE COURT FURTHER FINDS that domestic  
25 violence is always relevant as to custody. Video Transcript, 10:16:11. In  
26 fact, if domestic violence is proved by clear and convincing evidence, a  
27 rebuttable presumption arises under NRS 125C.0035(5) and NRS

28 . . .

1 125C.230 that the person who perpetrated the act of domestic violence is  
2 not fit to have primary physical custody. Video Transcript, 10:16:15.

3 THE COURT FURTHER FINDS that an arrest is not a conviction.  
4 Video Transcript, 10:16:27. It is premature to find that the allegations  
5 made by Minh are true. Video Transcript, 10:16:31. It is a serious matter  
6 to be arrested for domestic battery, but it is not a catalyst for a change of  
7 custody under the circumstances alleged by Minh, in advance of an  
8 adjudication or proof of guilt and when due process has not yet been  
9 achieved. Video Transcript, 10:01:38. THE COURT FURTHER FINDS  
10 that when there has been an adjudication of guilt and due process has been  
11 achieved, then a party may have an argument that the rebuttable  
12 presumptions that would arise under NRS 125C.0035(5) and NRS  
13 125C.230 should be balanced against the negative findings that were made  
14 regarding best interest less than a year ago, namely, that Minh would not  
15 be the parent who would foster and encourage the children's relationship  
16 with the other parent. Video Transcript, 10:02:14. The Court had  
17 concerns, which are set forth in the Custody Order, about Minh's conduct,  
18 motivations, and how she viewed the relationship between Jim and the  
19 children. Video Transcript, 10:02:40.

20 THE COURT FURTHER FINDS that it has weighed the likelihood  
21 of injury and the severity of the injury based on both parties' allegations  
22 that the other pushed or kicked him or her, and concludes there were no  
23 significant injuries alleged by either party. Video Transcript, 10:16:43.  
24 THE COURT FURTHER FINDS that the parties' custody rights are  
25 fundamental constitutional rights and they are entitled to due process  
26 before even visitation is modified. Video Transcript, 10:17:10.

27 THE COURT FURTHER FINDS that it received an adequate  
28 amount of evidence at the evidentiary hearing on child custody regarding

1 how the parents helped the children with their homework, how they wrote  
2 papers, and how the children struggled in school. Video Transcript,  
3 10:03:00. The Court found both parties cared about and supported the  
4 academic progress of their children. Video Transcript, 10:03:10.

5 THE COURT FURTHER FINDS that, based on the foregoing  
6 findings, there is no adequate cause to re-litigate custody except for the  
7 fact that the Court will allow Minh to reconsider her decision not to share  
8 joint physical custody of the children. Video Transcript, 10:17:16. The  
9 Court cannot ignore the law of the case in this matter. Video Transcript,  
10 10:21:25. Minh cannot remove the children. Video Transcript, 10:21:34.  
11 Minh cannot change the children's residence. Video Transcript, 10:21:35.  
12 Minh cannot live in California with the children. Video Transcript,  
13 10:21:37. However, the Court is giving Minh an opportunity between now  
14 and May 28, 2020 to show the Court that the one change of circumstances  
15 that resonates with the Court is that she can share joint physical custody  
16 in Nevada. Video Transcript, 10:21:39. THE COURT FURTHER FINDS  
17 that it is in the best interest of the children to make a temporary  
18 modification to the physical custody schedule based on Minh's  
19 representation she can share custody of the children in Nevada. Video  
20 Transcript, 10:22:12.

21 THE COURT FURTHER FINDS that regarding Jim's request for  
22 makeup custodial time, Minh's withholding of the children from Jim must  
23 be determined to be wrongful in order for Jim to be awarded makeup time.  
24 Video Transcript, 10:27:20. Minh obtained an ex parte Protection Order  
25 Against Domestic Violence ("TPO"), entered in Case No. T-20-204489-T,  
26 which affected the Court's Custody Order. Video Transcript, 10:27:30.  
27 The Court is not concluding today that Minh's denial of Jim's custody  
28 time was wrongful. Video Transcript, 10:27:36. The Court is also

1 concerned it would not be in the children's best interest for the children to  
2 be away from Minh for the same period of time as they have been away  
3 from Jim. Video Transcript, 10:27:47.

4 THE COURT FURTHER FINDS that the parties should begin a  
5 dialogue concerning the parent-child issues. Video Transcript, 10:22:25.  
6 The Court is not going to be entering orders regarding counseling or joint  
7 legal custody issues at this time. Video Transcript, 10:22:29. There has  
8 already been an order stating that the children may benefit from a  
9 counseling resource. Video Transcript, 10:23:32. The parties agree there  
10 needs to be a change in the counseling resource. Video Transcript,  
11 10:23:39. If the parties are unable to resolve the parent-child issues, they  
12 can report whether there is an impasse regarding these issues at the hearing  
13 on May 28, 2020. Video Transcript, 10:22:35.

14 THE COURT HEREBY ORDERS that Jim's request to enforce his  
15 custody rights and for the immediate return of the children to his custody  
16 is granted. Video Transcript, 10:17:47; 10:21:58.

17 THE COURT FURTHER ORDERS that Jim's request to modify  
18 child custody is denied as the Court will not take away Minh's custodial  
19 time. Video Transcript, 10:18:04. In fact, if Minh is able to share joint  
20 physical custody of the children in Nevada, this will be adequate cause to  
21 review the custodial timeshare. Video Transcript, 10:18:09. THE COURT  
22 FURTHER ORDERS that Minh's request to modify custody to award her  
23 primary physical custody is denied as there is not adequate cause to re-  
24 litigate the issue of child custody, except for the fact the Court will allow  
25 Minh to reconsider her decision not to share joint physical custody of the  
26 children. Video Transcript, 10:17:16; 10:18:09.

27 THE COURT FURTHER ORDERS that it is in the children's best  
28 interest to temporarily modify the current physical custodial arrangement



1 pending the proceedings on May 28, 2020. Video Transcript, 10:19:04.  
2 The parties shall share custody on a week on/week off basis from Friday at  
3 9:00 a.m. to Friday at 9:00 a.m. on the condition that Minh is in Nevada  
4 exercising her custodial time. Video Transcript, 10:19:45. THE COURT  
5 FURTHER ORDERS that the children are to be delivered to Jim on April  
6 23, 2020 at 9:00 a.m., which will be in advance of his custodial week that  
7 begins Friday, April 24, 2020. Video Transcript, 10:20:39. Minh will  
8 receive the children on May 1, 2020 at 9:00 a.m. for the start of her week,  
9 and the parties will alternate on a week on/week off basis until the May 28,  
10 2020 hearing. Video Transcript, 10:21:09. THE COURT FURTHER  
11 ORDERS that the custodial exchanges will occur at the guard gate of Jim's  
12 home. Video Transcript, 10:20:16.

13 THE COURT FURTHER ORDERS that although the May 28, 2020  
14 hearing does not concern child custody, but rather concerns the parties'  
15 divorce, at the May 28, 2020 hearing, the parties will inform the Court of  
16 their intent to either continue with the week on/week off custodial  
17 arrangement, enter a different physical custodial agreement, or inform the  
18 Court an evidentiary hearing is necessary to enter a joint physical custody  
19 arrangement as a permanent order. Video Transcript, 10:20:01. The Court  
20 is not relitigating the issue of custody, however, depending on what  
21 happens with the domestic violence charges or depending on what happens  
22 with the fallout from today's hearing, a hearing may be needed or an  
23 agreement by the parties concerning a change in the custodial timeshare.  
24 Video Transcript 10:18:36. The Court is not going to close the matter with  
25 a denial of Minh's opportunity or request to reconsider her decision not to  
26 share custody in Nevada. Video Transcript 10:18:52.

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1 THE COURT FURTHER ORDERS that Jim's request for twenty-  
2 four (24) days of makeup custodial time is denied. Video Transcript,  
3 10:27:20.

4 THE COURT FURTHER ORDERS that Minh's request for a child  
5 interview is denied at this time. Video Transcript, 10:28:14. Minh can  
6 make this request at a later date if it is warranted. Video Transcript,  
7 10:28:27. THE COURT FURTHER ORDERS that Minh's request for the  
8 appointment of a guardian ad litem is denied. Video Transcript, 10:28:49.

9 THE COURT FURTHER ORDERS that the TPO entered in Case  
10 No. T-20-204489-T is dissolved today by bench order. Video Transcript,  
11 10:18:20; 10:22:02. THE COURT FURTHER ORDERS that Minh's  
12 Countermotion to extend the TPO and Emergency Motion to Extend  
13 Protection Order, filed in Case No. T-20-204489-T, are denied. Video  
14 Transcript, 10:22:09. The Court will address the public safety  
15 considerations in the civil order the Court is going to enter. Video  
16 Transcript, 10:18:30.

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1 THE COURT FURTHER ORDERS that the April 30, 2020 hearing  
2 is vacated. Video Transcript, 10:22:04; 10:24:56.

3 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 1st day of June, 2020

4  
5  
6   
DISTRICT COURT JUDGE  
F68 1F4 AC3D B1F1  
T. Arthur Ritchie

7 Respectfully submitted:

Approved as to form and content:

8 THE DICKERSON KARACSONYI  
9 LAW GROUP

PAGE LAW FIRM

10 /s/ Sabrina M.

11 ROBERT P. DICKERSON, ESQ.  
12 Nevada Bar No. 000945  
13 SABRINA M. DOLSON, ESQ.  
14 Nevada Bar No. 013105  
1745 Village Center Circle  
Las Vegas, Nevada 89134  
Attorneys for Plaintiff


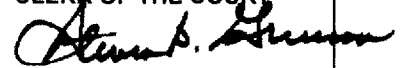
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FRED PAGE, ESQ.  
Nevada Bar No. 006080  
6930 South Cimarron Road,  
Suite 140  
Las Vegas, Nevada 89113  
Attorney for Defendant

EXHIBIT 14

EXHIBIT 14



1 NED  
2 THE DICKERSON KARACSONYI LAW GROUP  
3 ROBERT P. DICKERSON, ESQ.  
4 Nevada Bar No. 000945  
5 SABRINA M. DOLSON, ESQ.  
6 Nevada Bar No. 013105  
7 1745 Village Center Circle  
8 Las Vegas, Nevada 89134  
9 Telephone: (702) 388-8600  
10 Facsimile: (702) 388-0210  
11 Email: info@thedklawgroup.com

12 Attorneys for Plaintiff

13 DISTRICT COURT  
14 FAMILY DIVISION

15 CLARK COUNTY, NEVADA

16 JAMES W. VAHEY,

17 Plaintiff,

18 v.

19 MINH NGUYET LUONG,

20 Defendant.

21 CASE NO.: D-18-581444-D  
22 DEPT NO.: U

23 NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS  
24 OF LAW, AND DECREE OF DIVORCE

25 TO: MINH NGUYET LUONG, Defendant; and

26 TO: FRED PAGE, ESQ. of PAGE LAW FIRM, Attorney for Defendant:

27 ...

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...

...

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1 PLEASE TAKE NOTICE that the FINDINGS OF FACT,  
2 CONCLUSIONS OF LAW, AND DECREE OF DIVORCE, a true and  
3 correct copy of which is attached hereto, was entered in the above-entitled  
4 matter on the 26<sup>th</sup> day of March, 2021.

5 DATED this 8<sup>th</sup> day of April, 2021.

6 THE DICKERSON KARACSONYI  
7 LAW GROUP  
8

9 By /s/ Sabrina M. Dolson  
10 ROBERT P. DICKERSON, ESQ.  
11 Nevada Bar No. 000945  
12 SABRINA M. DOLSON, ESQ.  
13 Nevada Bar No. 013105  
14 1745 Village Center Circle  
15 Las Vegas, Nevada 89134  
16 Attorneys for Plaintiff  
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☒ pursuant to NRC 5(b)(2)(E) by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;

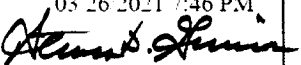
☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

☐ to be sent via facsimile, by duly executed consent for service by electronic means;

☐ by hand-delivery with signed Receipt of Copy.

FRED PAGE, ESQ.  
PAGE LAW FIRM  
6930 South Cimarron Road, Suite 140  
Las Vegas, Nevada 89113  
fpage@pagelawoffices.com  
Attorney for Defendant

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 CLERK OF THE COURT

**FFCL**  
**THE DICKERSON KARACSONYI LAW GROUP**  
**ROBERT P. DICKERSON, ESQ.**  
 Nevada Bar No. 000945  
**SABRINA M. DOLSON, ESQ.**  
 Nevada Bar No. 013105  
 1745 Village Center Circle  
 Las Vegas, Nevada 89134  
 Telephone: (702) 388-8600  
 Facsimile: (702) 388-0210  
 Email: info@thedklawgroup.com  
 Attorneys for Plaintiff

DISTRICT COURT  
 FAMILY DIVISION  
 CLARK COUNTY, NEVADA

JAMES W. VAHEY,  
 Plaintiff,

v.

MINH NGUYET LUONG,  
 Defendant.

CASE NO. D-18-581444-D  
 DEPT NO. U

**FINDINGS OF FACT, CONCLUSIONS OF LAW,**  
**AND DECREE OF DIVORCE**

Dates and Times of Evidentiary Hearing:  
 August 13, 2020 at 9:00 a.m.  
 September 4, 2020 at 9:00 a.m.

This matter having come on regularly for trial before the Honorable Judge T. Arthur Ritchie, Jr.; Plaintiff, JAMES W. VAHEY ("JIM"), appearing via Blue Jeans with his attorneys, ROBERT P. DICKERSON, ESQ., and SABRINA M. DOLSON, ESQ., of THE DICKERSON KARACSONYI LAW GROUP; and Defendant, MINH NGUYET LUONG ("MINH"), appearing via Blue Jeans with her attorney, FRED PAGE, ESQ., of PAGE LAW FIRM. This divorce action is at issue upon JIM's Complaint for Divorce, MINH's Answer and Counterclaim for Divorce, and JIM's Reply to the Counterclaim. The cause having been submitted



1 for decision and judgment, and the Court having before it all the files,  
2 pleadings, and papers in the action, having heard all the testimony and  
3 examined the evidence offered by each party, being fully apprised in the  
4 premises and being satisfied that the action has been duly and regularly  
5 commenced, and good cause appearing therefor, the Court finds and  
6 concludes as follows:

7 THE COURT HEREBY FINDS that it has complete jurisdiction in  
8 the premises, both as to the subject matter of this divorce action and as to  
9 the parties to this action; that for more than six (6) weeks before the  
10 commencement of this action JIM was, has been, and is now an actual  
11 bona fide resident and domiciliary of the State of Nevada, actually and  
12 physically residing and being domiciled in Clark County, Nevada during  
13 all of said period of time; that the parties have three (3) minor children the  
14 issue of their marriage, namely, HANNAH VAHEY, born March 19, 2009,  
15 MATTHEW VAHEY, born June 26, 2010, and SELENA VAHEY, born  
16 April 4, 2014 (hereinafter sometimes collectively referred to as the  
17 "children" and individually referred to as a "child"); that the parties have  
18 no other minor children, including no adopted minor children, and MINH  
19 is not now pregnant; that on August 8, 2019, September 5, 2019, and  
20 September 11, 2019, the Court held an evidentiary hearing on the issues  
21 of child custody and child support, and entered its Findings of Fact,  
22 Conclusions of Law, and Decision and Order on September 20, 2019  
23 ("September 20, 2019 Decision and Order"); that the Court's said  
24 September 20, 2019 Decision and Order is merged and incorporated into  
25 this Decree as if the same were included in its entirety in this Decree, with  
26 the exception of the child custody and child support orders that have been  
27 modified as set forth herein; that both parties have completed the seminar  
28 for separating parents as required by EDCR 5.302; that on or about June

1 14, 2006, the parties entered into a Premarital Agreement, which is valid  
2 and enforceable in all respects; that the parties entered into a Marital  
3 Settlement Agreement resolving issues pertaining to each party's waiver of  
4 alimony, the division of property, the allocation of debts, the confirmation  
5 to each of their respective separate property, and all other issues relating  
6 or incident to their marriage to each other, with the exception of the issues  
7 addressed at trial on August 13, 2020 and September 4, 2020, and upon  
8 which this Court has issued Orders herein; that the Marital Settlement  
9 Agreement effectuated the terms of the parties' Premarital Agreement  
10 except as otherwise agreed upon by the parties in the Marital Settlement  
11 Agreement or as otherwise set forth herein; that a copy of the parties'  
12 Marital Settlement Agreement has been submitted to the Court as a sealed  
13 and confidential document, and the same shall remain a sealed document  
14 in the Court's files; that the parties' said Marital Settlement Agreement is  
15 merged and incorporated into this Decree as if the same were included in  
16 its entirety in this Decree; that Plaintiff, JAMES W. VAHEY, is entitled to  
17 an absolute Decree of Divorce from Defendant, MINH NGUYET  
18 LUONG, on the grounds of incompatibility.

19 THE COURT FURTHER FINDS that the parties each have a  
20 financial obligation to support their children. In the September 20, 2019  
21 Decision and Order, the Court generally accepted the parties'  
22 representations that neither party requested child support from the other  
23 party, health insurance would be provided for the children, and the parties  
24 would share equally in the children's expenses, including the children's  
25 private school tuition and related expenses, all medical and dental expenses  
26 not covered by health insurance, and all agreed upon extracurricular  
27 activities. THE COURT FURTHER FINDS that the September 20, 2019  
28 Decision and Order was not a final order concerning child support.

1 However, due to the parties' significant incomes, their abilities to support  
2 the children, and their waivers of child support, there will not be an order  
3 for one party to pay child support to the other party under NAC 425.005  
4 et seq. THE COURT FURTHER FINDS that the parties' waivers to child  
5 support do not violate public policy.

6 THE COURT FURTHER FINDS that JIM provides health insurance  
7 for the parties' minor children and pays \$864.00 per month for said health  
8 insurance. In the September 20, 2019 Decision and Order, the Court  
9 ordered the parties to each provide health insurance for the children.  
10 MINIH does not provide health insurance for the children. Accordingly,  
11 MINIH's one-half ( $\frac{1}{2}$ ) portion of the children's health insurance provided  
12 by JIM is \$432.00 per month.

13 THE COURT FURTHER FINDS that MINIH's one-half ( $\frac{1}{2}$ ) portion  
14 of the children's health insurance provided by JIM for the period of  
15 January 2019 to September 2020 is \$8,771.00.

16 THE COURT FURTHER FINDS that, pursuant to Section VI(J) of  
17 the parties' Premarital Agreement, the parties expressly agreed to eliminate  
18 and forever waive any right either may have to receive an award of  
19 alimony, spousal support, maintenance, or any other type of support,  
20 whether it be temporary or permanent or periodic or lump sum after the  
21 separation or divorce of the parties. THE COURT FURTHER FINDS that  
22 since the parties' separation in January 2019, JIM has maintained health  
23 insurance for MINIH and MINIH has refused to reimburse to JIM for the  
24 monthly premiums JIM paid for such health insurance. THE COURT  
25 FURTHER FINDS that MINIH owes \$11,946.00 to JIM for the health  
26 insurance premiums JIM has paid for MINIH from January 2019 to  
27 September 2020.

28 . . .

1 THE COURT FURTHER FINDS that MINII submitted an  
2 appropriate reimbursement claim for \$4,000.00, which consists of  
3 unreimbursed medical expenses, expenses for extracurricular activities, and  
4 other expenses for the children paid for by MINII. THE COURT  
5 FURTHER FINDS that JIM submitted an appropriate reimbursement  
6 claim for \$16,059.00, which consists of the cost of the children's private  
7 school tuition, unreimbursed medical expenses, expenses for extracurricular  
8 activities, and other expenses for the children paid for by JIM.

9 THE COURT FURTHER FINDS that there is insufficient proof  
10 regarding the \$20,000.00 spent on a dock for JIM's home for which  
11 MINII requested reimbursement, including when the dock was installed  
12 and how it was paid.

13 THE COURT FURTHER FINDS that there is insufficient proof  
14 regarding the \$10,000.00 spent on an Acura for which MINII requested  
15 reimbursement, including when it was purchased, how it was purchased,  
16 how it was titled, whether it was purchased with each party's consent, and  
17 whether it is owned free and clear.

18 THE COURT FURTHER FINDS that the ratio of capital investment  
19 in the 529 accounts established by the parties for their children was  
20 approximately 25% by JIM and 75% by MINII and her family members.  
21 THE COURT FURTHER FINDS that the 529 accounts were established  
22 during the marriage for the intended, sole purpose of providing resources  
23 for the children's educations, and are held in MINII's name for the benefit  
24 of the children. THE COURT FINDS that it is not dividing the 529  
25 accounts based on any contract purportedly entered into by the parties or  
26 pursuant to the parties' Premarital Agreement as it does not include any  
27 provision regarding 529 accounts. THE COURT FURTHER FINDS that  
28 MINII's claim that JIM's contribution to the 529 accounts was a gift to

1 MINH as her separate property is not accepted by the Court. THE  
2 COURT FURTHER FINDS that it has discretion to apportion the 529  
3 accounts, and dividing the 529 accounts pursuant to each party's capital  
4 contributions is an appropriate and logical way to divide the 529 accounts.

5 THE COURT FURTHER FINDS that MINH demonstrated a settled  
6 purpose by JIM to waive his right to enforce Section XVIII, "Income Tax  
7 Return," of the parties' Premarital Agreement. JIM had a legal right to  
8 enforce Section XVIII of the parties' Premarital Agreement for the 2014,  
9 2015, 2016, and 2017 tax years, and JIM never made a demand  
10 concerning those rights and his conduct is a legal bar to requesting the  
11 Court to go back and enforce that provision. The timing of JIM's claim to  
12 apportion the tax liabilities owed by each person for the 2014, 2015, 2016,  
13 and 2017 tax years is unreasonably delayed, and MINH reasonably relied  
14 on JIM's conduct. THE COURT FINDS that JIM is estopped from  
15 asserting the division of tax liability claim.

16 THE COURT FURTHER FINDS that in regards to attorneys' fees,  
17 the parties each have sufficient resources to pay their own attorneys' fees  
18 and costs. THE COURT FURTHER FINDS that attorneys' fees pursuant  
19 to NRS 18.010 are not warranted due to the Court's finding that neither  
20 party pursued their claims or defenses unreasonably, without any legal  
21 basis, or to harass or inappropriately advance claims. The parties brought  
22 forth legitimate claims the Court needed to resolve.

23 Thus, with good cause appearing therefor, the Court hereby enters  
24 the following Orders:

25 I. TERMINATION OF THE PARTIES' MARRIAGE

26 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the  
27 bonds of matrimony heretofore and now existing between JIM and MINH  
28 be dissolved, set aside, and forever held for naught, and that JIM be, and

1 he hereby is, awarded and decreed an absolute and final Decree of Divorce  
2 from MINIH, and that the parties, and each of them, is hereby restored to  
3 the status of a single, unmarried person.

## 4 II. CHILD CUSTODY AND CHILD SUPPORT

### 5 A. LEGAL CUSTODY PROVISIONS

6 The parents shall have joint legal custody of the minor children,  
7 which entails the following:

8 1. Each party shall consult and cooperate with the other in  
9 substantial questions relating to educational programs, significant changes  
10 in social environment, and health care of the children.

11 2. Each party shall have access to medical and school records  
12 pertaining to their children and be permitted to independently consult  
13 with any and all professionals involved with the children.

14 3. All schools and counselors for the children shall be selected  
15 jointly by the parties. In the event the parties cannot agree to the selection  
16 of a school, the children shall be maintained in the school then being  
17 attended, pending mediation and/or the issuance of an appropriate Order  
18 by the Court having appropriate jurisdiction over the issue.

19 4. All health care providers, including all psychological counselors  
20 and mental health providers, for the children shall be selected jointly by  
21 the parties.

22 5. Each party shall be empowered to obtain emergency health care  
23 for the children without the consent of the other party. Each party shall  
24 notify the other party as soon as reasonably possible as to any illness  
25 requiring medical attention, or any emergency involving the children.

26 6. Both parties may participate in all activities involving any of  
27 their children, including, but not limited to, such activities as open house,  
28 attendance at all school and church activities and events, athletic events,

1 school plays, graduation ceremonies, school carnivals, and any other events  
2 involving the children.

3 7. Each party shall provide the other party with the address and  
4 telephone number at which the minor children reside, and to notify the  
5 other party at least ten (10) days prior to any change of address and  
6 provide the telephone number of such address change as soon as it is  
7 assigned.

8 8. Each party shall provide the other party with a travel itinerary  
9 and, whenever reasonably possible, telephone numbers at which the  
10 children can be reached whenever the children will be away from that  
11 party's home for a period of two (2) nights or more.

12 9. The parties shall encourage liberal communication between the  
13 children and the other party. Each party shall be entitled to reasonable  
14 telephone/FaceTime communication with the children, as well as  
15 communicating with the children through or by any other form of  
16 communication, including text messages and emails; and each party agrees  
17 that he or she will not unreasonably interfere with the children's right to  
18 privacy during any such telephone/FaceTime conversations and/or other  
19 forms of communication. Each party agrees to be restrained, and is  
20 restrained, from unreasonably interfering with the children's right to  
21 privacy during such telephone conversations.

22 10. Neither party shall interfere with each child's right to transport  
23 the child's clothing and personal belongings freely between the parties'  
24 respective homes. Each party agrees that he or she will forthwith return to  
25 the other party any such children's clothing and/or personal belonging  
26 purchased by the other party.

27 11. Neither party shall disparage the other in the presence of the  
28 children, nor shall either party make any comment of any kind that would

1 demean the other party in the eyes of the children. Additionally, each  
2 party agrees to instruct their respective family and friends that no  
3 disparaging remarks are to be made regarding the other party in the  
4 presence of the children. The parties shall take all action necessary to  
5 prevent such disparaging remarks from being made in the presence of the  
6 children.

7 12. The parties further agree to communicate directly with each  
8 other regarding the needs and well being of their children and each party  
9 agrees not to use the children to communicate with the other party  
10 regarding parental issues.

11 B. PHYSICAL CUSTODY

12 1. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
13 that, with the exception of the modification to the custody schedule,  
14 holiday schedule, and child support orders as set forth herein, the Court's  
15 September 20, 2019 Decision and Order is incorporated and merged into  
16 this Decree of Divorce as though the same were set forth herein in full. In  
17 this regard, the Court finds that MINIH initially chose to move to Irvine,  
18 California, without the children, as the Court addresses such option in the  
19 Court's September 20, 2019 Decision and Order; however, during the trial  
20 proceedings on August 13 and September 4, 2020, MINIH testified that  
21 she now intends to reside in Clark County, Nevada, during her custodial  
22 time with the children. Thus, based on MINIH's said testimony, IT IS  
23 ORDERED, ADJUDGED, AND DECREED that JIM and MINIH shall  
24 have joint physical custody of their minor children, HANNAH VAHEY,  
25 born March 19, 2009, MATTHEW VAHEY, born June 26, 2010, and  
26 SELINA VAHEY, born April 4, 2014, and shall alternate custody on a  
27 week on/week off basis from Friday at 9:00 a.m. to Friday at 9:00 a.m. as

28 . . .



1 the parties have been doing since April 23, 2020 pursuant to the Order  
2 from April 22, 2020 Hearing, entered on June 1, 2020.

3 2. SUMMER BREAK FROM SCHOOL: IT IS FURTHER  
4 ORDERED, ADJUDGED, AND DECREED that the parties shall equally  
5 divide the children's summer vacation or intersession break pursuant to  
6 their normal week on/week off schedule. Because there are 52 weeks in a  
7 year, the week on/week off schedule should be switched each year so that  
8 the parties alternate the three-day weekend holidays and birthdays. To  
9 switch the schedule, the party having the last week of summer vacation or  
10 intersession break shall continue to have custody of the children for the  
11 first week of school. The parties will alternate the two (2) week custody  
12 period (i.e., the last week of summer vacation or intersession break and the  
13 first week of school) each year with MINIH having the two (2) week period  
14 in odd years, and JIM having the two (2) week period in even years.

15 3. CHRISTMAS VACATION OR WINTER BREAK: IT IS  
16 FURTHER ORDERED, ADJUDGED, AND DECREED that JIM and  
17 MINIH shall share the children's Christmas or Winter break from school  
18 (the "Winter Break") as follows:

19 a. The children's Winter Break shall be divided into two (2)  
20 "approximately equal" time periods. The first time period shall begin on  
21 the day the children get out of school for the Winter Break (at the time  
22 school ends for the day), and shall end at noon on the day that is the  
23 halfway point of the Winter Break. However, the parent entitled to have  
24 the children for the first time period shall be entitled to have the children  
25 for the entire Christmas Day (December 25<sup>th</sup>) until at least noon (12:00  
26 p.m.) on December 26<sup>th</sup> (or until noon on the day the first time period  
27 ends if such day is after December 26<sup>th</sup>). The second time period shall  
28 begin at noon on the day the first time period ends, and it shall continue

1 until the day the children return to school (at the time school begins for  
2 the day).

3           b. JIM and MINH shall alternate the time periods they have  
4 with the children each year. During all odd numbered years, JIM shall  
5 have the children during the first time period, and MINH shall have the  
6 children during the second time period. During all even numbered years,  
7 MINH shall have the children during the first time period, and JIM shall  
8 have the children during the second time period.

9           4. THANKSGIVING: IT IS FURTHER ORDERED,  
10 ADJUDGED, AND DECREED that every odd numbered year, MINH  
11 shall have the children for the Thanksgiving holiday. During even  
12 numbered years, JIM shall have the children for the Thanksgiving holiday.  
13 Such vacation period shall begin on the day and at the time the children  
14 get out of school for the Thanksgiving vacation from school, and continue  
15 until the day and at the time the children are required to return to school  
16 after Thanksgiving Day.

17           5. EASTER VACATION OR SPRING BREAK: IT IS FURTHER  
18 ORDERED, ADJUDGED, AND DECREED that JIM shall have the  
19 children during the entire period of the children's Easter or Spring break  
20 vacation from school every odd numbered year. MINH shall have the  
21 children for such vacation period every even numbered year. Such  
22 vacation period shall start when the children get out of school to begin the  
23 Easter or Spring break vacation, and shall continue until the day and at the  
24 time the children are required to return to school after the Easter or Spring  
25 break vacation.

26           6. FATHER'S DAY: IT IS FURTHER ORDERED, ADJUDGED,  
27 AND DECREED that regardless of which parent is entitled to have the  
28 children on the Sunday which is designated "Father's Day," JIM shall be

1 entitled to have the children from 9:00 a.m. on the Friday before Father's  
2 Day (or at the time the children get out of school if the children are in  
3 school on such Friday), until the following Monday morning at 9:00 a.m.

4 7. MOTHER'S DAY: IT IS FURTHER ORDERED, ADJUDGED,  
5 AND DECREED that regardless of which parent is entitled to have the  
6 children on the Sunday designated as "Mother's Day," MINH shall be  
7 entitled to have the children from 9:00 a.m. on the Friday before Mother's  
8 Day (or at the time the children get out of school if the children are in  
9 school on such Friday), until the following Monday morning at 9:00 a.m.

10 8. CHILDREN'S BIRTHDAYS: IT IS FURTHER ORDERED,  
11 ADJUDGED, AND DECREED that the parent entitled to have the  
12 children on any particular day, based upon the above custody schedule,  
13 shall continue to be so entitled to have the children on that particular day  
14 even though it may be the birthday of one of the parties' children.

15 9. OTHER NATIONALLY AND STATE-OBSERVED  
16 HOLIDAYS: IT IS FURTHER ORDERED, ADJUDGED, AND  
17 DECREED that with respect to such nationally observed holidays and  
18 holidays observed by the State of Nevada, such as Martin Luther King  
19 Day, President's Day, Memorial Day, Labor Day, and any other such  
20 holiday where the Monday of any particular week is observed as a national  
21 or state holiday, and the Fourth of July, Columbus Day, and Veterans' Day  
22 holidays, the parent who has the actual physical custody of the children  
23 based upon the above custody schedule shall continue to be so entitled to  
24 have the children on that particular day even though it may be such a  
25 holiday.

26 10. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
27 that the physical custody provisions as they apply to both parents as set  
28 forth above in subparagraphs A(2) through A(7) shall take precedence over

1 the alternating weekly custody schedule provided in subparagraph A(1).  
2 At the conclusion of each of the holiday time periods set forth in  
3 subparagraphs A(2) through A(7), the parties shall resume their alternating  
4 weekly schedule as set forth in subsection A(1) as if the alternating weekly  
5 schedule had not been interrupted by the holiday time period.

6 11. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
7 that on April 22, 2020 the Court ordered "the custodial exchanges will  
8 occur at the guard gate of Jim's home." Order from April 22, 2020  
9 Hearing, pg. 7, lines 10-12. The parties shall continue to exchange the  
10 children at the children's school if the children are attending school at the  
11 time the exchange is to occur or, if the children are not attending school,  
12 the parties shall exchange the children at the Lake Las Vegas South Shore  
13 guard station.

14 C. CHILD SUPPORT

15 1. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
16 that based on the significant income of the parties and their ability to  
17 support the children, neither party shall owe a child support obligation to  
18 the other party under the child support provisions set forth in NAC  
19 425.005 et seq.

20 2. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
21 that JIM shall continue to maintain health insurance for the minor  
22 children. Each party shall be responsible for one-half ( $\frac{1}{2}$ ) the cost of the  
23 medical insurance JIM provides for the minor children. JIM currently pays  
24 \$864.00 per month for the children's health insurance. Thus, MINH shall  
25 pay to JIM \$432.00 per month for her one-half ( $\frac{1}{2}$ ) portion of the  
26 children's health insurance.

27 3. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
28 that the parties shall equally share the cost of all medical, surgical, dental,

1 orthodontic, psychological, and optical expenses of the minor children  
2 which are not paid by any medical insurance covering the children. Each  
3 party shall be responsible for the payment of his or her share of such  
4 medical-related expenses, regardless of which party actually pays or incurs  
5 such expense, and the party actually paying any such expense shall be  
6 reimbursed by the other for his or her one-half ( $\frac{1}{2}$ ) share of the same.  
7 Within thirty (30) days from the date either party actually incurs and pays  
8 for any such medical-related expense for any minor child, such party shall  
9 provide the other party with the appropriate written verification of such  
10 expense, and such party also shall provide written verification of his or her  
11 actual payment of the same. Any such reimbursement required pursuant  
12 to this Order shall be paid within thirty (30) days of the party's receipt of  
13 the other party's written request for such reimbursement, which shall  
14 include written verification of such expense having been incurred by the  
15 other party. IT IS FURTHER ORDERED that each party's obligation to  
16 pay such medical-related expenses (i.e., both the medical insurance and any  
17 medical expenses not paid by such insurance) shall continue until each  
18 child becomes legally emancipated or reaches the age of eighteen (18)  
19 years, whichever first occurs; however, if the child for whom such support  
20 is being paid has not been legally emancipated and is still attending high  
21 school at the time of the child's 18<sup>th</sup> birthday, such child support shall  
22 continue until the child graduates from high school or attains the age of  
23 nineteen (19) years, whichever first occurs.

24 4. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
25 that each party shall be equally responsible for the cost of the children's  
26 school tuition and expenses.

27 5. IT IS FURTHER ORDERED, ADJUDGED, AND DECREED  
28 that given the parties' significant incomes, there will be no order for the

1 parties to equally share the cost of the children's extracurricular activities.  
2 The parties may seek a Court order regarding any specific expense for the  
3 children upon which they are unable to reach an agreement to share the  
4 expense.

5 D. NOTICES

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, and  
7 the parties are put on notice, that the following Nevada statutory  
8 provisions apply to each party:

9 1. The provisions of NRS 125C.006, NRS 125C.0065, NRS  
10 125C.007, and NRS 125C.0075 apply to each party. Specifically, such  
11 Nevada statutory provisions provide as follows with respect to a parent's  
12 desire to relocate with the minor children to a place outside the State of  
13 Nevada or to a place within the State of Nevada that is at such a distance  
14 that the relocation would substantially impair the ability of the other  
15 parent to maintain a meaningful relationship with the minor children –  
16 (these provisions do not apply to vacations planned by either parent):

17 **NRS 125C.006 Consent required from noncustodial**  
18 **parent to relocate child when primary physical custody**  
19 **established; petition for permission from court; attorney's**  
20 **fees and costs.**

21 1. If primary physical custody has been established  
22 pursuant to an order, judgment or decree of a court and the  
23 custodial parent intends to relocate his or her residence to a  
24 place outside of this State or to a place within this State that  
25 is at such a distance that would substantially impair the ability  
26 of the other parent to maintain a meaningful relationship with  
27 the child, and the custodial parent desires to take the child  
28 with him or her, the custodial parent shall, before relocating:

24 (a) Attempt to obtain the written consent of the  
25 noncustodial parent to relocate with the child; and

26 (b) If the noncustodial parent refuses to give that  
27 consent, petition the court for permission to relocate with the  
28 child.

2. The court may award reasonable attorney's fees and  
costs to the custodial parent if the court finds that the

1 noncustodial parent refused to consent to the custodial  
2 parent's relocation with the child:

3 (a) Without having reasonable grounds for such  
4 refusal; or

5 (b) For the purpose of harassing the custodial  
6 parent.

7 3. A parent who relocates with a child pursuant to this  
8 section without the written consent of the noncustodial parent  
9 or the permission of the court is subject to the provisions of  
10 NRS 200.359.

11 **NRS 125C.0065 Consent required from non-**  
12 **relocating parent to relocate child when joint physical**  
13 **custody established; petition for primary physical custody;**  
14 **attorney's fees and costs.**

15 1. If joint physical custody has been established  
16 pursuant to an order, judgment or decree of a court and one  
17 parent intends to relocate his or her residence to a place  
18 outside of this State or to a place within this State that is at  
19 such a distance that would substantially impair the ability of  
20 the other parent to maintain a meaningful relationship with the  
21 child, and the relocating parent desires to take the child with  
22 him or her, the relocating parent shall, before relocating:

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

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

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

(a) Without having reasonable grounds for such  
refusal; or

(b) For the purpose of harassing the relocating  
parent.

3. A parent who relocates with a child pursuant to this  
section before the court enters an order granting the parent  
primary physical custody of the child and permission to  
relocate with the child is subject to the provisions of NRS  
200.359.

...

1           **NRS 125C.007 Petition for permission to relocate;**  
2           **factors to be weighed by court.**

3           1. In every instance of a petition for permission to  
4           relocate with a child that is filed pursuant to NRS 125C.006 or  
5           125C.0065, the relocating parent must demonstrate to the  
6           court that:

7                 (a) There exists a sensible, good-faith reason for  
8                 the move, and the move is not intended to deprive the non-  
9                 relocating parent of his or her parenting time;

10                (b) The best interests of the child are served by  
11                allowing the relocating parent to relocate with the child; and

12                (c) The child and the relocating parent will  
13                benefit from an actual advantage as a result of the relocation.

14           2. If a relocating parent demonstrates to the court the  
15           provisions set forth in subsection 1, the court must then weigh  
16           the following factors and the impact of each on the child, the  
17           relocating parent and the non-relocating parent, including,  
18           without limitation, the extent to which the compelling interests  
19           of the child, the relocating parent and the non-relocating  
20           parent are accommodated:

21                (a) The extent to which the relocation is likely to  
22                improve the quality of life for the child and the relocating  
23                parent;

24                (b) Whether the motives of the relocating parent  
25                are honorable and not designed to frustrate or defeat any  
26                visitation rights accorded to the non-relocating parent;

27                (c) Whether the relocating parent will comply  
28                with any substitute visitation orders issued by the court if  
29                permission to relocate is granted;

30                (d) Whether the motives of the non-relocating  
31                parent are honorable in resisting the petition for permission to  
32                relocate or to what extent any opposition to the petition for  
33                permission to relocate is intended to secure a financial  
34                advantage in the form of ongoing support obligations or  
35                otherwise;

36                (e) Whether there will be a realistic opportunity  
37                for the non-relocating parent to maintain a visitation schedule  
38                that will adequately foster and preserve the parental  
39                relationship between the child and the non-relocating parent if  
40                permission to relocate is granted; and

41                (f) Any other factor necessary to assist the court  
42                in determining whether to grant permission to relocate.

43           ...



1           3. A parent who desires to relocate with a child  
2 pursuant to NRS 125C.006 or 125C.0065 has the burden of  
3 proving that relocating with the child is in the best interest of  
4 the child.

5           **NRS 125C.0075 Unlawful relocation with child;**  
6 **attorney's fees and costs. If a parent with primary**  
7 **physical custody or joint physical custody relocates with**  
8 **a child in violation of NRS 200.359.**

9           1. The court shall not consider any post-relocation  
10 facts or circumstances regarding the welfare of the child or the  
11 relocating parent in making any determination.

12           2. If the non-relocating parent files an action in  
13 response to the violation, the non-relocating parent is entitled  
14 to recover reasonable attorney's fees and costs incurred as a  
15 result of the violation.

16           2. NRS 125C.0045(6) provides as follows with respect to either  
17 parent's violation of this Court Order:

18           PENALTY FOR VIOLATION OF ORDER: THE  
19 ABDUCTION, CONCEALMENT OR DETENTION OF A  
20 CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE  
21 AS A CATEGORY D FELONY AS PROVIDED IN NRS  
22 193.130. NRS 200.359 provides that every person having a  
23 limited right of custody to a child or any parent having no right  
24 of custody to the child who willfully detains, conceals or  
25 removes the child from a parent, guardian or other person  
26 having lawful custody or a right of visitation of the child in  
27 violation of an order of this court, or removes the child from  
28 the jurisdiction of the court without the consent of either the  
court or all persons who have the right to custody or visitation  
is subject to being punished for a category D felony as provided  
in NRS 193.130.

1           3. Pursuant to NRS 125C.0045(7) and (8), the terms of the  
2 Hague Convention of October 25, 1980, adopted by the Fourteenth  
3 Session of the Hague Conference on Private International Law, apply if a  
4 parent abducts or wrongfully retains a child in a foreign country. The  
5 Court finds and concludes that the minor children's habitual residence is  
6 located in the County of Clark, State of Nevada, within the United States  
7 of America. NRS 125C.0045(7) and (8) specifically provide as follows:

8 . . .

1           Section 7. In addition to the language required pursuant  
2 to subsection 6, all orders authorized by this section must  
3 specify that the terms of the Hague Convention of October 25,  
4 1980, adopted by the 14th Session of the Hague Conference  
5 on Private International Law, apply if a parent abducts or  
6 wrongfully retains a child in a foreign country.

7           Section 8. If a parent of the child lives in a foreign  
8 country or has significant commitments in a foreign country:

9           (a) The parties may agree, and the court shall  
10 include in the order for custody of the child, that the United  
11 States is the country of habitual residence of the child for the  
12 purposes of applying the terms of the Hague Convention as set  
13 forth in Subsection 7.

14           (b) Upon motion of one of the parties, the court  
15 may order the parent to post a bond if the court determines  
16 that the parent poses an imminent risk of wrongfully removing  
17 or concealing the child outside the country of habitual  
18 residence. The bond must be in an amount determined by the  
19 court and may be used only to pay for the cost of locating the  
20 child and returning the child to his or her habitual residence if  
21 the child is wrongfully removed from or concealed outside the  
22 country of habitual residence. The fact that a parent has  
23 significant commitments in a foreign country does not create  
24 a presumption that the parent poses an imminent risk of  
25 wrongfully removing or concealing the child.

26           4. Pursuant to the terms of the Parental Kidnapping Prevention  
27 Act, 28 U.S.C. § 1738A, and the Uniform Child Custody Jurisdiction and  
28 Enforcement Act, NRS 125A.005, et seq., the courts of Nevada have  
exclusive modification jurisdiction of the custody, visitation, and child  
support terms relating to the child at issue in this case so long as either of  
the parents, or the child, continue to reside in Nevada.

          5. Pursuant to NRS 125.007, the parties are placed on notice that  
the wages and commissions of the party responsible for paying support are  
subject to assignment or withholding for the purpose of payment of the  
foregoing obligation of support as provided in NRS 31A.025 through  
31A.350, inclusive.

          6. Pursuant to NRS 125B.095, if an installment of an obligation  
to pay support for a child becomes delinquent in the amount owed for one

1 (1) month's support, a 10% per annum penalty must be added to the  
2 delinquent amount. In this regard, NRS 125B.095 provides as follows:

3 **NRS 125B.095 Penalty for delinquent payment of**  
4 **installment of obligation of support.**

5 1. Except as otherwise provided in this section and  
6 NRS 125B.012, if an installment of an obligation to pay  
7 support for a child which arises from the judgment of a court  
8 becomes delinquent in the amount owed for 1 month's  
9 support, a penalty must be added by operation of this section  
10 to the amount of the installment. This penalty must be  
11 included in a computation of arrearages by a court of this State  
12 and may be so included in a judicial or administrative  
13 proceeding of another state. A penalty must not be added to  
14 the amount of the installment pursuant to this subsection if the  
15 court finds that the employer of the responsible parent or the  
16 district attorney or other public agency in this State that  
17 enforces an obligation to pay support for a child caused the  
18 payment to be delinquent.

19 2. The amount of the penalty is 10 percent per  
20 annum, or portion thereof, that the installment remains  
21 unpaid. Each district attorney or other public agency in this  
22 State undertaking to enforce an obligation to pay support for  
23 a child shall enforce the provisions of this section.

24 7. Pursuant to NRS 125B.140, if an installment of an obligation  
25 to pay support for a child becomes delinquent, the Court will determine  
26 interest upon the arrearages at a rate established pursuant to NRS 99.040,  
27 from the time each amount became due. Interest will continue to accrue  
28 on the amount ordered until it is paid, and additional attorney's fees must  
be allowed if required for collection.

1 8. Pursuant to NRS 125B.145, the parties are placed on notice  
2 that the Court's order for support will be reviewed by the Court at least  
3 every three (3) years to determine whether the order should be modified.  
4 The review will be conducted upon the filing of a request by (1) a parent  
5 or legal guardian of the child; or (2) the Division of Welfare and  
6 Supportive Services of the Department of Health and Human Services, its  
7 designated representative or the District Attorney's Office, if the Division  
8 of Welfare and Supportive Services or the District Attorney has

1 jurisdiction over the case. In this regard, NRS 125B.145 provides as  
2 follows:

3 1. An order for the support of a child must, upon the  
4 filing of a request for review by:

5 (a) The Division of Welfare and Supportive  
6 Services of the Department of Health and Human Services, its  
7 designated representative or the district attorney, if the  
8 Division of Welfare and Supportive Services or the district  
9 attorney has jurisdiction in the case; or

10 (b) A parent or legal guardian of the child, be  
11 reviewed by the court at least every 3 years pursuant to this  
12 section to determine whether the order should be modified or  
13 adjusted. Each review conducted pursuant to this section must  
14 be in response to a separate request.

15 2. If the court:

16 (a) Does not have jurisdiction to modify the  
17 order, the court may forward the request to any court with  
18 appropriate jurisdiction.

19 (b) Has jurisdiction to modify the order and,  
20 taking into account the best interests of the child, determines  
21 that modification or adjustment of the order is appropriate, the  
22 court shall enter an order modifying or adjusting the previous  
23 order for support in accordance with the requirements of NRS  
24 125B.070 and 125B.080.

25 3. The court shall ensure that:

26 (a) Each person who is subject to an order for the  
27 support of a child is notified, not less than once every 3 years,  
28 that the person may request a review of the order pursuant to  
this section; or

(b) An order for the support of a child includes  
notification that each person who is subject to the order may  
request a review of the order pursuant to this section.

4. An order for the support of a child may be reviewed  
at any time on the basis of changed circumstances. For the  
purposes of this subsection, a change of 20 percent or more in  
the gross monthly income of a person who is subject to an  
order for the support of a child shall be deemed to constitute  
changed circumstances requiring a review for modification of  
the order for the support of a child.

5. As used in this section:

(a) "Gross monthly income" has the meaning  
ascribed to it in NRS 125B.070.

1 (b) "Order for the support of a child" means such  
2 an order that was issued or is being enforced by a court of this  
3 state.

4 9. The parties are put on notice that NAC 425.165 provides the  
5 following:

6 NOTICE: If you want to adjust the amount of child support  
7 established in this order, you MUST file a motion to modify  
8 the order with or submit a stipulation to the court. If a motion  
9 to modify the order is not filed or a stipulation is not  
10 submitted, the child support obligation established in this  
11 order will continue until such time as all children who are the  
12 subject of this order reach 18 years of age or, if the youngest  
13 child who is subject to this order is still in high school when he  
14 or she reaches 18 years of age, when the child graduates from  
15 high school or reaches 19 years of age, whichever comes first.  
16 Unless the parties agree otherwise in a stipulation, any  
17 modification made pursuant to a motion to modify the order  
18 will be effective as of the date the motion was filed.

19 10. The parties shall provide the information required by NRS  
20 125.130, NRS 125.230, and NRS 125B.055, on a separate form to be  
21 submitted to the Court and the Division of Welfare and Supportive  
22 Services of the Department of Health and Human Services ("Welfare  
23 Division") within ten (10) days from the date the Court enters this Decree  
24 of Divorce terminating the parties' marriage. The parties shall update such  
25 information filed with the Court and the Welfare Division within ten (10)  
26 days should any of the information required to be provided become  
27 inaccurate. Specifically, at such times as set forth above, each party shall  
28 provide the following information to the Court and the Welfare Division,  
as required by NRS 125.130, NRS 125.230, and NRS 125B.055: (1) such  
party's social security number; (2) such party's residential and mailing  
address; (3) such party's telephone number; (4) such party's driver's  
license number; (5) the name, address, and telephone number of such  
party's employer; and (6) the social security number of each minor child.  
Such information shall be maintained by the Clerk of the Court and the  
...

1 Welfare Division in a confidential manner, and such information shall not  
2 be made part of the public record.

3 III. MERGER OF MARITAL SETTLEMENT AGREEMENT

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
5 the parties' Marital Settlement Agreement be, and the same hereby is,  
6 ratified, confirmed, and approved by this Court, and the same is  
7 incorporated and merged into, and shall become a part of, this Decree of  
8 Divorce as if the same were included in this Decree in its entirety.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
10 the parties' Marital Settlement Agreement, a copy of which has been filed  
11 with the Court as a sealed document, shall remain a sealed document in  
12 the Court's files, and the same shall not be open to public inspection.

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
14 each party shall comply with each and every provision set forth in, and  
15 perform all acts and obligations required by, the Marital Settlement  
16 Agreement, under penalty of contempt.

17 IV. ADDITIONAL ORDERS

18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
19 regarding each party's request for reimbursement for the payment of  
20 expenses for the parties' children, MINH is entitled to reimbursement from  
21 JIM in the amount of \$4,000.00 and JIM is entitled to reimbursement  
22 from MINH in the amount of \$16,059.00. Accordingly, MINH shall pay  
23 \$12,059.00 to JIM within sixty (60) days of September 4, 2020, and this  
24 amount is reduced to judgment, shall accrue interest at the statutory rate,  
25 and is collectible by all lawful means.

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
27 as and for her reimbursement to JIM of her one-half (½) portion of the  
28 children's health insurance for the period of January 2019 to September

1 2020, MINH shall pay \$8,771.00 to JIM within sixty (60) days of  
2 September 4, 2020, and this amount is reduced to judgment, shall accrue  
3 interest at the statutory rate, and is collectible by all lawful means.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
5 as and for her reimbursement to JIM for the cost of her health insurance  
6 for the period of January 2019 to September 2020, MINH shall pay  
7 \$11,946.00 to JIM within sixty (60) days of September 4, 2020, and this  
8 amount is reduced to judgment, shall accrue interest at the statutory rate,  
9 and is collectible by all lawful means.

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
11 the 529 accounts the parties established for their children shall each be  
12 divided into two (2) separate accounts (529 accounts), with MINH having  
13 one (1) such account in her name for the benefit of the children, and JIM  
14 having the other account in his name for the benefit of the children. In  
15 this regard, MINH shall be entitled to receive seventy five percent (75%)  
16 of the monies currently held in the 529 accounts, and JIM shall receive the  
17 remaining twenty five percent (25%) of the monies held in the 529  
18 accounts. Such accounts shall be held by each party for the benefit of the  
19 children and shall continue to be held by each party in trust for the child  
20 for whom the account has been opened, and each party agrees to use the  
21 monies held in each child's account for the benefit of the child's  
22 attainment of his or her post-high school education. The parties have a  
23 fiduciary responsibility to use the monies in the 529 accounts for the  
24 benefit of the children, and shall account to each other regarding the 529  
25 accounts.

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
27 MINH's request for reimbursement for any monies paid toward the Acura  
28 and the dock for JIM's home is denied for insufficient proof.

1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
2 JIM's request for the Court to apportion the payment of the parties' tax  
3 liabilities for the 2014, 2015, 2016, and 2017 tax years pursuant to the  
4 parties' Premarital Agreement and based on the tax liability owed by each  
5 party for that party's separate property is denied.

6 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
7 the parties shall pay their own respective attorneys' fees, experts' fees, and  
8 costs incurred in this matter.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
10 the Joint Preliminary Injunction entered in this matter is dissolved.

11 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
12 this matter will be kept in a confidential and sealed file in accordance with  
13 the Order of this Court entered on January 3, 2019.

14 DATED this \_\_\_\_ day of \_\_\_\_\_ ~~Dated this 26th day of March, 2021~~

15  
16   
17 DISTRICT JUDGE

18 Submitted by:

19 THE DICKERSON KARACSONYI  
20 LAW GROUP

21 By Sabrina M. Dolson

22 ROBERT P. DICKERSON, ESQ.  
Nevada Bar No. 000945  
23 SABRINA M. DOLSON, ESQ.  
Nevada Bar No. 013105  
24 1745 Village Center Circle  
Las Vegas, Nevada 89134  
25 Attorneys for Plaintiff

EC8 B61 3CE2 C041  
T. Arthur Ritchie  
District Court Judge  
Approved to form and content:

PAGE LAW FIRM

26 By Fred Page

27 FRED PAGE, ESQ.  
Nevada Bar No. 006080  
28 6930 South Cimarron Road #140  
Las Vegas, Nevada 89113  
Attorney for Defendant



1 CSERV

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 James W. Vahey, Plaintiff

CASE NO: D-18-581444-D

7 vs.

DEPT. NO. Department U

8 Minh Nguyet Luong, Defendant.

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/26/2021

15 Sabrina Dolson

Sabrina@thedklawgroup.com

16 Robert Dickerson

Bob@thedklawgroup.com

17 Info info email

info@thedklawgroup.com

18 Fred Page

fpage@pagelawoffices.com

19 Edwardo Martinez

edwardo@thedklawgroup.com

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EXHIBIT 15

EXHIBIT 15

EXHIBIT 15

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Divorce - Complaint**

**COURT MINUTES**

**September 04, 2020**

D-18-581444-D      James W. Vahey, Plaintiff  
vs.  
Minh Nguyet Luong, Defendant.

**September 04, 2020      9:00 AM      Evidentiary Hearing**

**HEARD BY:** Ritchie, T. Arthur, Jr.

**COURTROOM:** RJC Courtroom 03G

**COURT CLERK:** Marlana Elliott

**PARTIES:**

Hannah Vahey, Subject Minor, not present	
James Vahey, Plaintiff, Counter Defendant, present	Robert Dickerson, Attorney, present
Matthew Vahey, Subject Minor, not present	
Minh Luong, Defendant, Counter Claimant, present	Fred Page, Attorney, present
Selena Vahey, Subject Minor, not present	

<b>JOURNAL ENTRIES</b>
------------------------

- EVIDENTIARY HEARING: CONTINUED FROM AUGUST 13, 2020

All appearances via BlueJeans communication, pursuant to the Administrative Orders for public safety.

Court reviewed the history of the case. Court noted at the previous hearing Attorney Paige requested this matter be continued to recall Defendant.

Testimony and exhibits presented. (See worksheets).

PRINT DATE:	03/19/2021	Page 1 of 4	Minutes Date:	September 04, 2020
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**Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.**

Discussion and argument regarding the three (3) primary miscellaneous issues of conflict which are disputed expenses related to minor children, 529 account and provision regarding income tax. Defendant confirmed she is going to continue to reside in Las Vegas. Attorney Dickerson requested the Court address the issue of exchanging the minor children and holiday visitation schedule. Court clarified the exchanges need to continue to take place at school when children are attending school and when children are virtually learning, exchanges to take place at the guard gate at Lake Las Vegas. Once Defendant establishes a residence and if the exchange at the guard gate location is inconvenient for her, the Court will consider modifying the order to receiving parent pick up protocol. Court stated unless the parties agree, it is not going to modify the custody order today, however, Defendant's return to Nevada would be a change in circumstance to revise the holiday plan.

Following testimony, COURT stated its FINDINGS and ORDERED,

Divorce is GRANTED.

Parties shall have Joint Legal and Joint Physical Custody of minor children.

Parties shall submit a Stipulation and Order to adjust the Holiday schedule or the Court will retain jurisdiction to issue an order.

Parties agree to WAIVE any claims to CHILD SUPPORT.

Plaintiff shall continue to provide medical insurance for minor children. If Defendant gets insurance, the order related to insurance can be reviewed since Defendant is ordered to Plaintiff pay \$432.00 for one half of the cost of insurance.

Parties shall share the cost of medical insurance and any uncovered medical expenses for minor children following the 30/30 protocol.

If parties have a specific expense related to the minor children and they cannot reach an agreement, they may bring it back to the Court.

Parties shall equally share the cost of the private school expenses for minor children.

Defendant's claim against Plaintiff in the amount of \$20,000.00 shall be DENIED.

The claim for \$10,00.00 for a vehicle shall be DENIED.

PRINT DATE:	03/19/2021	Page 2 of 4	Minutes Date:	September 04, 2020
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**Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.**

Defendant's claim against Plaintiff for \$6,000.00 shall be partially granted in the amount of \$4,000.00. Defendant shall be credited \$4,000.00 against Plaintiff's claims against her.

Plaintiff's judgement against Defendant shall be granted in the amount of \$16,059.00 minus Defendant's credit of \$4,000.00 making the net judgement \$12,059.00 in favor of Plaintiff against the Defendant. This amount shall be paid within 60 days of entry of the Decree.

Plaintiff's claim against Defendant for \$8,770.41 for half the cost of insurance paid by his employer shall be GRANTED. This amount shall be paid within 60 days of entry of the Decree.

Plaintiff's claim against Defendant in the amount of \$11,946.00 for insurance he provided for Defendant shall be GRANTED. This amount shall be paid within 60 days of entry of the Decree.

The 529 account shall be divided based upon the contribution of percentage. Plaintiff shall receive 25% of the account and control it for the benefit of the children and Defendant shall receive 75% of the account and control it for the benefit of the children.

Plaintiff's claim against Defendant in the amount of \$29,250.00 shall be DENIED.

Parties shall bear their own attorney's fees and costs.

Attorney Dickerson shall prepare the Decree of Divorce with opposing counsel to countersign.

Clerk's Note: Minutes amended to include Divorce was granted, adjustment of the holiday schedule and custody. (m.e 3/19/2021) A copy of the updated minutes was emailed to both attorneys.

#### **INTERIM CONDITIONS:**

#### **FUTURE HEARINGS:**

*Canceled: March 17, 2021 10:30 AM Motion*

*Canceled: March 18, 2021 1:30 PM Motion*

March 22, 2021 10:00 AM Motion  
Throne, Dawn R.  
RJC Courtroom 14D

March 22, 2021 10:00 AM Motion  
Throne, Dawn R.

PRINT DATE:	03/19/2021	Page 3 of 4	Minutes Date:	September 04, 2020
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**Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.**

RJC Courtroom 14D

March 22, 2021 10:00 AM Opposition  
Throne, Dawn R.  
RJC Courtroom 14D

March 22, 2021 10:00 AM Opposition  
Throne, Dawn R.  
RJC Courtroom 14D

March 22, 2021 10:00 AM Hearing  
Throne, Dawn R.  
RJC Courtroom 14D

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PRINT DATE:	03/19/2021	Page 4 of 4	Minutes Date:	September 04, 2020
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**Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.**

EXHIBIT 16

EXHIBIT 16

EXHIBIT 16

*Steven D. Grierson*

1 **MOT**  
2 **FRED PAGE, ESQ.**  
3 **NEVADA BAR NO. 6080**  
4 **PAGE LAW FIRM**  
5 **6930 SOUTH CIMARRON ROAD, SUITE 140**  
6 **LAS VEGAS, NEVADA 89113**  
7 **(702) 823-2888 office**  
8 **(702) 628-9884 fax**  
9 **Email: fpage@pagelawoffices.com**  
10 **Attorney for Defendant**

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**EIGHTH JUDICIAL DISTRICT COURT  
COUNTY OF CLARK  
STATE OF NEVADA**

**JAMES W. VAHEY,**  
**Plaintiff,**

**vs.**

**MINH NGUYET LUONG,**  
**Defendant.**

} Case No.: D-18-581444-D

} Dept.: U

} **HEARING REQUESTED**

ORAL ARGUMENT REQUESTED  X  YES   NO

**DEFENDANT'S MOTION TO CORRECT CLERICAL ERROR IN THE  
DECREE OF DIVORCE REGARDING THE 529 ACCOUNTS, OR IN THE  
ALTERNATIVE, TO SET ASIDE THE TERMS IN THE DECREE OF  
DIVORCE REGARDING THE DIVISION OF THE 529 ACCOUNTS  
AND  
FOR ATTORNEY'S FEES AND COSTS**

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION  
WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A  
COPY OF YOUR RESPONSE WITHIN 14 DAYS OF YOUR RECEIPT OF THIS MOTION.  
FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN  
14 DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED  
RELIEF BEING GRANTED BY THE COURT WITHOUT A HEARING PRIOR TO THE  
SCHEDULED HEARING DATE.


COMES NOW, Defendant, MINH NGUYET LUONG, by and through her  
counsel, Fred Page, Esq. and hereby submits her Motion to Correct Clerical Error



in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative, to Set Aside the Terms in the Decree of Divorce Regarding the Division of the 529 Accounts and for Attorney's Fees and Costs. This Motion is based upon the papers and pleadings on file, the attached Points and Authorities and any oral argument that this Court may wish to entertain.

DATED this 27<sup>th</sup> day of September 2021

PAGE LAW FIRM



---

FRED PAGE, ESQ.  
Nevada Bar No. 6080  
6930 South Cimarron Road, Suite 140  
Las Vegas, Nevada 89113  
(702) 823-2888  
Attorney for Defendant



1 At the conclusion of the evidentiary hearing on September 4, 2020, the  
2 Court made the following statement and order as it related to the 529 accounts for  
3 the children:  
4

5 The 529 account shall be divided based upon the contribution of  
6 percentage. Plaintiff shall receive 25% of the account and control it  
7 for the benefit of the children and Defendant shall receive 75% of the  
8 account and control it for the benefit of the children.

9 On March 26, 2021, the Findings of Fact, Conclusions of Law, and Decree  
10 of Divorce was entered. On page 24, of the Decree, the following language was  
11 included,  
12

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that  
14 the 529 accounts the parties established for their children shall each be  
15 divided into two (2) separate accounts (529 accounts), with MINH  
16 having one (1) such account in her name for the benefit of the  
17 children, and JIM having the other account in his name for the benefit  
18 of the children. In this regard, MINH shall be entitled to receive  
19 seventy five percent (75%) of the monies currently held in the 529  
20 accounts, and JIM shall receive the remaining twenty five percent  
21 (25%) of the monies held in the 529 accounts. Such accounts shall be  
22 held by each party for the benefit of the children and shall continue to  
23 be held by each party in trust for the child for whom the account has  
24 been opened, and each party agrees to use the monies held in each  
25 child's account for the benefit of the child's attainment of his or her  
26 post-high school education. The parties have a fiduciary responsibility  
27 to use the monies in the 529 accounts for the benefit of the children,  
28 and shall account to each other regarding the 529 accounts.

29 The last hearing on this matter was on April 13, 2021. At that hearing, the  
30 following orders were entered.

1. Minh was continue providing 100 percent of the transportation when the exchanges were not occurring at the school.
2. The non-custodial parent was to have phone calls with the children on Mondays, Wednesdays, and Saturdays at 7:30 p.m. and the calls were to be limited to 10 minutes per child.
3. The parties were to complete a high conflict, 8 or 12 hours, high conflict parenting course as well as Teen Triple P online course. The parties were to file proof of the completion of both courses before filing another motion. If the parties come before the court with parenting issues, a parenting coordinator may be appointed.
4. Minh was to select three names for a psychiatrist and provide them to Jim. One of the three names was to be selected by Jim.

On April 28, 2021, the Court issued a Minute Order regarding health insurance. In the Minute Order, the Court found the Minh's health insurance plan provided benefits similar to Jim's health insurance plan. It was ordered that both Minh and Jim provide health insurance for the children.

On June 14, 2021, Minh filed her Notice of Appeal regarding the Order from the April 13, 2021, hearing and the April 28, Minute Order.

Over the summer, Dr. Michelle Fontennelle-Gilmer was selected to be the psychiatrist for Hannah.

1 On August 8, 2021, a Stipulation and Order agreeing to enter the Decree of  
2 Divorce *nunc pro tunc* to September 4, 2020, was entered.

3 On August 16, 2021, Minh filed her notices of that she had completed a high  
4 conflict online parenting course and the Teen Triple P online course.

5 On September 17, 2021, the parties attended an appellate settlement  
6 conference. At the settlement conference, the parties were able to resolve their  
7 outstanding issues. A Memorandum of Understanding was drafted and was signed  
8 by the attorneys. The following relevant agreements were set forth in the  
9 Memorandum of Understanding:  
10  
11  
12

- 13 1. Hannah would continue being seen by Dr. Fontanelle-Gilmer, a child  
14 psychiatrist.  
15
- 16 2. Dr. Fontanelle-Gilmer would be empowered to make recommendations  
17 regarding Hannah. Dr. Fontanelle-Gilmer concludes she is unable to  
18 conduct the type of forensic evaluation to make such recommendations,  
19 then she would have the authority to refer the matter to another child  
20 psychiatrist in Clark County to conduct such a forensic evaluation as Dr.  
21 Michelle Fontanelle-Gilmer deems necessary for the purpose of making  
22 any recommendations.  
23  
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28

1 3. If Dr. Fontenelle-Gilmer recommended that a change in custody,  
2 visitation, timeshare, transportation, phone calls, etc. was in the  
3 children's best interest, the parties were to follow her recommendations.  
4

5 Because an agreement was reached the appeal was dismissed.

6 On September 20, 2021, Adam Udy of Every Season Wealth Management  
7 provided an analysis and Declaration regarding the amounts contributed by Minh  
8 and her family and the amounts contributed by Jim toward the children's  
9 educational funds. Mr. Udy's analysis showed that the percentages in the Decree  
10 were incorrect. Mr. Udy's analysis showed that Minh and her family contributed  
11 77.11 percent of the total value to the 529 accounts and Jim contributed 22.89  
12 percent of the total value to the 529 accounts.<sup>2</sup>  
13  
14  
15

## 16 II. 17 GOVERNING LAW AND ARGUMENT

18 Minh has done what she can to try and resolve the matter outside of Court  
19 has required by Eighth District Court Rule 5.501.  
20

### 21 A. The Percentage Awarded to Jim for the 529 Account in the Decree is a 22 Clerical Error That Should be Corrected Under NRCP 60(a)

23 A math error is a clerical error. Nevada Rule of Civil Procedure 60(a)  
24 states, "The court may correct a clerical mistake or a mistake arising from  
25 oversight or omission whenever one is found in a judgment, order, or other part of  
26  
27

---

28 <sup>2</sup> A copy of the analysis conducted Mr. Udy dated September 25, 2021, is attached  
for the Court's convenience as Exhibit A

1 the record.” In *McKissick v. McKissick*, 93 Nev. 139, 141, 520 P.2d 1366, 1368  
2 (1977), the Supreme Court held that clerical errors can be corrected at any time  
3 under NRCP 60(a), citing to *Alamo Irrigation Co. v. United States*, 81 Nev. 390,  
4 404 P.2d 5 (1965).

6 The error that occurred in determining the percentages of who is the trustee  
7 of the 529 accounts is a clerical. As such, the error can be corrected at any time.  
9 The calculations provided by Mr. Udy appear to be relatively straightforward and  
10 should be adopted by this Court.

12 **B. In the Alternative, the Percentage Awarded to Jim for the 529 Account**  
13 **in the Decree Should be Corrected Under NRCP 60(b)**

14 To the extent that the Court does not believe that there is a clerical error in  
15 the percentages, the terms regarding the 529 accounts can be aside under Nevada  
16 Rule of Civil Procedure 60(b)(1). The Rule provides a district court with authority  
17 to set aside an Order, in full, or in part, when there is mistake, inadvertence,  
18 surprise, or excusable neglect. The Rule states,  
19  
20

21 On motion and just terms, the court may relieve a party or its legal  
22 representative from a final judgment, order, or proceeding for the  
23 following reasons:

24 (1) mistake, inadvertence, surprise, or excusable neglect;

25 . . .

26  
27 (c)(1) a motion under Rule 60(b) must be made within a  
28 reasonable time — and for reasons (1), (2), and (3) no more than 6  
months after the date of the proceeding or the date of service of

1 written notice of entry of the judgment or order, whichever date is  
2 later. The time for filing the motion cannot be extended under Rule  
3 6(b).

4 Minh's request is timely.

5 In *Lesley v. Lesley*, 113 Nev. 727, 941 P.2d 451 (1997) held that the factors  
6 to be applied by the court in an NRCP 60(b)(1) motion are whether the movant:  
7

- 8 1. Promptly applied to remove the judgment;
- 9 2. lacked intent to delay the proceedings;
- 10 3. demonstrated good faith; and
- 11 4. lacked knowledge of procedural requirements; and
- 12 5. the court must consider the general policy in favor of resolving issues on  
13 their merits.  
14  
15

16 In *Lesley, supra*, Supreme Court stated that when it reviews district court  
17 decisions on NRCP 60(b) motions, it also examines whether the case "should be  
18 tried on the merits for policy reasons," citing *Kahn v. Orme*, 108 Nev. 510, 561,  
19 835 P.2d 790,794 (1992). *Id.* at 113 Nev. at 734, 941 P.2d at 455  
20  
21

22 The Court in *Leslie* expanded on that holding further stating that: "This court  
23 has held that Nevada has a basic underlying policy that cases should be decided on  
24 the merits. . . . Our policy is heightened in cases involving domestic relations  
25 matters," citing *Hotel Last Frontier v. Frontier Prop.* 79 Nev. 150, 380 P.2d 293  
26 (1963); *Price v. Dunn* 106 Nev. 100, 787 P.2d 785 (1990).  
27  
28



1 The merits of this matter are that the 529 accounts should be divided  
2 accurately, and according to the parties' contributions in keeping with the terms of  
3 the prenuptial agreement that Jim wanted. Minh is applying promptly,<sup>3</sup> before the  
4 expiration of the deadline, has no intent to delay any proceedings, has good faith in  
5 bringing this motion, and lacks any firsthand knowledge as to any procedural  
6 requirements.  
7

8  
9 Accordingly, Minh's Motion should be granted and the parties should be  
10 directed to divide the 529 accounts according to the correct percentages.  
11

12 **C. Minh May be Awarded the Attorney's Fees She Has Incurred**

13 Attorney's fees may be awarded to Minh under NRS 18.010(2)(b), NRS  
14 125.040(1)(c), and NRS 150.140(3) and under *Brunzell v. Golden Gate National*  
15 *Bank*.<sup>4</sup> The factors can be addressed at the time of the hearing.  
16  
17

18 **III.**  
19 **CONCLUSION**

20 WHEREFORE, based upon the foregoing, Defendant, MINH NGUYET  
21 LUONG, respectfully requests that the Court enter orders:  
22  
23

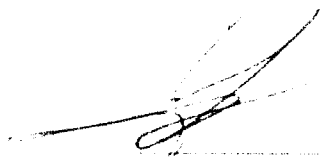
24 <sup>3</sup> There multiple Supreme Court holdings wherein it was approved to file on either  
25 the last possible or shortly before, See *Petersen v. Petersen* 105 Nev. 133, 771 P.2d  
26 159 (1989); *Cook v. Cook*, 112 Nev. 179, 912 P.2d 264 (1996); *Carlson v. Carlson*  
27 108 Nev. 358, 832 P.2d 380 (1992).

28 <sup>4</sup> 85 Nev. 345, 455 P.2d 31 (1969)

1. Entering the Decree with the following provisions.
  - a. The summer break be the beginning two weeks and the final two weeks with week on week off in between requested by Minh be utilized.
  - b. That Minh receive Easter/Spring Break in the odd numbered years.
  - c. That the receiving parent pick up.
  - d. The Minh health insurance policy for the minor children be utilized.
2. That the Court order an interim change in custody of Hannah to try and arrest her precipitous decline in her academic performance and potentially avoid Hannah from being held back a grade.
3. That the Court order an interview of Hannah.
4. For attorney's fees and costs, and:
5. For any further relief the Court deems proper and just.

DATED this 27<sup>th</sup> day of September 2021

PAGE LAW FIRM



FRED PAGE, ESQ.  
Nevada Bar No. 6080  
6930 South Cimarron Road, Suite 140  
Las Vegas, Nevada 89113  
(702) 823-2888  
Attorney for Defendant

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# EXHIBIT A



Declaration of Adam B. Ildy

I, Adam B. Ildy, on Sept 25<sup>th</sup> of 2021, being duly sworn, declares and states:

1. I am the licensed financial advisor/planner that has consulted both Dr. James Vahey and Dr. Minh Luong in financial strategy and investments since 2017, before the couple's divorce proceeding filed December 2018.
2. I was engaged for services via a signed consulting agreement by both parties. The scope of which was to review investment assets (including performance and expenses), asset allocation, college savings plans (529 Plans), discuss balance sheet and borrowing options, discuss and present model portfolios for retirement/pension plans (combined total Balance Plan for their combined business) and present alternatives and be available for wealth strategy discussions.
3. From the records of the Custodian (American Funds) for the college savings accounts, I was able to determine the funding deposits for the 529 accounts for the children. The deposits figures and dates were provided by American Funds and they provided the recourse for the deposits from Dr. Luong (attached separately). Dr. Vahey's contribution was done electronically from the investment firm.
4. **On Feb 6, 2012, when Dr. Vahey made his contribution of \$113,473.75, the value of the total accounts solely contributed by Dr. Luong and her family for the children was \$382,203 making the total funding by both parties at \$495,676.74. From these values, Dr. Luong had contributed 77.11% of the total value. The remaining 22.89% reflects the portion that Dr. Vahey had contributed to the total.**

Respectfully

Adam B. Ildy, MS, MBA, CFP

Private Wealth Advisor

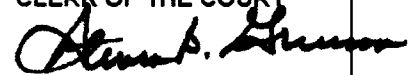
One N. Tower Center, Suite 1000 Las Vegas, NV 89111

Phone: 702.737.1122 Fax: 702.737.1124

EXHIBIT 17

EXHIBIT 17

EXHIBIT 17



1 **OPPC**  
2 **THE DICKERSON KARACSONYI LAW GROUP**  
3 **ROBERT P. DICKERSON, ESQ.**  
4 Nevada Bar No. 000945  
5 **SABRINA M. DOLSON, ESQ.**  
6 Nevada Bar No. 013105  
7 1645 Village Center Circle, Suite 291  
8 Las Vegas, Nevada 89134  
9 Telephone: (702) 388-8600  
10 Facsimile: (702) 388-0210  
11 Email: info@thedklawgroup.com  
12 Attorneys for Plaintiff

8 DISTRICT COURT  
9 FAMILY DIVISION  
10 CLARK COUNTY, NEVADA

10 JAMES W. VAHEY,  
11 Plaintiff,

12 v.

13 MINH NGUYET LUONG,  
14 Defendant.

CASE NO. D-18-581444-D  
DEPT NO. U

Hearing Date: 11/3/2021  
Hearing Time: 10:00 a.m.

Oral Argument Requested: Yes

15  
16 **PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO**  
17 **CORRECT CLERICAL ERROR IN THE DECREE OF DIVORCE**  
18 **REGARDING THE 529 ACCOUNTS, OR IN THE ALTERNATIVE,**  
19 **TO SET ASIDE THE TERMS IN THE DECREE OF DIVORCE**  
20 **REGARDING THE DIVISION OF THE 529 ACCOUNTS AND**  
21 **ATTORNEY'S FEES AND COSTS;**

22 **AND**

23 **EMERGENCY COUNTERMOTION FOR IMMEDIATE RETURN**  
24 **OF HANNAH TO JIM'S CUSTODY, AN ORDER THAT HANNAH**  
25 **IMMEDIATELY PARTICIPATE IN THERAPY WITH DR. DEE**  
26 **PIERCE, AN ORDER THAT HANNAH HAVE A FORENSIC**  
27 **PSYCHIATRIC EVALUATION, AN ORDER REQUIRING THE**  
28 **PARTIES TO PARTICIPATE IN CO-PARENTING COUNSELING**  
**WITH DR. BREE MULLIN, SOLE LEGAL CUSTODY, SCHOOL**  
**CHOICE DETERMINATION, RETURN OF CHILDREN'S**  
**PASSPORTS, AND ATTORNEYS' FEES AND COSTS**

26 COMES NOW Plaintiff, JAMES W. VAHEY ("Jim"), by and through  
27 his attorneys, ROBERT P. DICKERSON, ESQ., and SABRINA M.  
28 DOLSON, ESQ., of THE DICKERSON KARACSONYI LAW GROUP,

1 and submits his Opposition to Defendant's Motion to Correct Clerical  
2 Error in the Decree of Divorce Regarding the 529 Accounts, or in the  
3 Alternative, to Set Aside the Terms in the Decree of Divorce Regarding the  
4 Division of the 529 Accounts and Attorney's Fees and Costs; and  
5 Countermotion for Immediate Return of Hannah to Jim's Custody, an  
6 Order that Hannah Immediately Participate in Therapy with Dr. Dee  
7 Pierce, an Order that Hannah Have a Forensic Psychiatric Evaluation, an  
8 Order Requiring the Parties to Participate in Co-Parenting Counseling with  
9 Dr. Bree Mullin, Sole Legal Custody, School Choice Determination, Return  
10 of Children's Passports, and Attorneys' Fees and Costs ("Opposition and  
11 Countermotion"). Specifically, Jim requests this Court enter the following  
12 orders:

13 1. An Order denying Defendant's Motion to Correct Clerical Error  
14 in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative,  
15 to Set Aside the Terms in the Decree of Divorce Regarding the Division of  
16 the 529 Accounts and Attorney's Fees and Costs ("Motion") in its entirety;

17 2. An Order that Hannah shall immediately be returned to Jim's  
18 custody, including the entering of a Pick Up Order if necessary;

19 3. An Order that Hannah shall immediately participate in therapy  
20 with Dee Pierce;

21 4. An Order that Hannah have a forensic psychiatric evaluation as  
22 recommended by Dr. Michelle Fontenelle-Gilmer;

23 5. An Order that Minh and Jim attend co-parenting counseling  
24 with Dr. Bree Mullin;

25 6. An Order awarding sole legal custody of the minor children to  
26 Jim;

27 . . .

28 . . .



1       7.     An Order resolving which school Hannah and Matthew shall  
2 attend if the parties are unable to resolve the issue as suggested by Dr.  
3 Michelle Fontenelle-Gilmer;

4       8.     An Order that Minh shall provide the children's passports to  
5 Jim or a third party for safekeeping;

6       9.     An Order awarding Jim his attorneys' fees and costs for having  
7 to file this Opposition and Countermotion;

8       10.    For such other relief as the Court deems just and proper in the  
9 premises.

10       This Opposition and Countermotion is made and based upon the  
11 following Memorandum of Points and Authorities, the Declaration of Jim  
12 attached hereto, the attached exhibits, all papers and pleadings on file  
13 herein, as well as oral argument of counsel as may be permitted at the  
14 hearing on this matter.

15       DATED this 12<sup>th</sup> day of October, 2021.

16                   THE DICKERSON  
17                   KARACSONYI LAW GROUP

18                   By /s/ Sabrina M. Dolson  
19                   ROBERT P. DICKERSON, ESQ.  
20                   Nevada Bar No. 000945  
21                   SABRINA M. DOLSON, ESQ.  
22                   Nevada Bar No. 013105  
23                   1645 Village Center Circle, Suite 291  
24                   Las Vegas, Nevada 89134  
25                   Attorneys for Plaintiff  
26  
27  
28

1                    **MEMORANDUM OF POINTS AND AUTHORITIES**<sup>1</sup>

2        **I.     INTRODUCTION**

3            Minh has filed a Motion requesting this Court set aside and amend  
4 the findings and orders set forth in the Findings of Fact, Conclusions of  
5 Law, and Decree of Divorce entered March 26, 2021. Minh attempts to  
6 deceive the Court by referring to her request as simply a correction of a  
7 clerical error. However, this is not the case. At the evidentiary hearing on  
8 August 13, 2020 and September 4, 2020, the Court heard testimony  
9 regarding each party's contributions to the children's 529 plans, reviewed  
10 the evidence admitted in support of each party's argument, and made  
11 specific and clear findings and orders that Minh shall receive 75% and Jim  
12 shall receive 25% of the 529 accounts, which shall be held for the benefit  
13 of the children.

14            Now, more than a year after the trial concluded, Minh has taken it  
15 upon herself to obtain an analysis completed by Adam Udy, a financial  
16 consultant at Every Season Wealth Management, claiming that she actually  
17 contributed 2.11% more than the Court found, and thus, the Court's prior  
18 findings and orders should be amended. Minh had every opportunity to  
19 hire an expert, engage in discovery, and provide such an analysis to the  
20 Court prior to the evidentiary hearing in 2020. Minh failed to do so, and  
21 her request she be denied.

22            In addition, to the extent Minh is requesting any relief set forth in the  
23 Conclusion of her Motion, this Court should deny same as it is not  
24

---

25                    <sup>1</sup> Although this Opposition and Countermotion exceeds the page  
26 limitation of 30 pages set forth in EDCR 5.504(e), it is within the type volume  
27 limitation as it does not contain more than 14,000 words. The Memorandum of Points  
28 and Authorities contains 12,253 words. Jim is respectfully requesting the Court permit  
him to exceed the page limit given the emergency nature of the issues addressed herein  
and the need to fully explain to the Court all co-parenting issues Jim has dealt with the  
past two (2) years.

1 supported by the Factual Background and Governing Law and Argument  
2 sections of her Motion, was previously addressed by the Court, and was  
3 most recently the subject of an appeal filed by Minh that the parties have  
4 since resolved in the Supreme Court's settlement program.

5 Of more importance than Minh's unwarranted and frivolous Motion  
6 is the legal and physical custody issues that have recently arisen. Despite  
7 completing the 8 Hour Parenting Without Conflict and Teen Triple P  
8 Online Positive Parenting Program, Minh has continued her campaign to  
9 destroy Jim's relationship with the children. As this Court is aware, Minh  
10 has been most successful with Hannah, who now has severe psychological  
11 issues. However, Minh's selfish and harmful actions are now having a  
12 detrimental effect on Matthew. Minh's most recent stunt includes  
13 unilaterally, and without Jim's knowledge or consent, taking the  
14 children out of their school at Challenger School ("Challenger"), touring  
15 and enticing the children on Becker Middle School ("Becker"), and trying  
16 to enroll them at Becker.

17 Unfortunately, prior to Jim objecting to Minh's unilateral actions,  
18 Minh enamored the children with missing school at Challenger to tour  
19 Becker's campus, meet with school counselors, and pick out classes they  
20 wanted to take. When Jim put a stop to Minh's detrimental actions, he  
21 became the "bad parent" in the children's eyes. This is a tried and true  
22 tactic of Minh's as she previously harmed the children's relationship with  
23 Jim by telling them he is the reason they cannot move and be happy in  
24 California. Now, the children believe he is the reason they are not currently  
25 attending Becker. Since Minh's stunt on September 28, 2021, both  
26 Hannah and Matthew have refused to return to school at Challenger, and  
27 Hannah has refused to return to Jim's custody. Accordingly, this Emergency  
28 Countermotion has become necessary.

1 Since this case was initiated in 2018, Minh has blatantly admitted  
2 she refuses to coparent with Jim. At the evidentiary hearing on custody in  
3 2019, Minh boldly testified she cannot coparent with Jim. Findings of Fact,  
4 Conclusions of Law, Decision and Order entered September 20, 2019  
5 (“September 2019 Decision and Order”), pg. 13, lines 13-15. Minh was not  
6 exaggerating. In the past two (2) years, nothing has changed and the  
7 children are the ones suffering for Minh’s shortcomings as a coparent.

8 It has always been Jim’s position that it is in the children’s best  
9 interest for the parents to share joint physical custody.<sup>2</sup> At a meeting on  
10 October 8, 2021, which Jim and Minh attended with Dr. Fontenelle-  
11 Gilmer, Dr. Fontenelle-Gilmer reiterated Jim’s sentiment to Minh. During  
12 the meeting, Minh was attempting to convince Dr. Fontenelle-Gilmer that  
13 the reason Hannah is so disturbed is because she is being forced to live with  
14 her father when she does not want to be there because of the things Jim has  
15 done and how he treats her. Dr. Fontenelle-Gilmer explained to Minh that  
16 studies show children do best when they are raised by both divorced  
17 parents. Jim is not sure what else he or anyone else can do to convince  
18 Minh that it is in the children’s best interest for her to coparent with Jim  
19 and support both parents being involved in the children’s lives. As one last  
20 option, Jim is hoping his request for the parties to attend co-parenting  
21 counseling with Dr. Mullin will be beneficial. However, until Minh’s  
22 concerning and outrageous behavior changes, Jim sees no other  
23 . . .

---

24  
25 <sup>2</sup> Jim has done everything in his power to share joint physical custody of  
26 the children with Minh based on his belief the children need both parents in their lives.  
27 Jim is requesting the Court order the parties participate in co-parenting counseling as  
28 a last ditch effort to get Minh to coparent with him. However, he understands that if  
Minh continues to alienate the children, make unilateral legal custody decisions, and  
refuse to coparent with Jim that he will be forced to request primary physical custody  
to protect the children.

1 alternative but for sole legal custody to be awarded to him so that the  
2 children are not subjected to Minh's rash and unreasonable decisions.

## 3 II. FACTUAL STATEMENT

### 4 A. Procedural Background and the Years of Minh's Strategic Alienation 5 of the Children from Jim

6 Jim and Minh were divorced on March 26, 2021. The parties have  
7 three (3) minor children the issue of their marriage: Hannah, born March  
8 19, 2009 (twelve (12) years old), Matthew, born June 26, 2010 (eleven  
9 (11) years old), and Selena, born April 4, 2014 (seven (7) years old).

10 In January 2019, Minh filed a Motion seeking primary physical  
11 custody and permission to relocate to California with the minor children.  
12 Judge Ritchie held an evidentiary hearing on custody on August 8, 2019,  
13 September 5, 2019, and September 11, 2019. At the evidentiary hearing,  
14 Jim testified to the co-parenting issues he was already experiencing with  
15 Minh at that time. Jim testified that during many custody exchanges, Minh  
16 refused to communicate with him verbally, even in front of the children.  
17 September 2019 Decision and Order, pg. 12, lines 25-28.

18 When Minh did speak to Jim during custody exchanges, she  
19 inappropriately discussed the parties' disputes in the presence of the  
20 children. Jim testified to one incident in August 2019 when Hannah was  
21 upset and crying on the first day of school and, in the presence of the  
22 children, Minh told Jim that he forced the children to go to school in  
23 Nevada instead of Irvine and misled her and the children. *Id.* at pg. 11,  
24 lines 19-27. The Court found Jim's testimony credible. *Id.* at pg. 11, lines  
25 19-22. The Court also noted that "[e]vidence was presented that supports  
26 a finding that Minh Luong encouraged Hannah and Matthew to discuss the  
27 move to California with their father." *Id.* at pg. 11, lines 26-28.

28 . . .

1 The Court concluded that Minh's dialogue with the children "shows  
2 poor judgment and has the potential to alienate the children from their  
3 father." *Id.* at pg. 12, lines 1-6. The Court also found that Minh's intention  
4 to move to California was, in part, to deprive Jim of his parenting time. *Id.*  
5 at pg. 18, lines 13-15. Specifically, the Court stated: "The court is  
6 concerned that Minh Luong's decision to live in California is intended to  
7 create a distance between the parties, and to create a distance between the  
8 children and their father, to avoid the sometimes tedious and inconvenient  
9 aspects of co-parenting." *Id.* at pg. 19, lines 3-8.

10 Based on the foregoing, and the very detailed findings set forth in the  
11 September 2019 Decision and Order, the Court denied Minh's request to  
12 relocate to California with the children and ordered the parties to share  
13 joint legal and joint physical custody. *Id.* at pg. 15, lines 1-10. However,  
14 given Minh's representations that she intended to relocate to California  
15 with or without the children, the Court gave Minh the opportunity to  
16 decide whether she wanted to share joint physical custody in Las Vegas. *Id.*  
17 at pg. 15, lines 1-10; *see also* Order from April 22, 2020 Hearing, pg. 3, lines  
18 9-19. If Minh was steadfast in her decision to relocate to California without  
19 the children and chose to forego her joint physical custody rights, Jim  
20 would be awarded primary physical custody, almost in the nature of a  
21 default. Decision and Order, pg. 15, lines 1-10; *see also* Order from April 22,  
22 2020 Hearing, pg. 3, lines 9-19. Minh ultimately decided to forego her  
23 joint custody rights, and Jim was awarded primary physical custody.

24 The Court's denial of Minh's request to relocate infuriated her, and  
25 she has taken her anger out on Jim ever since. Minh decided that if she was  
26 not successful in physically taking away the children from Jim, then she  
27 would take away their love, trust, and cooperation from him. Within a  
28 week of the Court entering its September 2019 Decision and Order, Minh

1 informed Jim she no longer approved of the extracurricular activities in  
2 which the children were enrolled in Nevada and would not contribute to  
3 the cost. Minh also refused to reimburse Jim for her one-half (1/2) portion  
4 of the children's school tuition, school uniforms, and medical expenses, and  
5 health insurance, and even refused to pay for her own health insurance  
6 arguing that because the parties were still married Jim was required to  
7 continue paying for her health insurance, contrary to the terms of their  
8 Premarital Agreement.<sup>3</sup> Despite refusing to reimburse Jim for these  
9 expenses, Jim received a bill in the amount of \$4,341 in the mail from  
10 Minh for dental work she completed on the children without informing  
11 Jim. This is the type of game playing Jim has dealt with since the Court's  
12 Decision and Order.

13 Minh continued to be exceptionally hostile to Jim during the custody  
14 exchanges. In the presence of the children, Minh would tell Jim not to  
15 talk to her, refuse to answer Jim's questions regarding the children, such as  
16 whether they had eaten dinner, and make inappropriate comments such as:  
17 (1) "You are beneath me. I don't need to talk to you." (2) "You're a low  
18 life." (3) "You're selfish. You selfish SOB. I don't want to look at your face.  
19 I don't want to see you. Do you know that? You're just beneath dirt." Jim  
20 audio recorded these comments and previously provided the audio  
21 recordings to the Court.

22 Also in the presence of the children and in public areas, Minh has  
23 completely ignored Jim and physically moved away from him on multiple  
24

---

25 <sup>3</sup> These financial issues were addressed at the evidentiary hearing on  
26 August 13, 2020 and September 4, 2020. The Court had to order Minh to reimburse  
27 Jim \$12,059 for the payment of expenses for the children, \$8,771 for her one-half (1/2)  
28 portion of the children's health insurance from January 2019 to September 2020, and  
\$11,946 for the cost of her health insurance from January 2019 to September 2020,  
which she also refused to pay. Findings of Fact, Conclusions of Law, and Decree of  
Divorce ("Decree of Divorce"), pg. 23, line 18, to pg. 24, line 9. Minh has not  
reimbursed Jim for any of these expenses.

1 occasions. For instance, in December 2019, Selena had a Christmas  
2 performance at school. When Jim arrived at Selena's school to watch her  
3 performance, he sat next to Hannah, who was sitting next to Minh. Shortly  
4 after Jim sat down next to Hannah, Minh got up with Hannah and moved  
5 to a different part of the bleachers just so Jim could not sit with them.  
6 Minh acted similarly during Hannah's Christmas performance. Minh sat  
7 far away from Jim in an area where there was no room for him to sit with  
8 her and Selena as they watched Hannah's performance. Similarly, in the  
9 waiting room at Hannah's first appointment with Robert Lowe, M.D., Jim  
10 sat next to Minh and Hannah, and Minh moved with Hannah to the  
11 farthest corner of the waiting room from Jim. Further, during one doctor  
12 appointment where Jim and Minh were waiting with Hannah in the waiting  
13 room, Jim asked Minh if they could all go to lunch following the  
14 appointment. Minh completely ignored Jim in front of Hannah, not  
15 having the decency to even respond. Without saying a word, Minh  
16 continues manipulating and alienating the children from Jim.

17 Minh also has refused to help Jim exchange the children if one or  
18 more of them was having a difficult time with the custody exchange. For  
19 example, Jim recalls one particularly difficult custody exchange on March  
20 1, 2020, in which Hannah did not want to transfer. Rather than encourage  
21 Hannah to go to Jim's custody, Minh stayed with her in her RV for an hour  
22 and a half. At one point, Minh was hugging Hannah, clearly showing her  
23 support for her refusal to go to Jim.

24 In addition, Minh refused to cooperate with Jim to transfer the  
25 children's belongings. For instance, in December 2019, Minh told Jim she  
26 was taking the children skiing and asked for their ski gear. Jim organized,  
27 packed, and delivered the children's ski gear to Minh for their trip. When  
28 Jim asked Minh to return the ski gear in February 2020 because he



1 planned on taking the children skiing, Minh refused. Jim ended up having  
2 to spend \$1,000 to purchase new gear for the children. In April 2020, while  
3 the children were participating in distance learning as a result of the  
4 pandemic, Minh refused to allow the children to bring their iPads to Jim's  
5 home because she paid for them, even though she knew the children were  
6 using the iPads to complete their homework. Jim was required to purchase  
7 electronics for the children so they could complete their homework as he  
8 did not have separate electronics for each child to use at the same time.

9 Moreover, when Jim had primary physical custody and Minh was  
10 required to exercise her one (1) weekend per month in Las Vegas, Minh  
11 refused to tell Jim if she took the children out of Las Vegas. Jim believed  
12 Minh took the children on a fishing and camping trip on February 29 and  
13 March 1, 2020. Minh did not provide Jim any information about the trip.  
14 When Jim asked the children about their weekend, the kids became  
15 secretive and defensive. Jim asked Hannah how fishing was and Hannah  
16 became awkwardly defensive and stated that they did not leave the state.  
17 On a separate occasion when Jim asked the children about their visit with  
18 Minh, Matthew told Hannah and Selena their father was trying to trick  
19 them. When Jim asked Hannah and Selena what Matthew said to them,  
20 Matthew stated: "He's trying to get us to tell him our secret. Don't answer  
21 him. He's trying to trick us into telling him. Do you remember what we  
22 talked about?" Little did Jim know that these issues were just the beginning  
23 of the nightmare Minh would put the children and Jim through simply  
24 because she did not get her way.

25 Jim had primary physical custody of the children from September  
26 2019 until March 20, 2020 when Minh falsely reported Jim for domestic  
27 violence, allowing her to take the children from Jim for five (5) consecutive  
28 weeks. On March 20, 2020, Minh picked up the children from Jim's home

1 for a custody exchange. After the children were in Minh's RV, Minh walked  
2 into Jim's garage, took his ladder, and attempted to take his kitesurf board  
3 believing it to be her windsurf board. When Jim informed Minh that she  
4 could not take his property, Minh became angry and violent with Jim. In  
5 her tirade, Minh slammed Jim's kitesurf board against the floor of Jim's  
6 garage, grabbed a U-shaped aluminum handle wrapped in foam and struck  
7 Jim's vehicle multiple times, tried to tip the ladder onto Jim's car, and, after  
8 Jim moved the ladder to the entry way of his home from the garage, struck  
9 Jim's ladder against the entry way floor and walls. Minh was also verbally  
10 aggressive during this incident, calling Jim "the lowest scum ever" and  
11 baiting him to hit her. Because of Minh's hostility and aggressiveness at  
12 prior custody exchanges, Jim thankfully had the foresight to audio record  
13 this exchange with his phone. It was not until Jim took his phone out of his  
14 pocket to videotape Minh that Minh finally left Jim's garage.

15 After Minh left Jim's garage, and finally his home, Minh went straight  
16 to the Henderson Police Department and reported Jim committed domestic  
17 violence against her. Minh also obtained a Temporary Protective Order  
18 ("TPO") based on her false allegations. Jim was arrested as a result and had  
19 to spend a night in jail. Thankfully, because of his recordings, charges were  
20 rightfully never brought against Jim and Judge Ritchie dissolved the TPO.  
21 See Order from April 22, 2020 Hearing, pg. 8, lines 9-16.

22 Jim was forced to file an Emergency Motion to have the children  
23 returned to him. Minh filed a competing motion seeking primary physical  
24 custody of the children. The Court held a hearing on Jim's Emergency  
25 Motion on April 22, 2020. At the hearing, the Court granted Jim's request  
26 for immediate return of the children, who had been away from him for five  
27 (5) weeks, and denied Minh's request for primary physical custody.  
28 Instead, the Court temporarily modified the custody order to give Minh the

1 opportunity to reconsider her decision not to share physical custody of the  
2 children. Order from April 22, 2020 Hearing, pg. 5, lines 5-8. The Court  
3 ordered the parties to share physical custody of the children on a week  
4 on/week off basis until the evidentiary hearing on financial matters. *Id.* at  
5 pg. 6, line 27, to pg. 7, line 10. Based on the events of March 20, 2020,  
6 Judge Ritchie also ordered the custody exchanges to occur at the guard gate  
7 of Jim's home, rather than at the parties' residences. Order from April 22,  
8 2020, pg. 7, lines 10-12. Unfortunately, Minh's keeping the children away  
9 from Jim for the five (5) weeks before he was able to have the children  
10 returned to him did irreparable damage. Hannah has never been the same.

11 Hannah's behavior declined so severely Jim had to file another  
12 Emergency Motion on June 5, 2020 to get Hannah the psychological help  
13 she needed. Hannah started locking herself in her bedroom for most of the  
14 day. Hannah would rarely speak to Jim civilly and was very angry with him.  
15 When Jim attempted to communicate with Hannah, she yelled at him, told  
16 him he lies, everything is his fault, he ruined everything, he does not exist,  
17 he is not her daddy, she hates him, and she wishes he were dead. Hannah  
18 ate very little each day, which caused Jim great concern for her health.  
19 Hannah also would not complete her school work or watch her school  
20 videos. Jim also found two (2) photographs of the family prior to the  
21 parties' separation in Hannah's room where she completely blacked out Jim  
22 from the photograph. *See* Appendix of Exhibits in Support of Jim's June 5,  
23 2020 Emergency Motion, Exhibit 7. Hannah also slid two (2) letters under  
24 her door to Jim. One simply stated: "Don't ever talk to me again [sic]."  
25 The other stated:

26 Do you want me to live like this? Oh wait! Let me rephrase that  
27 since you don't care about me. Do you want to live like this?  
28 With me hating you for the rest of my life? Oh wait, YOU  
DON'T CARE ABOUT ME! I have a life, don't ruin it with  
yours. I WANT TO LIVE.

1 See Appendix of Exhibits in Support of Jim's June 5, 2020 Emergency  
2 Motion, Exhibit 8. The Court held a hearing on July 13, 2020, and granted  
3 Jim's request to immediately initiate therapy for Hannah with Dr. Bree  
4 Mullin, PsyD, who co-founded the Psychology Institute of Las Vegas. Dr.  
5 Mullin ultimately was unable to provide therapy for Hannah, but arranged  
6 to have Hannah participate in therapy with Nathaniel Minetto, LCPC (a  
7 Licensed Clinical Professional Counselor) under Dr. Mullin's supervision.  
8 Hannah participated in therapy with Mr. Minetto following the Court's  
9 order, and was improving.

10 The Court held the evidentiary hearing on financial matters on  
11 August 13 and September 4, 2020. The Court issued findings and orders  
12 regarding the financial matters and directed Jim's counsel to prepare the  
13 Decree of Divorce. In addition, the Court inquired as to whether it was  
14 Minh's intention to continue sharing joint physical custody of the children  
15 on a week on/week off basis. Minh confirmed that it was her intention to  
16 do so. Given the Court's September 2019 Decision and Order regarding  
17 custody premised the holiday and school break schedule on the fact that  
18 Jim would have primary physical custody and Minh would be living in  
19 California without the children, the Court directed the parties to discuss  
20 modifying the holiday and school break schedule to ensure both parties had  
21 a fair amount of time with the children.

22 Given the history of the case, it is not surprising that the parties were  
23 unable to reach an agreement on the holiday and school break schedule. In  
24 addition to making unreasonable requests, such as insisting she be  
25 permitted to have the children for their Spring Break from school in odd-  
26 numbered years despite having the children for their Spring Break in 2020,  
27 Minh insisted Jim agree to modify certain orders made by Judge Ritchie at  
28 the 2020 evidentiary hearing. Jim was forced to file a motion on February

1 11, 2021, to resolve the issues interfering with finalizing the Decree of  
2 Divorce and to address child custody issues that had arisen since the  
3 evidentiary hearing.

4 For instance, Jim addressed Minh's unilateral decision to spend an  
5 hour every single day teaching the children Vietnamese on FaceTime. Minh  
6 promised to buy Selena toys if she participated and promised \$1,000.00 to  
7 whomever of the children did the best in the following three (3) months.  
8 Enticed by the promise of toys and money, the children, not Minh,  
9 informed Jim that their mother wanted to teach them Vietnamese and they  
10 needed to be able to FaceTime with her for one (1) hour every day, even on  
11 school days. In a more than generous attempt to coparent  
12 with Minh, Jim told Minh he would cooperate with her to allow her to  
13 teach the children Vietnamese.

14 As this Court is aware, Minh immediately began abusing Jim's  
15 generosity. Not only did Minh keep the children on FaceTime over the one  
16 (1) hour, but she also encouraged the children to defy Jim when he asked  
17 them to end the call at the end of the hour. It became such an issue that  
18 one night at 8:20 p.m. Jim told Selena that she had to end the FaceTime  
19 session with Minh because he had to get her ready for bed. When Minh  
20 heard Jim telling Selena it was time to get ready for bed, Minh told Selena  
21 that her father was lying when he said her bedtime was 8:30 p.m. Jim was  
22 forced to take away the iPad from Selena, which obviously set him up to be  
23 the bad parent. Selena was very upset and cried.

24 Jim also brought to the Court's attention the fact that Minh was  
25 scheduling times during Jim's custody for the children to watch a movie  
26 with her while she was on FaceTime. Minh told the children they would  
27 watch a one and a half hour movie on a Sunday at 4:45 p.m. during Jim's  
28 custody time without first discussing same with Jim. Jim had already

1 scheduled a play date for Matthew and one his friends during that time.  
2 Rather than coparent with Jim, Minh told Matthew that he needed to tell  
3 his friend and his friend's family that they had to leave Jim's home before  
4 4:45 p.m. so the children could watch a movie with Minh.

5 On January 31, 2021, Minh sent the following email regarding same:  
6 Jim,

7 The children asked to have a movie date with me tonight at  
8 4:45. Matthew said he will inform his friend that his play date  
9 will have to end then. Please don't disrupt our plan. Again, the  
10 judge placed the order that you are not allowed to limit my  
11 contacts with the children. Please do no violate the judge's  
12 direct order.

13 Appendix of Exhibits in Support of Jim's February 11, 2021 Motion,  
14 **Exhibit 13.** Jim responded the same day to Minh:

15 Nguyet,

16 The kids told me you wanted to do a movie. You are creating  
17 so much stress for them. Remember, parents are not supposed  
18 to schedule activities for their children while the children are in  
19 the custody of the other, especially without discussing it  
20 privately together ahead of time.

21 I respect your time. Please respect ours.

22 *Id.* In response, Minh sent an email to Jim and carbon copied Nate  
23 Minetto, Hannah's therapist:

24 Hi nate,

25 I want to include you in these emails because I want you to  
26 help Jim to work on these items. We put so much of my, your  
27 and Hannah's time into helping Jim with his relationship with  
28 the children. Yet, he continuously ruin them.

Jim,

Please stop and see what you are doing to the children. They  
were so excited and looked forward to watching the movies  
together at 5pm. Even after informing you, you made sure that  
the movie would not happen. You did not let Lena get on the  
phone with me till close to 8:30pm at which time you kept on  
repeating that her bed time is at 8:30 and that she and I need  
to hang up. Lena was in tears when she was able to get on  
saying that you would not let her get on the iPad at 5pm. In her

1 exact words: "Daddy wouldn't let me turn on the iPad." You  
2 tramatized [sic] her Jim. You are the ugly person that you were  
3 calling me in front of the kids. Please refrain yourself from  
4 calling me names in front of the children.

5 How much longer will you torture the children. Hannah has  
6 been locking herself in her room for 2 years now. She doesn't  
7 want to leave her room because she doesn't want to see your  
8 face. She starves herself until she knows you are not in the  
9 dinning room/kitchen area. Is this the kind of relationship you  
10 want with your children? You force Hannah to go to therapy so  
11 you can continuously torture her and you expect her to  
12 heal? Again, the more you try to alienate the children the more  
13 they will hate you. Is this what you are trying to accomplish?  
14 You are very successful if that is what you want. Do you know  
15 the children are counting till the day you die? They were  
16 so happy when they found out your actual age. How sad is  
17 that? Do you think any kids would wish their parent to die  
18 if the parent were good to them? This is how much they  
19 hate being with you. I did not want to tell you these because  
20 it is hurtful but you need to know to reflect on it.

21 *Id.* Minh is so blind to her manipulation, coaching, and alienation of the  
22 children that she thought it was a good idea to include a third party,  
23 Hannah's prior therapist, on an email in which she tells Jim that the  
24 children are counting the day until he dies. Contrary to Minh's hurtful  
25 words, Jim has a great relationship with Matthew and Selena. In his many  
26 motions, Jim has detailed the issues he has experienced with Hannah since  
27 the parties' separation, and primarily since Minh kept the children from  
28 Jim for five (5) consecutive weeks in March and April 2020. Hannah has  
not been the same since that time.

The Court held a hearing on Jim's February 11, 2021 Motion on  
March 22, 2021. The Court found that Minh's constant telephone calls  
with the children, her telephonic Vietnamese lessons with the children, and  
her scheduling of times to watch movies with the children during Jim's time  
was interfering with Jim's custody time. Order from March 22, 2021  
Hearing, pg. 2, lines 20-26. In response to Hannah's behavioral issues, the  
Court found:

...

1 THE COURT FURTHER FINDS that if there continues  
2 to be issues with Hannah's behavior and relationship with her  
3 father, the Court will address the underlying issues. Video  
4 Transcript, 10:47:00. The Court believes part of the issue  
5 with Hannah's behavior is her involvement in the parties'  
6 conflict, and Minh wanting Hannah to align with her and  
7 Minh not supporting Jim. Video Transcript, 10:47:04;  
8 10:48:52. If the Court were to make any interim changes, it  
9 would be to have Hannah be in Jim's custody more, not less.  
10 Video Transcript, 10:48:43. The Court will not allow either  
11 party to triangulate the children to make them think that  
12 if they behave badly with one parent, they can have a say  
13 in deciding with which parent they will live. Video  
14 Transcript, 10:49:18. The Court believes there is alienation of  
15 the children occurring, and a power struggle between the  
16 parents. Video Transcript, 10:54:56.

17 *Id.* at pg. 3, line 19, to pg. 4, line 3. The Court ordered the parties to utilize  
18 Our Family Wizard ("OFW") to communicate with each other. *Id.* at pg.  
19 4, lines 15-18. The Court ordered the parties to submit additional briefing  
20 on health insurance, the holiday timeshare, and the location of custody  
21 exchanges, which would be decided by the Court at a hearing on April 13,  
22 2021. *Id.* at pg. 5, lines 14-18. The Court also ordered Jim's counsel to  
23 submit the proposed Findings of Fact, Conclusions of Law, and Decree of  
24 Divorce ("Decree of Divorce") to Judge Ritchie for his review and signature  
25 if Minh's counsel would not sign. Fortunately, Minh's counsel signed the  
26 Decree of Divorce, and same was entered by Judge Ritchie on March 26,  
27 2021.

28 At the April 13, 2021 hearing, the Court resolved the issues on which  
it requested additional briefing. In addition, the Court admonished the  
parties:

THE COURT HEREBY ADMONISHES the parties that the  
fighting needs to stop, the parties need to be civil to each other,  
and the parties need to put the children first. The Court  
further admonishes the parties that if they come before the  
Court again regarding parenting issues, a parenting  
coordinator may be appointed and a cooperative parenting  
course may be ordered, to be completed together, and  
whomever the Court believes to be the least cooperative  
may be responsible to pay for the costs.



1 Order from April 13, 2021 Hearing and April 28, 2021 Minute Order, pg.  
2 3, lines 10-17. The Court ordered the parties to complete a high conflict  
3 (eight (8) or twelve (12) hour) online course and a Teen Triple P (Positive  
4 Parenting Program) online course, and stated any motion filed prior to the  
5 completion of same would be denied via Minute Order. *Id.* at pg. 6, lines  
6 3-11. Both parties have completed the ordered classes and filed proof of  
7 same.

8 The Court also limited the non-custodial parent's telephone contact  
9 with the children to ten (10) minutes with each child on Saturdays,  
10 Mondays, and Wednesdays at 7:30 p.m. *Id.* at pg. 5, lines 21-24. Minh has  
11 completed disregarded the Court's order and continues to speak with  
12 Hannah at all times of the day.

13 The Court found it was in Hannah's best interest to continue therapy  
14 with Mr. Minetto and ordered Hannah shall continue therapy sessions with  
15 Mr. Minetto until he determines she may be exited from therapy. *Id.* at pg.  
16 4, lines 18-20; pg. 6, lines 12-14. Jim had brought to the Court's attention  
17 the fact that in or around February 2021, Hannah was exposed to Minh's  
18 sister who tested positive for COVID-19 and her therapy sessions with Mr.  
19 Minetto were converted to remote sessions. Not being able to meet with  
20 Mr. Minetto in person drastically interfered with Hannah's progress and in  
21 or around March 2021 she refused to continue attending therapy sessions  
22 with Minh's support. During this time, Minh was undermining the therapy  
23 with Mr. Minetto, making comments about how she did not see the point  
24 in Hannah continuing with therapy because nothing had changed. Minh  
25 also became upset with Mr. Minetto when he explained to her that  
26 Hannah's situation would not get better if she did not start communicating  
27 with Jim. In Minh's mind, the only thing she believes will help Hannah is  
28 if Hannah is in her sole custody and has no relationship with Jim. Minh

1 dismisses any recommendations to the contrary, or suggestions that she co-  
2 parent with Jim.

3 After the Court ordered that Hannah shall continue therapy sessions  
4 with Mr. Minetto until he determines she may be exited, Jim did everything  
5 in his power to resume Hannah's therapy, but Minh refused to cooperate.  
6 Minh simply tells Jim that Mr. Minetto did not help so returning Hannah  
7 to therapy is useless. In an effort to get Hannah into therapy immediately  
8 with any professional who could help, Jim called many psychologists in Las  
9 Vegas. Unfortunately, the wait to get Hannah in to see the potential  
10 therapists Jim contacted was several months long. Thus, Jim reached out to  
11 Mr. Minetto and Dr. Mullin, to see if they were still able to provide  
12 therapy for Hannah. They informed Jim that they were, but Dr. Mullin  
13 wanted to meet with Jim and Minh first.

14 On September 15, 2021, Minh and Jim met with Dr. Mullin to  
15 discuss helping Hannah. Dr. Mullin recommended that Hannah begin  
16 participating in therapy with Dylana "Dee" Pierce, LCSW, PhD, who  
17 specializes in treating patients with trauma, depression, anxiety, and  
18 children (five years old and older), and is under Dr. Mullin's supervision.  
19 Dr. Mullin also recommended that Jim and Minh participate in co-  
20 parenting counseling with her. Jim discussed with Mr. Minetto whether he  
21 believed Hannah should continue therapy with him or Dr. Pierce and he  
22 stated he believed Hannah needed a fresh start after the past issues with  
23 her attending therapy with him. Jim believes the parties should follow Dr.  
24 Mullin's and Mr. Minetto's advice and immediately begin co-parenting  
25 counseling with Dr. Mullin and have Hannah immediately begin therapy  
26 with Dr. Pierce. Minh refuses to follow Dr. Mullin's recommendations.

27 Despite not being able to get Hannah back into therapy, Jim and  
28 Minh were able to have Hannah evaluated by a psychiatrist. At the April

1 13, 2021 hearing, the Court noted that the parties agreed to have Hannah  
2 evaluated by a psychiatrist. *Id.* at pg. 4, lines 21-22. In regards to having a  
3 psychiatrist help Hannah, the Court found “that the solution to helping  
4 Hannah is not to have her live primarily with Minh.” *Id.* at pg. 5, lines 2-3.  
5 The parties chose Dr. Michelle Fontenelle-Gilmer to complete the  
6 psychiatric evaluation. Dr. Fontenelle-Gilmer has been meeting with  
7 Hannah since September 2, 2021.

8 After the Order from the April 13, 2021 Hearing was entered, Minh  
9 filed an appeal of the Court’s orders. The parties participated in the  
10 Supreme Court of Nevada’s settlement program and were able to reach a  
11 resolution. The parties agreed that the Court’s orders appealed by Minh  
12 would stand. The parties agreed that Hannah shall continue to receive  
13 mental health treatment from Dr. Fontenelle-Gilmer, who shall be  
14 empowered to make recommendations regarding Hannah, including  
15 changes to custody, visitation, timeshare, transportation, telephone contact,  
16 etc. The parties also agreed Dr. Fontenelle-Gilmer may conduct or refer  
17 Hannah for a forensic evaluation to make such recommendations. The  
18 Stipulation and Order Resolving Outstanding Issues on Appeal has not yet  
19 been entered by the Court.

20 Unfortunately, approximately two (2) weeks following the parties’  
21 resolution of the issues subject to Minh’s appeal, Minh began  
22 misconstruing conversations with Dr. Fontenelle-Gilmer to serve her own  
23 purposes, and then making unilateral decisions regarding the children  
24 without Jim’s knowledge or consent. This was obviously not the intent of  
25 the parties’ agreement to follow Dr. Fontenelle-Gilmer’s recommendations.

26 . . .

27 . . .

28 . . .

1 B. Minh's Unilateral Decision to Take Hannah and Matthew out of  
2 Challenger Without Jim's Consent and the Detrimental Impact  
3 Minh's Actions Have Had on the Children

4 On Monday, September 27, 2021, Jim and Minh took Hannah to an  
5 appointment with Dr. Fontenelle-Gilmer. At the conclusion of Hannah's  
6 appointments, Dr. Fontenelle-Gilmer always meets individually and  
7 separately with Minh and Jim. During Jim's meeting, Dr. Fontenelle-Gilmer  
8 recommended to Jim that he and Minh consider enrolling Hannah in a new  
9 school. Later that night, Jim immediately reached out to Minh on OFW to  
10 cooperate and coparent in choosing a school for Hannah. The parties  
11 exchanged the following messages:

12 September 27, 2021, 8:27 p.m.

13 Jim: Today, Dr. Gilmer told me that she thought it  
14 would be good for Hannah to change schools. Dr.  
15 Gilmer also said that Hannah did not want to go  
16 back to Coral.

17 If you agree, let's look for another school for  
18 Hannah.

19 September 27, 2021, 9:46 p.m.

20 Minh: Dr. Fontenelle thought that Earnest Becker would  
21 be good for Hannah since it would be more mellow.  
22 I also asked if Matthew would be able to attend  
23 Earnest Becker with Hannah and she agrees that it  
24 would be good for Hannah to have someone she  
25 knows at the new school. Matthew also dislike  
26 Challenger and had a melt down at the beginning of  
27 this school year. He would also like to move to the  
28 same school as Hannah. We agreed to take Dr.  
Fontenelle's recommendations for the children. I  
hope you will honor what you agreed to. I am going  
to take Matthew and Hannah there tomorrow to  
check it out and turn in the documents they  
require.

29 Exhibit 1. Jim did not see Minh's OFW message sent at 9:46 p.m. until the  
30 afternoon of the following day and, thus, was not aware Minh,  
31 immediately, unilaterally without any discussion with Jim, and without his  
32 consent, planned to take Matthew and Hannah to Becker to enroll them.

1 At 11:33 a.m. on Tuesday, September 28, 2021, Minh sent to Jim the  
2 following message via OFW:

3 Following Dr. Fontenelle's recommendation from yesterday's  
4 session and as I informed you last night, I took Hannah and  
5 Matthew to Earnest Becker intermediate school this morning.  
6 They get to see the campus and met the counselors. They got  
7 to discuss about the classes they get to choose. Both Hannah  
8 and Matthew are excited to be able to take piano. They are  
9 both placed in advance levels for academic classes. I explained  
10 to the counselors that both usually had done very well in school  
11 in the past but the last couple of years have been tough on  
12 them. They believe that Hannah and Matthew will still do well  
13 in their advance levels. They said if Hannah and Matthew still  
14 feel like it's still too tough then they can always be moved out  
15 of those levels.

16 Hannah asked to go to Hyde Park because she knows Jaclyn  
17 there. I called the school and we have to be either zoned into  
18 that school or get picked through lottery. At this time, it is too  
19 late for the lottery for this school year. I will put our names in  
20 for lottery next year although Hyde Park has a very high  
21 curriculum that Hannah may not be able to keep up since she  
22 had fell so far behind. I called another school that Dr.  
23 Fontenelle is also very keen on. It's called Doral Academy. It is  
24 a charter school and also has to be picked through a lottery  
25 process. I think at this point, it is too hard for Hannah to be in  
26 a charter school as she had fallen too far behind.

27 Hannah has serious mental issues that I fear the longer it goes  
28 on the harder it will be or impossible to fix. Please reevaluate  
your priorities. It is not a matter of winning or losing. WE  
both are losing our daughter. Please listen to what she is asking  
for. She doesn't deserve to be mentally ill because of us.

19 The kids can start school as early as tomorrow. If you want to  
20 go check out the school tomorrow and let me know you can do  
21 that. However, the longer we wait the worse it will be for the  
22 kids as they have already fallen behind and school started over  
23 a month ago.

24 **Exhibit 1.** Jim did not read Minh's September 27 or September 28  
25 messages until the afternoon of September 28. After reviewing the message  
26 Minh sent on September 27, but prior to reading the message she sent on  
27 September 28, Jim sent Minh the following message on OFW:

28 September 28, 2011, 1:11 p.m.

Dr. Fontanelle-Gilmer did not recommend Earnest Becker to  
me. Dr. Gilmer didn't recommend to me to change Matthew to  
another school.

1 Picking Hannah's new school and whether to transfer Matthew  
2 are decisions for us to make jointly and not for you to make  
3 unilaterally. Please don't discuss the decisions with them until  
4 you and I are in agreement. Please do not take them there or  
5 fill out any paperwork until you and I agree on a school and  
6 whether Matthew is going to transfer also.

7 We need to investigate good charter schools that are in close  
8 proximity to Challenger where at least Lena, and possibly  
9 Matthew, will be continuing. The school also should be fairly  
10 equidistant between your residence and mine. Summerlin  
11 certainly is not equidistant.

12 Do not take the kids there today. This will cause more harm to  
13 all of them. You and I need to discuss and agree before any  
14 changes are made.

15 **Exhibit 1.** When Jim then read Minh's September 28 message, he was  
16 shocked to learn that Minh unilaterally decided to have Hannah and  
17 Matthew miss school at Challenger, and took them to Becker to enrol them  
18 without Jim's knowledge or consent. Jim sent to Minh the following  
19 messages via OFW:

20 September 28, 2021, 1:19 p.m.

21 I just read this message [Minh's September 28, 2021 message].  
22 What you've done is unilaterally make a decision that we  
23 jointly need to make. Do not start the kids at Earnest Becker or  
24 any where else until we discuss and agree on the change.

25 September 28, 2021, 2:21 p.m.

26 Until we reach an agreement on the school to where WE want  
27 Hannah transferred, all of the children need to continue at  
28 Challenger.

Please don't involve the kids in our discussion until we are in  
agreement.

29 **Exhibit 1.** Knowing that Minh may not immediately check her OFW  
30 messages, Jim also sent the following text messages to Minh:

31 Please look at the OFW message I sent you. Please don't  
32 discuss changing schools, which school, or whether Matthew  
33 will be changing schools also with the children until you and I  
34 are in agreement. Including the kids at this point is harmful to  
35 them.

36 . . .

1 Please do not take the kids to Earnest Becker today. You and  
2 I need to investigate and agree on the new school for Hannah  
first before any discussions and paperwork are started.

3 **Exhibit 2.** When Jim did not receive a response to his text messages, he  
4 sent a follow up text message to Minh, again pleading that she not involve  
5 the children in any discussion regarding school until she and Jim were able  
6 to discuss the issue.

7 **Hannah's school change**

8 Until we reach an agreement on the school where WE want  
9 Hannah transferred, all of the children need to continue at  
Challenger. Please don't involve the kids in our discussion until  
we are in agreement.

10 **Exhibit 2.** Minh did not respond to any of Jim's messages that day.

11 When Jim learned that Minh had unilaterally enrolled Hannah and  
12 Matthew in Becker, he also immediately contacted Challenger and spoke  
13 to the administrator. The administrator informed Jim that the  
14 administrator from Becker called to inform her that Hannah and Matthew  
15 would not be returning to Challenger and they would be starting school at  
16 Becker that day. The administrator also informed Jim that Selena arrived  
17 late, around 10:00 a.m. to 11:00 a.m., to Challenger that day. Jim asked  
18 the administrator to ensure Hannah and Matthew were not withdrawn  
19 from Challenger as Jim had no involvement in this matter and did not  
20 consent to the children changing schools.

21 Jim also immediately reached out to Dr. Fontenelle-Gilmer to ask  
22 whether Minh was honest when she informed Jim that Dr. Fontenelle-  
23 Gilmer recommended Hannah, and Matthew (who is not a patient of Dr.  
24 Fontenelle-Gilmer's), be immediately withdrawn from Challenger and  
25 enrolled at Becker. Not surprisingly, Minh was not. Dr. Fontenelle  
26 informed Jim that she absolutely did not recommend Minh immediately  
27 withdraw Hannah, and certainly not Matthew who is not her patient, from  
28 Challenger and enroll them in Becker. Dr. Fontenelle-Gilmer confirmed

1 that Minh, in fact, was the one who specifically asked about Becker as a  
2 potential new school in the first place. Dr. Fontenelle-Gilmer agreed Becker  
3 may be an option; however, she never indicated Minh should make that  
4 decision unilaterally and without Jim's knowledge or consent.

5 After not receiving any response to his OFW messages and text  
6 messages, Jim sent a follow up message to Minh on OFW later that night:

- 7 • We have joint legal and joint physical custody of our  
8 three children.
- 9 • It's illegal for either of us to unilaterally make a decision  
10 about changing schools for any of our children without  
11 discussing and agreeing with each other.
- 12 • You took the kids to Ernest Becker School today without  
13 my knowledge or consent.
- 14 • Again, you discussed with the children about changing  
15 schools, and even worse, you discussed with them your  
16 vision for our kids to go to another school that you  
17 unilaterally selected without ever including me in the  
18 decision.
- 19 • Discussing your unilateral decision with them without  
20 any agreement from me is wrong and sets them up for  
21 serious psychological harm.
- 22 • Without my knowledge or consent, you chose to have  
23 Hannah and Matthew miss school today and Lena arrive  
24 tardy.
- 25 • Without any legal right to enroll them, today, you toured  
26 the school with them, met counselors, picked classes, and  
27 completed paperwork for enrollment.
- 28 • Challenger told me that someone from Ernest Becker  
contacted Challenger informing them that Hannah and  
Matthew "were withdrawing from Challenger and that  
they started over there today."

29 You had no courtesy to include me, and you had no legal right  
30 exclude me in any of the decisions and actions you did today  
31 with respect to our kids.

- 32 • Do not withdraw Hannah or Matthew from Challenger.
- 33 • Hannah and Matthew need to attend school at  
34 Challenger tomorrow (Wednesday, 9/29/21)

35 . . .



- 1 • Do not proceed with enrollment in Ernest Becker or any  
2 other school for any of our kids until you and I are in  
3 agreement.
- 4 • All three of our kids need to attend Challenger tomorrow  
5 (You and I can discuss this and come to a decision.  
6 Regardless, Hannah, Matthew, and Selena need to attend  
7 school tomorrow.)

### 8 My Due Diligence

9 1. I contacted Dr. Gilmer, I verified that what you wrote to  
10 me in your OFW message is false. What you wrote were not  
11 what her recommendations were.

12 2. I contacted Challenger and informed them that Hannah  
13 and Matthew are not to be withdrawn.

14 3. I reached Ernest Becker School a couple minutes after  
15 closing at 3:30, but will be speaking with them first thing  
16 tomorrow morning to inform them that Hannah and Matthew  
17 are not to be enrolled at this time.

18 Nguyet, what I've provided above is enough explanation for not  
19 disrupting Hannah's and Matthew's school more than you did  
20 today.

21 It's extremely important that you understand without any  
22 doubt that there is no psychological or physical reason for you  
23 to change Hannah's or Matthew's school today or tomorrow.

24 YES, Dr. Fontanelle [sic] recommended to us to transfer  
25 Hannah to another school. Dr. Fontanelle [sic] absolutely did  
26 not recommend transferring Hannah (AND CERTAINLY NOT  
27 MATTHEW) from Challenger to anywhere including Ernest  
28 Becker today, especially without our mutual agreement.  
(Certainly, secretly without my knowledge or consent.) Dr.  
Fontanelle [sic] called me this evening. She confirmed that in  
no way, shape, or form did she recommend that Hannah  
transfer to Ernest Becker School.

In fact, she told me she didn't recommend it to you, but you  
were the one who asked her about that specific school.

She was very clear that she made no recommendation that  
Matthew transfer from Challenger to anywhere. He's not her  
patient and she's never even met him.

Please call me, email me, text me, or communicate in any way  
you want. Please never again do anything like what you did  
today. You did not have the best interest of our kids, or even a  
recommendation of Dr. Fontanelle [sic], any legal right, my  
consent, or any other sensible reason to entice the kids with  
another of your agendas.

1 Please, Nguyet, let's talk, or if you won't, at least electronically  
2 converse.

3 **Exhibit 1.**

4 Minh's actions have had a severe, detrimental impact on the children  
5 and their relationship with Jim. Jim knew Minh would be telling the  
6 children that the reason they could not attend Becker was because Jim  
7 would not allow them to do so. Minh previously was able to alienate the  
8 children, especially Hannah, by informing them that the reason the  
9 children could not live in California and "be happy" is because Jim will not  
10 allow it. Minh's concerning behavior and inappropriate conversations with  
11 the children were noted by Judge Ritchie in the September 2019 Decision  
12 and Order, as detailed above. Minh has not changed her alienating  
13 behaviors for the past two (2) years.

14 As expected, since Minh unilaterally attempted to enroll Hannah and  
15 Matthew at Becker, Hannah and Matthew have refused to return to  
16 Challenger. Prior to Minh's actions, Matthew was excelling at Challenger,  
17 and attending school with his best friend. Jim also had a great relationship  
18 with Matthew. Now, Matthew blames Jim for not being able to attend  
19 Becker. Hannah is even worse. Although Hannah has remained in Minh's  
20 custody since September 28, and Minh believes Hannah does better in her  
21 care, Hannah has refused to participate in online schooling for Challenger.

22 On October 1, 2021, Selena attended Challenger and Matthew and  
23 Hannah stayed at Minh's home. When Jim learned Hannah and Matthew  
24 would not go to school, he asked Minh to drive them to the guard gate of  
25 his home to exchange them for his custody time. Minh claimed she could  
26 not get Matthew in the car. Jim was forced to pick up Hannah and  
27 Matthew from Minh's home. When Jim arrived to pick up Hannah and  
28 Matthew, Matthew was cooperative and got into Jim's vehicle. Hannah,

1 however, refused to go to Jim's custody unless he would sign a note stating  
2 that he would not limit her cell phone time, would not take away her cell  
3 phone, and would not bother her. **Exhibit 3.** Jim explained to Hannah that  
4 they do not make bargains like that, and the Court's order required her to  
5 transfer to his custody. Hannah remained steadfast in her refusal to go with  
6 Jim. Jim advised Minh and Hannah that he saw no other option but to call  
7 the police and see if they could help with the exchange.

8 Initially, the parties attempted to exchange the children at the guard  
9 gate of Minh's home. While Jim was trying to convince Hannah to come  
10 with him and waiting for the police to arrive, Matthew asked if he could get  
11 out of the vehicle and play in a patch of grass. Jim agreed. After  
12 approximately an hour and a half of Matthew playing, Minh called  
13 Matthew over to her vehicle, talked him into getting into her vehicle, and  
14 drove off with Hannah and Matthew. Jim immediately sent a text message  
15 to Minh insisting that she bring the children back to his custody. Minh  
16 refused to answer. Jim could do nothing but wait for the police to arrive. A  
17 few minutes after the police arrived at the guard gate, Minh's boyfriend  
18 arrived and informed the police that Minh would be back soon. It took  
19 Minh approximately ten (10) minutes to return with the children. Jim was  
20 able to obtain custody of Matthew, but Hannah continued to refuse to go  
21 with Jim. Jim attempted to pick up Hannah the following day as well, on  
22 October 2, 2021, but Hannah refused to go with him.

### 23 **III. LEGAL ARGUMENT**

#### 24 **A. Minh's Motion Should Be Denied In Its Entirety Because Minh** 25 **Failed to Comply with EDCR 5.501, and Failed to Provide Legal** **Authority Supporting Her Position**

26 First and foremost, Minh did not comply with EDCR 5.501 as she  
27 claims in her Motion. EDCR 5.501(a) requires a movant to first attempt  
28 to resolve the issues in dispute with the other party prior to filing a motion.

1 Failure to do so may result in the imposition of sanctions if the Court  
2 concludes the issues would have been resolved if an attempt at resolution  
3 had been made before the filing. EDCR 5.501(c).

4 Minh never attempted to resolve her claim of a clerical error prior to  
5 filing her Motion. Had she done so, Jim could have reminded Minh that  
6 the issue of the percentage each party contributed to the children's 529  
7 accounts was litigated at length at the August 13 and September 4, 2021  
8 evidentiary hearing. In fact, evidence was submitted proving Minh herself  
9 took the position that Jim contributed 25% and Minh contributed 75% to  
10 the children's 529 accounts. Attached as Exhibit 4 is Plaintiff's Trial  
11 Exhibit 2, which is an email dated May 29, 2019 from Neil Mullins,  
12 Minh's counsel at the time, and was admitted at trial. The email from Mr.  
13 Mullins states:

14 **529 Accounts**

15 Jim will get one-fourth of the 529 plans and Minh 3/4ths  
16 (according to contributions), and with provisions that neither  
17 will withdraw, except for college tuition and room and board  
18 without both parties approving by email. And each party would  
provide annual statements to the other. We disagree Jim should  
get half, as such is even contrary to the the [sic] PMA. But Jim  
should not mind, as we are protecting the children anyway.

19 Exhibit 4. In response to Mr. Mullins' email, Jim's counsel sent an email  
20 on May 31, 2019 stating Minh's position regarding the 529 accounts was  
21 acceptable to Jim. Exhibit 5, Plaintiff's Trial Exhibit 3, admitted at trial.  
22 Thereafter, the parties discussed specifically identifying the exact amounts  
23 contributed by each party to the 529 accounts. On August 16, 2019, one  
24 year before trial, Mr. Mullins sent a letter to Jim's counsel stating:

25 Paragraph V, at Page 6, we are in agreement with placing an  
26 exact dollar amount to be transferred from the children's 529  
27 accounts in accordance with our previous agreement. My client  
28 is in the process of obtaining the records from the plan  
administrator so we can calculate the exact figure to be  
transferred to a 529 account in Jim's name only.

1 Exhibit 6, Plaintiff's Trial Exhibit 7, admitted at trial. An entire year prior  
2 to the August 13 and September 4, 2020 evidentiary hearing, Minh was  
3 gathering documentation to prove the exact amounts contributed by each  
4 party. In fact, at the evidentiary hearing, Minh admitted documents  
5 evidencing each party's contributions to the children's 529 accounts.  
6 Despite this, Minh waited until a year following the trial to have Mr.  
7 Udy complete an analysis of the parties' contributions because she was  
8 unhappy with Judge Ritchie's decision. Based on the evidence admitted at  
9 trial, Judge Ritchie found:

10 THE COURT FURTHER FINDS that the ratio of capital  
11 investment in the 529 accounts established by the parties for  
12 their children was approximately 25% by JIM and 75% by  
13 MINH and her family members. THE COURT FURTHER  
14 FINDS that the 529 accounts were established during the  
15 marriage for the intended, sole purpose of providing resources  
16 for the children's educations, and are held in MINH's name for  
17 the benefit of the children. THE COURT FINDS that it is not  
18 dividing the 529 accounts based on any contract purportedly  
19 entered into by the parties or pursuant to the parties'  
20 Premarital Agreement as it does not include any provision  
21 regarding 529 accounts. THE COURT FURTHER FINDS that  
22 MINH's claim that JIM's contribution to the 529 accounts was  
23 a gift to MINH as her separate property is not accepted by the  
24 Court. THE COURT FURTHER FINDS that it has discretion  
25 to apportion the 529 accounts, and dividing the 529 accounts  
26 pursuant to each party's capital contributions is an appropriate  
27 and logical way to divide the 529 accounts.

20 Minh is attempting to deceive this Court by now claiming there is  
21 simply a clerical issue in Judge Ritchie's Order dividing the 529 accounts.  
22 NRCP 60(a) is not applicable to this matter as there was no clerical mistake  
23 or mistake arising from oversight or omission. Similarly, NRCP 60(b)(1)  
24 does not apply to this matter because there has been no mistake,  
25 inadvertence, surprise, or excusable neglect. Minh argued at the evidentiary  
26 hearing before Judge Ritchie that Jim should not receive 25% of the  
27 children's 529 accounts. Minh presented evidence she believed supported  
28 her claims, including the statements for the children's 529 accounts. Minh

1 had every opportunity to present an analysis of the parties' contributions  
2 at the trial and chose not to do so. Ultimately, Judge Ritchie did not agree  
3 the evidence support Minh's position and made his findings and orders  
4 based upon the evidence admitted at trial. Minh's Motion should be denied  
5 and Minh should be sanctioned for failing to comply with EDCR 5.501 by  
6 having to pay Jim's attorneys' fees and costs.

7 B. The Court Should Resolve the Parent-Child Issues as Requested by  
8 Jim

9 1. *The Court Should Enter an Order that Minh Immediately Return*  
10 *Hannah to Jim's Custody, Including Entering a Pick Up Order*

11 As detailed above, since Minh unilaterally pulled Hannah and  
12 Matthew out of Challenger and attempted to enroll them at Becker,  
13 Hannah has refused to return to Jim's custody. Jim has now missed one (1)  
14 week of his custody time with Hannah, for which he should receive makeup  
15 time. The longer Hannah is in Minh's custody and away from Jim, the  
16 more Hannah will be manipulated and alienated from him. Jim has  
17 explained to this Court that Hannah has never been the same since Minh  
18 kept the children for five (5) consecutive weeks in March and April 2020.  
19 Jim anticipates that if Hannah remains in Minh's custody, contrary to the  
20 custody orders, Hannah's well-being will deteriorate as it did previously.  
21 This Court should warn Minh that if she does not comply with the custody  
22 order, she may be held in contempt pursuant to NRS 22.010 for  
23 disobedience of a lawful order. Minh should also be warned that she may  
24 be penalized by serving 25 days in jail for each violation (i.e., each day she  
25 keeps Hannah during Jim's custody time) of the Court's order pursuant to  
26 NRS 22.100. Lastly, the Court should enter a Pick Up Order ordering all  
27 law enforcement personnel, including the Henderson Police Department  
28 and Las Vegas Metropolitan Police Department, be authorized and directed

1 to assist Jim in obtaining physical custody of Hannah for Jim's custody  
2 time.

3           2.     *This Court Should Enter an Order that Hannah Immediately*  
4                 *Participate in Therapy with Dr. Pierce*

5           This Court previously ordered Hannah shall continue therapy with  
6 Mr. Minetto until he determines Hannah may be exited from therapy.  
7 Order from April 13, 2021 Hearing, pg. 4, lines 18-20; pg. 6, lines 12-14.  
8 Since April, Jim has tried to get Hannah to return to therapy with Mr.  
9 Minetto, but she refuses and is supported by Minh, who claims Mr.  
10 Minetto did not help Hannah. This is simply not true. Hannah was  
11 improving while participating in therapy with Mr. Minetto in person.  
12 Hannah began declining when the therapy sessions were held remotely.  
13 When Hannah and Minh refused to cooperate in returning to Mr. Minetto,  
14 Jim started contacting other potential therapists. Unfortunately, the wait  
15 for a new therapist is months long. Jim asked Minh if she would meet with  
16 Dr. Mullin to see what other options are available for Hannah, and was  
17 pleasantly surprised when she agreed.

18           Jim and Minh recently met with Dr. Mullin, who recommended that  
19 Hannah participate in therapy with Dr. Pierce. Dr. Pierce works in Dr.  
20 Mullin's practice and specializes in treating patients with trauma,  
21 depression, anxiety, and children (five years old and older). Jim also spoke  
22 to Hannah's prior therapist, Mr. Minetto, and he confirmed a "fresh start"  
23 with a new therapist would be beneficial for Hannah. Hannah is suffering  
24 immensely. Hannah is doing extremely poorly in school, even before Minh  
25 unilaterally attempted to withdraw her from Challenger. Unfortunately,  
26 since then, Hannah has refused to return to school. Hannah also struggles  
27 with eating and her body image. Hannah's relationship with Jim is  
28 deteriorating, and she is refusing to go to his custody. Hannah needs

1 emergency help. Accordingly, Jim is requesting the Court order Hannah to  
2 immediately participate in therapy with Dr. Pierce.

3 Jim also would like the Court to consider ordering that Matthew and  
4 Selena participate in therapy with Dr. Pierce. As detailed above, they are  
5 not immune to Minh's manipulation and alienation. Both Matthew and  
6 Selena have parroted the positions Minh has taken in litigation. Matthew  
7 and Selena also have shows signs of being scared to show any affection  
8 toward Jim while in Minh's presence. Thus, they may benefit from  
9 participating in therapy as well.

10 3. *The Court Should Enter an Order that Hannah Participate in a*  
11 *Forensic Psychiatric Evaluation as Recommended by Dr. Michelle*  
*Fontenelle-Gilmer*

12 At the October 8, 2021 meeting between Jim, Minh, and Dr.  
13 Fontenelle-Gilmer, Dr. Fontenelle-Gilmer recommended a forensic  
14 psychiatric evaluation be completed on Hannah, and referred the parties to  
15 Dr. Tricia Coffey. At the Supreme Court settlement conference, the parties  
16 agreed to follow Dr. Fontenelle-Gilmer's recommendations, including  
17 obtaining a forensic psychiatric evaluation if she so recommended. If Minh  
18 opposes Dr. Fontenelle-Gilmer's recommendations, contrary to the parties'  
19 agreement, the Court should enter an order requiring the parties to  
20 facilitate Hannah's participation in a forensic psychiatric evaluation with  
21 Dr. Coffey.

22 4. *The Court Should Enter an Order Requiring Minh and Jim to*  
23 *Participate in Co-Parenting Counseling with Dr. Mullin*

24 When Jim and Minh met with Dr. Mullin, she also recommended  
25 that Jim and Minh participate in co-parenting counseling with her. It is  
26 clear Hannah's psychological issues are resulting from being involved in the  
27 parties' conflict. Jim has tried to shield Hannah as much as possible from  
28 the parties' conflict, but he cannot control how Minh behaves in front of



1 the children and the detrimental impact such behavior has had on them. As  
2 set forth in detail above, for years, Minh's behavior toward Jim indicates to  
3 the children that she does not respect him or like him, and neither should  
4 they, he is not trustworthy and they should not believe him, he does not  
5 listen to her or to their opinions, the rules in his house are not reasonable  
6 and they do not need to follow them, and the list goes on. Jim is terrified  
7 that Minh's behavior may eventually have the same effect on Matthew and  
8 Selena. It is evident from Minh unilaterally pulling Hannah and Matthew  
9 out of Challenger that Minh was able to make Jim look like the bad parent  
10 to Matthew, with whom Jim has a great relationship. Matthew was upset  
11 with Jim that he would not allow him to go to Becker and thus, refused to  
12 return to Challenger, where he was excelling. Jim is willing to do anything  
13 to ensure his children are not further damaged and believes the Court  
14 should order the parties to follow Dr. Mullin's recommendation that the  
15 parties participate in co-parenting counseling with her.

16       5.     *The Court Should Award Sole Legal Custody to Jim*

17       For the past two (2) years, Minh has continuously undermined Jim's  
18 legal and physical custody rights. Recently, Minh refused to cooperate and  
19 co-parent with Jim to ensure Hannah returned to therapy with Mr. Minetto  
20 as ordered by the Court. The most egregious of Minh's actions occurred  
21 when she unilaterally, and without Jim's knowledge or consent, withdrew  
22 Hannah and Matthew from Challenger and attempted to enroll them at  
23 Becker. Minh chose Becker because it is located only ten (10) minutes from  
24 her home and nearly an hour away from Jim's home. Minh enamored the  
25 children by taking them to tour Becker, speak with counselors, and pick out  
26 classes, fully aware that by doing so she could make Jim the bad parent if  
27 he objected. Minh knew Jim would not agree to transfer the children to  
28 Becker, a school that is ranked 47<sup>th</sup> in the State of Nevada, and is nearly an

1 hour drive from his home. Since Minh unilaterally attempted to enroll the  
2 children in Becker, both Hannah and Matthew have refused to return to  
3 Challenger. This is extremely disappointing as Matthew was excelling at  
4 Challenger. Minh has demonstrated she will not act in the children's best  
5 interest and comply with the Court's order that the parties share joint legal  
6 custody. Thus, the Court should award Jim sole legal custody.

7  
8 6. *The Court Should Order the Parties to Comply with Dr. Fontelle-*  
9 *Gilmer's Recommendations Regarding Choosing a New School for*  
*Hannah and Matthew, and if the Parties Are Unable to Agree on Two*  
*Schools, the Court Should Resolve the Issue*

10 Dr. Fontenelle-Gilmer recommended the parties should come to an  
11 agreement on two (2) schools to present to the children, take Hannah and  
12 Matthew to tour both schools, and allow Hannah and Matthew to decide  
13 which school to attend. The parties should follow Dr. Fontenelle-Gilmer's  
14 recommendation. However, Jim is concerned that Minh will not participate  
15 in good faith in this co-parenting task given Minh's actions the past few  
16 years and, specifically, the past two (2) weeks. Jim is concerned Minh will  
17 only present Becker or schools close to her home, but approximately an  
18 hour away from Jim's home, as options to present to the children. Having  
19 one parent drive the children nearly an hour to school would not be in the  
20 children's best interest as it would interfere with their sleep schedules and  
21 their ability to complete homework or participate in extracurricular  
22 activities after school. Thus, the Court should order the parties to comply  
23 with Dr. Fontenelle-Gilmer's recommendations; however, if the parties are  
24 unsuccessful, the Court should resolve the issue. Until a new school is  
25 agreed upon by the parties or ordered by the Court, the Court should order  
26 the children shall continue to attend Challenger.

27 . . .

28 . . .

1           6.     *The Court Should Order Minh to Return the Children's Passports to*  
2                 *Jim*

3           Jim has become increasingly concerned that Minh will do something  
4 drastic if she continues to feel like she is not getting her way. Ever since  
5 Minh was denied her request to relocate with the children to California,  
6 Minh's actions have become progressively worse. Minh truly believes that  
7 Jim is to blame for all issues between the parties, Jim should not be a part  
8 of the children's lives, and she is the only one who can help the children,  
9 Hannah in particular. Jim would have never believed Minh was capable of  
10 falsely accusing him of domestic violence, until he was arrested. Jim would  
11 have never believed Minh could be so nasty to him in front of the children,  
12 and he is now watching his daughter deteriorate mentally because of what  
13 she has witnessed. Jim does not want his next nightmare to be that Minh  
14 has left the country with the children. Jim also has concerns for Minh being  
15 solely in possession of the children's passports because she has relatives in  
16 Vietnam, Germany, and Australia, and undeclared cash stored away that  
17 she could easily access. Thus, the Court should order Minh to return the  
18 children's passports to Jim, or that they be kept by a neutral third party.

19           C.     The Court Should Award Jim His Attorneys' Fees and Costs for  
20                 Having to File this Opposition and Countermotion

21           Jim respectfully submits that he is entitled to an award of attorneys'  
22 fees pursuant to NRS 18.010 and EDCR 7.60(b). NRS 18.010(2)(b)  
23 permits litigants to recover their attorneys' fees where the Court finds that  
24 a party's a claim or defense was brought without reasonable ground or to  
25 harass the prevailing party. EDCR 7.60(b)(1) and (3) permit the Court to  
26 sanction a party for presenting or maintaining a motion "which is obviously  
27 frivolous, unnecessary or unwarranted," or for multiplying "the proceedings  
28 in a case as to increase costs unreasonably and vexatiously."

1 As detailed above, Minh made no attempt to resolve the issues  
2 presented in her Motion prior to filing same. Had Minh done so, Jim would  
3 have reminded her of the evidence presented at trial and the arguments  
4 made by each party, and explained how there was no clerical error justifying  
5 modification of the Court's Orders. Minh's Motion was brought without  
6 reasonable ground, and is obviously frivolous and unwarranted.

7 In addition, Jim has been required to file this lengthy Countermotion  
8 as a result of Minh's violation of the Court's order that the parties shall  
9 share joint legal custody, specifically, her unilateral withdrawing of the  
10 children from Challenger and attempt to enroll the children at Becker, her  
11 refusal to act in the best interests of Hannah by cooperating to ensure  
12 Hannah receives the therapy she needs, and her withholding of Hannah  
13 from Jim during his custody time. Jim has attempted to co-parent with  
14 Minh consistently for the past two (2) years, and has remained civil to her  
15 despite the nightmares she has put him through. Jim has been forced to file  
16 several motions over the past year and a half as a result of Minh's inability  
17 to coparent and her persistent attempts to interfere with Jim's relationship  
18 with the children. Based on the foregoing, Jim is entitled to an award of  
19 attorneys' fees and costs pursuant to NRS 18.010 and EDCR 7.60(b).

20 Pursuant to *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349,  
21 455 P.2d 31, 33 (1969), in awarding attorneys' fees and costs, this Court  
22 will need to make specific findings regarding the quality of Jim's advocates,  
23 the character of the work done in this Emergency Motion, the work  
24 actually performed, and the result. It is impossible at this time to provide  
25 the Court with a total amount of time spent towards this Opposition and  
26 Emergency Countermotion, as a Court appearance will be required.

27 To assist the Court in making the other necessary findings, Robert P.  
28 Dickerson charges an hourly fee of \$600 for his services. Sabrina M.

1 Dolson's hourly fee is \$350. These fees are customary and reasonable in  
2 this locality for similarly situated persons and cases. Mr. Dickerson has  
3 been practicing law for forty-five (45) years, with the last thirty (30) plus  
4 years devoted to the practice of family law. He is a former President of the  
5 State Bar of Nevada, and Clark County Bar Association, and is AV rated  
6 both as to skill and ethics. Mr. Dickerson has been a adjunct professor at  
7 the UNLV Boyd School of Law, teaching domestic relations law, and he has  
8 been an instructor in trial advocacy at the United States Department of  
9 Justice in Washington, D.C. Sabrina M. Dolson has been licensed to  
10 practice law in Nevada since 2013, is a member of the Family Law Section  
11 of the State Bar of Nevada, and was appointed by her peers to the State  
12 Bar of Nevada, Family Law Executive Council in 2021. Ms. Dolson has  
13 practiced almost exclusively in the area of family law since becoming  
14 licensed. Ms. Dolson is listed in Super Lawyers Rising Stars for 2019 to  
15 2021. In 2016, 2017, 2018, 2019, 2020, and 2021, Ms. Dolson was  
16 recognized in Nevada Business magazine's Legal Elite in the area of family  
17 law. In 2015, 2016, and 2018, Ms. Dolson was recognized in Nevada  
18 Business magazine's Best Up and Coming Attorneys in the area of family  
19 law. The Dickerson Karacsonyi Law Group is an AV Preeminent rated law  
20 firm, the highest level of professional excellence. All attorneys at the firm  
21 have extensive experience in family law, and a reputation for competency.

### 22 **III. CONCLUSION**

23 Based on the foregoing, Jim respectfully requests the Court enter the  
24 following orders:

- 25 1. An Order denying Minh's Motion in its entirety;
- 26 2. An Order that Hannah shall immediately be returned to Jim's
- 27 custody, including the entering of a Pick Up Order if necessary;

28 . . .

1           3.     An Order that Hannah shall immediately participate in therapy  
2 with Dr. Pierce;

3           4.     An Order that Hannah have a forensic psychiatric evaluation as  
4 recommended by Dr. Fontenelle-Gilmer;

5           5.     An Order that Minh and Jim attend co-parenting counseling  
6 with Dr. Mullin;

7           6.     An Order awarding sole legal custody of the children to Jim;

8           7.     An Order resolving which school Hannah and Matthew shall  
9 attend if the parties are unable to resolve the issue as suggested by Dr.  
10 Fontenelle-Gilmer;

11          8.     An Order that Minh shall provide the children's passports to  
12 Jim or a third party for safekeeping;

13          9.     An Order awarding Jim his attorneys' fees and costs for having  
14 to file this Opposition and Countermotion;

15          10.    For such other relief as the Court deems just and proper in the  
16 premises.

17                DATED this 12<sup>th</sup> day of October, 2021.

18                               THE DICKERSON  
19                               KARACSONYI LAW GROUP

20  
21                               By /s/ Sabrina M. Dolson  
22                               ROBERT P. DICKERSON, ESQ.  
23                               Nevada Bar No. 000945  
24                               SABRINA M. DOLSON, ESQ.  
25                               Nevada Bar No. 013105  
26                               1645 Village Center Circle, Suite 291  
27                               Las Vegas, Nevada 89134  
28                               Attorneys for Plaintiff

1                                    DECLARATION OF JAMES W. VAHEY

2            I, JAMES W. VAHEY, declare under penalty of perjury under the law  
3 of the State of Nevada that the following statement is true and correct:

4            1.     I am over the age of 18 years. I am the Plaintiff in this action.  
5 I have personal knowledge of the facts contained herein, and I am  
6 competent to testify thereto.

7            2.     I am making this declaration in support of my *Opposition to*  
8 *Defendant's Motion to Correct Clerical Error in the Decree of Divorce Regarding the*  
9 *529 Accounts, or in the Alternative, to Set Aside the Terms in the Decree of Divorce*  
10 *Regarding the Division of the 529 Accounts and Attorney's Fees and Costs; and*  
11 *Countermotion for Immediate Return of Hannah to Jim's Custody, an Order that*  
12 *Hannah Immediately Participate in Therapy with Dr. Dee Pierce, an Order that*  
13 *Hannah Have a Forensic Psychiatric Evaluation, an Order Requiring the Parties*  
14 *to Participate in Co-Parenting Counseling with Dr. Bree Mullin, Sole Legal*  
15 *Custody, School Choice Determination, Return of Children's Passports, and*  
16 *Attorneys' Fees and Costs ("Opposition and Countermotion"). I have read the*  
17 *Opposition and Countermotion prepared by my counsel and swear, to the*  
18 *best of my knowledge, that the facts as set forth therein are true and*  
19 *accurate, save and except any fact stated upon information and belief, and*  
20 *as to such facts I believe them to be true. I hereby reaffirm said facts as if*  
21 *set forth fully herein to the extent that they are not recited herein. If called*  
22 *upon by this Court, I will testify as to my personal knowledge of the truth*  
23 *and accuracy of the statements contained therein.*

24            I, JAMES W. VAHEY, declare under penalty of perjury under the law  
25 of the State of Nevada that the foregoing is true and correct.

26                                    Executed on October 12, 2021

27                                    /s/ James W. Vahey  
28                                    JAMES W. VAHEY

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of THE  
3 DICKERSON KARACSONYI LAW GROUP, and that on this 12<sup>th</sup> day of  
4 October, 2021, I caused the above and foregoing document entitled  
5 *Opposition to Defendant's Motion to Correct Clerical Error in the Decree of Divorce*  
6 *Regarding the 529 Accounts, or in the Alternative, to Set Aside the Terms in the*  
7 *Decree of Divorce Regarding the Division of the 529 Accounts and Attorney's Fees*  
8 *and Costs; and Countermotion for Immediate Return of Hannah to Jim's Custody,*  
9 *an Order that Hannah Immediately Participate in Therapy with Dr. Dee Pierce,*  
10 *an Order that Hannah Have a Forensic Psychiatric Evaluation, an Order*  
11 *Requiring the Parties to Participate in Co-Parenting Counseling with Dr. Bree*  
12 *Mullin, Sole Legal Custody, School Choice Determination, Return of Children's*  
13 *Passports, and Attorneys' Fees and Costs* to be served as follows:

- 14 ☒ pursuant to mandatory electronic service through the Eighth  
15 Judicial District Court's electronic filing system;  
16 ☐ by placing same to be deposited for mailing in the United  
17 States Mail, in a sealed envelope upon which first class postage  
18 was prepaid in Las Vegas, Nevada;  
19 ☐ via facsimile, by duly executed consent for service by electronic  
20 means;  
21 ☐ by hand-delivery with signed Receipt of Copy.

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

24 FRED PAGE, ESQ.  
25 PAGE LAW FIRM  
26 6930 South Cimarron Road, Suite 140  
27 Las Vegas, Nevada 89113  
28 fpage@pagelawoffices.com  
Attorney for Defendant

29 /s/ Sabrina M. Dolson  
An employee of The Dickerson Karacsonyi Law Group