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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

DIAMOND HALL,

NO.: 83979

Appellant,

vs.

JUSTIN MARTIN,

Respondent.

**NOTICE OF COMPLIANCE WITH NRAP 3(F) AND**  
**THIS COURT'S ORDER DATED JANUARY 4<sup>th</sup>, 2022**

PLEASE TAKE NOTICE that Appellant, DIAMOND HALL, filed a Case Appeal Statement in accordance with NRAP 3(f) on or about December 17, 2021. A copy of the filed Case Appeal Statement is attached herein as Exhibit 1.

DATED this 4<sup>th</sup> day of January, 2022.

/s/ Erick M. Ferran, Esq. #9554  
ERICK M. FERRAN, ESQ.  
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**CERTIFICATE OF SERVICE**

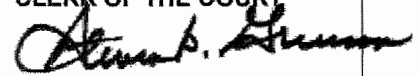
I, the undersigned, hereby certify that on the 4<sup>th</sup> day of January, 2022, I transmitted a true and correct copy of **NOTICE OF COMPLIANCE WITH NRAP 3(F) AND THIS COURT'S ORDER DATED JANUARY 4<sup>th</sup>, 2022** via the Court's e-file/serve program, to:

BRANDON LEAVITT, ESQ.  
LEAVITT FAMILY GROUP  
2520 St. Rose Pkwy., Suite 101  
Henderson, NV 89074  
*Attorneys for Respondent*

/s/ Erick M. Ferran, Esq. #9554  
An Employee of Hitzke & Ferran

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# Exhibit 1



1 **ASTA**  
2 ERICK M. FERRAN, ESQ.  
3 Nevada State Bar No. 9554  
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8 Facsimile No.: (702) 462-2646  
9 erick.ferran@hitzkelaw.com  
10 Attorneys for Plaintiff/Appellant

7 **DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

9 \* \* \*

10 DIAMOND HALL,  
11 Plaintiff,  
12 vs.  
13 JUSTIN MARTIN,  
14 Defendant.

CASE NO.: D-19-600476-C  
DEPT. NO: I  
CASE APPEAL STATEMENT

16  
17 **CASE APPEAL STATEMENT**

18 COMES NOW, Plaintiff/Appellant, DIAMOND HALL, by and through her attorney of  
19 record, ERICK M. FERRAN ESQ., of the law firm of HITZKE & FERRAN, and hereby  
20 presents her Case Appeal Statement in this matter.

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1 This statement is made and based upon pleadings and papers on file and the points and  
2 authorities attached hereto, as well as the arguments of counsel at the time of hearing, should a  
3 hearing be required.

4 DATED this 17<sup>th</sup> day of December, 2021.

6 **HITZKE & FERRAN**

7 /s/ Erick M. Ferran, Esq.  
8 ERICK M. FERRAN, ESQ.  
9 Nevada State Bar No. 9554  
10 HITZKE & FERRAN  
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15 erick.ferran@hitzkelaw.com  
16 Attorneys for Plaintiff/Appellant

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 Any Notice of Appeal presented to the district court clerk for filing shall be accompanied  
16 by a case appeal statement completed and signed by appellant's counsel. N.R.A.P. 3(a).

- 17 1. This Case Appeal Statement is filed on behalf of Appellant Diamond Hall.
- 18 2. The presiding District Court Judge in this matter who issued the Decision & Order and  
19 Judgments appealed from is the Honorable Sunny Bailey, Department I, Family Court,  
20 Eighth Judicial District Court. The case had been previously transferred from the Hon.  
21 Judge Moss.
- 22 3. The Appellant's name is Diamond Hall, the Plaintiff in the District Court, and counsel for  
23 Appellant is: Erick M. Ferran, Esq., Hitzke & Ferran, 2110 E. Flamingo Rd., Suite 206,  
24 Las Vegas, NV 89119, (702) 784-7662, (702) 784-7649 (fax),  
25 erick.ferran@hitzkelaw.com.

4. The respondent in this case will be JUSTIN MARTIN, the Defendant in the District Court. He will likely be represented by his trial counsel, Brandon K. Leavitt, Esq., of the Leavitt Family Group, located at: 2520 St. Rose Pkwy, Suite 101, Henderson, NV 89074, (702) 605-0065, brandon@leavittfamilylaw.com.
5. All attorneys identified above are licensed to practice law in Nevada.
6. Appellant was represented by retained counsel in the District Court, namely Erick M. Ferran, Esq., of Hitzke & Ferran, as set forth above.
7. Appellant is represented by retained counsel on appeal, namely Erick M. Ferran, Esq., of Hitzke & Ferran, as set forth above.
8. Respondent was represented at the District Court level by Brandon K. Leavitt, Esq., of the Leavitt Family Group, located at: 2520 St. Rose Pkwy, Suite 101, Henderson, NV 89074, (702) 605-0065, brandon@leavittfamilylaw.com.
9. Respondent will likely be represented on Appeal by Brandon K. Leavitt, Esq., of the Leavitt Family Group, located at: 2520 St. Rose Pkwy, Suite 101, Henderson, NV 89074, (702) 605-0065, brandon@leavittfamilylaw.com.
10. Appellant was not granted leave to proceed in forma pauperis.
11. The proceedings in the District Court were commenced by Appellant's filing of a Complaint for Custody on December 4, 2019.

**12. Brief Description of the Nature of the Action:**

The instant appeal arises from the Court's Decision and Order awarding Respondent primary physical custody of the parties' minor child after the parties' Evidentiary Hearing on August 16, 2021. The Court, in its decision determined that an act of domestic violence against Respondent had occurred on December 1, 2019, and that Appellant had not rebutted the presumption of domestic violence. Appellant testified that the incident was mutual combat, and

1 that the parties had been exercising a 60/40 schedule for over a year (temporary orders set by the  
2 Honorable Judge Moss). Appellant requested a joint schedule, as the parties were approximately  
3 twelve (12) hours away from a 50-50 schedule, had been amicable, communicating via a  
4 parenting application, and exchanging the child at a police station. Respondent testified that there  
5 was no mutual combat, that the conflict was high, and that he wanted Appellant to have only one  
6 overnight with the child, and a few hours during the week. In his trial exhibits, Respondent  
7 presented small incomplete snippets of camera footage in his home the night of the incident—  
8 which, are currently being addressed in the Criminal Court as grounds for dismissal, as it appears  
9 that Respondent, has tampered with evidence in a criminal proceeding to seek a conviction  
10 against Appellant.  
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12         The Court issued several facts of findings and conclusions of law in its Final Decision and  
13 Order, which was entered on September 11, 2021. On September 29, 2021, Appellant filed a  
14 timely Motion to Reconsider, requesting that the Court amend its findings due to Respondent  
15 admitting during testimony that he had failed to disclosed evidence that was requested during  
16 Discovery, amongst several other issues. The Court advised that this was a Discovery  
17 Commissioner issue, however, this was information that was presented at trial for the first time,  
18 and Appellant could have not filed a Motion to Compel being unaware of the existence of such  
19 evidence. Additionally, the Court minimized Appellant's time with the minor child, despite the  
20 parties exercising what was almost a 50-50 schedule for over a year and took away an overnight.  
21 Appellant further argued that there was no newly presented evidence that would have given the  
22 Court a reason to minimize her time with the child. The Motion to Reconsider, Alter or Amend  
23 was denied in its entirety, Respondent was awarded fees and was asked to file a *Brunzell* brief.  
24 The Appellant objected to the Memorandum of Fees and Costs, stating that she was the prevailing  
25 party because the Court amended its final order by striking some of its original findings.  
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1           The Court issued a final order on the Motion to Reconsider on or about November 16,  
2 2021, which was entered on November 18, 2021, making the instant Notice of Appeal timely.  
3 Appellant similarly appeals other previous proceedings and orders which resulted in the  
4 erroneous granting of primary physical custody of the child to Respondent, including but not  
5 limited to the Decision and Order dated September 11, 2021, the, the Order dated December 17,  
6 2021, the Order dated November 4, 2021, the Order dated January 8, 2020, and the Stipulation  
7 and Order January 24, 2020. Additionally, a hearing was held on June 30, 2021, related to a  
8 Motion to Continue Trial, along with an Opposition filed by the Appellant for NRCP 11 sanctions  
9 against Respondent and his Counsel. While the Trial Court heard Respondent's Motion to  
10 Continue Trial, the Court did not acknowledge Appellant's Countermotion. Appellant requested  
11 the same relief at trial, and in her Motion to Reconsider, and to date, the Trial Court has refused  
12 to hear that Countermotion.  
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15           The date of the District Court proceedings that have generated this appeal were:  
16 November 4, 2021 (Motion to Reconsider), September 11, 2021 (Decision and Order), August 16,  
17 2021 (Evidentiary Hearing), August 11, 2021, June 30, 2021 (Motion to Continue Trial), April  
18 22, 2021, September 16, 2020, September 1, 2020, June 3, 2020, March 20, 2020, January 24,  
19 2020, and January 8, 2020. The proceedings before the District Court were commenced on  
20 December 4, 2019, when Plaintiff/Appellant filed a Complaint regarding custody. The Court  
21 executed its final order on November 16, 2021, and it was entered on November 18, 2021.  
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23           13. This case has not previously been the subject of another appeal.

24           14. This appeal DOES involve child custody/visitation.  
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2 15. This is a civil domestic case, and, further involves child custody issues. It is doubtful that  
3 there is a possibility of settlement, though Plaintiff/Appellant remains open to the  
4 possibility of settlement as well as to a Settlement Program.  
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6 DATED this 17<sup>th</sup> of December, 2021.

7 **HITZKE & FERRAN**

8 /s/ Erick M. Ferran, Esq.  
9 ERICK M. FERRAN, ESQ.  
Nevada State Bar No. 9554  
10 HITZKE & FERRAN  
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12 Facsimile No.: (702) 462-2646  
erick.ferran@hitzkelaw.com  
13 Attorneys for Plaintiff/Appellant  
14

15 **CERTIFICATE OF SERVICE**

16 I HEREBY CERTIFY that on the 17<sup>th</sup> day of December, 2021, I served a true and correct  
17 copy of **PLAINTIFF'S/APPELLANT'S CASE APPEAL STATEMENT**, by the Court's e-  
18 filing service, upon thereon to:

19  
20 BRANDON LEAVITT, ESQ.  
LEAVITT FAMILY GROUP  
21 2520 St. Rose Pkwy., Suite 101  
Henderson, NV 89074  
22 Attorneys for Defendant  
23  
24

25 /s/ Erick M. Ferran, Esq. #9554  
An employee of Hitzke & Ferran  
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