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*The undersigned affirms that this document contains no
Social Security Numbers pursuant to NRS 239B.030*

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Oct 29 2021 02:22 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

7 **OFFICE OF THE CLERK**

8
9 IN THE MATTER OF THE
10 GUARDIANSHIP OF THE PERSON
11 AND ESTATES OF C.T.F. AND
12 P.G.S., MINOR PROTECTED
13 PERSONS.

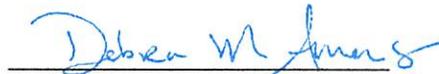
Supreme Court No. 83443
District Court Case No. PR-GU-18-67

JOINT APPENDIX
VOLUME V

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16 Pursuant to NRAP 3E(d)(1), 3E(d)(4) and this Court's order dated July 21,
17 2021, following is Appellant's Appendix in support of their Fast Track Statement.
18 Parties met and conferred and agreed to file this as a joint appendix.

19
20
21 DATED this 27th day of October, 2021.

22
23 AMENS LAW, Ltd.

24
25 
26 Debra M. Amens, Esq.
27 Nevada Bar No. 12681
28 *Attorney for Appellants*

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CERTIFICATE OF SERVICE

Pursuant to NRC 5(b), I hereby certify that I work for AMENS LAW, LTD,
and that on the 27th day of October, 2021, I served a copy of the Joint Appendix
by delivering a true and correct copy of same in a sealed envelope with a C.D.,
properly addressed via first class mail, with postage thereon fully prepaid to the
following:

GERGER LAW OFFICE
TRAVIS GERBER, ESQ.
491 4th Street
Elko, Nevada 89801
Attorney for Respondents

HILLEWAERT LAW OFFICE
DIANA HILLEWAERT, ESQ.
575 5th Street
Elko, Nevada 89801
Attorney for Children


HEATHER ANDERSEN, Paralegal

INDEX TO APPELLANT’S APPENDIX

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VOLUME V	BATES PAGES
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A – Geri Goddard’s CV (Admitted at trial as Exhibit D)	
B – 1 st Letter of Progress for Paisley (Admitted at trial as Exhibit E)	
C – 2 nd Letter of Progress for Paisley (Admitted as trial as Exhibit F)	
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ELKO CO DISTRICT COURT

CLERK _____ DEPUTY *AB*

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7 *The Undersigned hereby affirms this document
8 does not contain a social security number.*

9 **IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
10 **IN AND FOR THE COUNTY OF ELKO**

11 **IN THE MATTER OF THE GUARDIANSHIP
12 OF THE PERSON AND ESTATE OF**

**CASE NO. PR-GU-18-67
DEPT. NO. 1**

13 **PAISLEY GRACE STONE (dob 5/27/16), and
14 CARTAR THOMAS FERGUSON
15 (dob 1/17/18).**

**EX PARTE EMERGENCY MOTION FOR
16 AN ORDER TO SUSPEND CO-
17 GUARDIANS EXCHANGES AND TO
18 LEAVE THE MINOR PROTECTED
19 PERSON WITH THE LUCERO'S**

20 **A minor Protected Person.**

21 **COMES NOW, Co-Guardians PAMELA and MICHAEL LUCERO ("hereinafter
22 collectively referred to as "Luceros"), by and through their attorney, Debra M. Amens, Esq. of
23 Amens Law, Ltd. and moves this Court for an Order Suspending Co-Guardian Exchanges for
24 Paisley Stone. Currently, PAISLEY STONE (hereinafter "Paisley"), born on May 26, 2017, is
25 under a temporary co-Guardianship with the Luceros' and MARIA and JOHN McGREW
26 (hereinafter collectively referred to as the "McGrews"), represented by Travis Gerber, Esq. of
27 Gerber Law Offices. The Guardians currently exchange Paisley on a week-on/week off basis.
28 Michelle Rodriguez, Esq. was appointed the childrens' attorney and Dave Loreman, Esq. was**

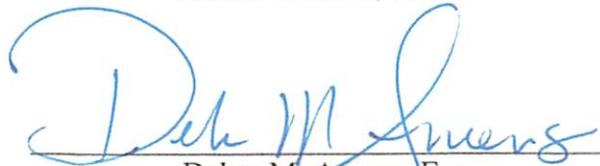
**EX PARTE EMERGENCY MOTION FOR AN ORDER TO SUSPEND CO-GUARDIANS EXCHANGES AND
TO LEAVE THE MINOR PROTECTED PERSON WITH THE LUCERO'S - 1**

1 appointed as counsel for Kristen Stone, Mother of the children, to wit: Paisley and CARTAR
2 FERGUSON (hereinafter "Cartar") born on January 17, 2018.

3 This Motion is based on the attached Memorandum of Points and Authorities and the
4 Luceros' declaration, and the papers and pleadings filed herein.

5
6 DATED this 17th day of June, 2020.

7 AMENS LAW, LTD.

8
9
10 

11 Debra M. Amens, Esq.
12 Nevada Bar No. 12681
13 *Attorney for Luceros'*

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I. NATURE OF THE MOTION**

16
17 This is a Guardianship action involving Paisley Stone. Her natural parents are Kristen
18 Stone, Mother, and TJ McGrew, Father and now deceased. In May, 2018, motions were filed by
19 both the Paternal Grandparents, the McGrews' and the Maternal Great Grandparents, the Luceros'
20 based on Mother's incapacity due to her substance abuse issues. On June 21, 2018, this Court
21 issued its Order appointing Temporary Co-Guardians, namely the Luceros' and McGrews' for
22 Paisley. There is a companion Guardianship in place for Mother's son, Cartar, with the Luceros'
23 and Cartar's Paternal Grandparents, the Ferguson's.

24
25 An evidentiary hearing was held on January 23, 2019, and continued, now until August 5th
26 and 6th, 2020. The temporary Guardianship remains in place and while the Parties are continuing
27

1 to exchange the children weekly, the arrangement has become increasingly difficult for Paisley.
2 Based on the children attorney's advice, a Counselor was engaged by the Luceros. The McGrews,
3 through their counsel, were notified and invited to participate with the Counselor to assess
4 Paisley's needs. The counselor is Geri Goddard, M.A., M.F.T. Exhibit A contains Ms. Goddard's
5 resume. She has worked with both the Lucero's and the McGrew's.
6

7 II. FACTUAL STATEMENT

8 Paisley and Cartar had lived with the Luceros' almost since their birth as their Mother was
9 mostly living with them. They are closely bonded with the Lucero family. Paisley lost her Father
10 to suicide on her 1st birthday. The McGrew's had limited involvement with Paisley while her
11 Father was alive and after getting a paternity test started building a relationship. In May 2018,
12 both sets of Co-Guardians filed to be Paisley's Guardians after it was apparent that Mother was
13 having significant difficulty caring for her children. The Court on a temporary basis appointed
14 both and the Co-Guardians had stipulated and the Court ordered a week-on/week-off exchange
15 between the two families for Paisley. They have been doing this schedule for well over a year.
16 The exchanges have been getting progressively more traumatic, especially since Paisley has started
17 pre-school. Ms. Rodriguez had suggested that Paisley start working with a Counselor in play
18 therapy in the summer of 2019. The Lucero's were on the waiting list with Ms. Barbara Stoll for
19 several months and then got a referral to start seeing Ms. Goddard in Reno. This information was
20 shared with Mr. Gerber and the McGrews. Paisley has been having severe reactions the day she
21 is to transition from the Luceros' to the McGrews'. She frequently has a tantrum, loses control
22 and is inconsolable. It has taken as many as 3 adults to get her out of the Luceros' car and she has
23 even tried to run away naked rather than go to an exchange. She has disclosed several things about
24 her time with the McGrew which are quite concerning.
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EX PARTE EMERGENCY MOTION FOR AN ORDER TO SUSPEND CO-GUARDIANS EXCHANGES AND
TO LEAVE THE MINOR PROTECTED PERSON WITH THE LUCEROS - 3

1 Ms. Goddard is initially suggested that exchanges stop and expressed concern about how
2 different the parenting style was at the two (2) homes and that this was causing Paisley significant
3 adjustment issues. See Exhibit B – First letter of progress from Ms. Goddard. Following the
4 initial report, Ms. McGrew started participating with Ms. Goddard and through her contact with
5 both families, Ms. Goddard had started to make progress in reducing the stress and the Co-
6 Guardians had been working better together. See Exhibit C – Second letter of progress from Ms.
7 Goddard. Based on Ms. Goddard’s efforts and observations, the attorneys involved had been
8 working on Stipulation that the Co-Guardians work with Ms. Janell Andersen on co-parenting
9 issues and to help mediate a parenting plan. This has not been started.
10
11

12 On Thursday, June 11, 2020, Paisley was returned to Ms. Lucero’s care and Ms. McGrew
13 indicated that she had a bruise on her rear from a fall on a ‘hearth’ and that she had also had to
14 give Paisley a spanking because she had been ‘terrible’ all day. Ms. Lucero took the child home
15 and looked at the bruise. Over the weekend, pictures were taken. See Exhibit D. Paisley was
16 quite upset. Paisley did not start playing with the other children in the home at the Lucero’s until
17 Tuesday morning, June 16, 2020, which was very unusual. Paisley spoke with Ms. Goddard on a
18 video call over the weekend and told her that she had been spanked with the ‘spanking spoon’.
19 She had mentioned the spanking spoon before, often in anger. Ms. Goddard also spoke with both
20 Ms. Lucero and Ms. McGrew. A call was made to DCFS to open an investigation. Paisley
21 disclosed to Ms. Goddard that the spanking occurred in front of all of the playmates at the
22 McGrews’ house. She disclosed to the DCFS investigator that she was spanked multiple times in
23 front of the other children with the ‘spanking spoon’ and that she was in trouble because one of
24 the older boys presented had hit her and she hit him back.
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28 IN PART EMERGENCY MOTION FOR AN ORDER TO SUSPEND CO-GUARDIANS EXCHANGES AND
TO LEAVE THE MINOR PROTECTED PERSON WITH THE LUCERO’S - 4

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III. LEGAL ARGUMENT

The guiding principal in appointing a Guardian is the best interest of the minor protected person. NRS 159A.061 (9). Likewise, this principal needs to be applied to the management of the estate and person of the minor. Here, the current sharing of Paisley between the two (2) temporary Co-Guardian groups is causing trauma to Paisley and this needs to be stopped immediately. Paisley has been in the situation for almost two (2) years and her reaction to exchanges is getting worse. The bruises shown on the pictures are several days old but appear to the outline of a spoon consistent with Paisley's disclosures, she indicated that she was hit several times and that it was done to 'shame' her in front of the other children in the home. This incident was inappropriate and given Paisley's reactions to going to the McGrew's home, the Lucero's are concerned that it was not a one-time incident. Continuing with the current parenting plan is not consistent with the guiding principal articulated in the Chapter 159A of the Nevada Revised Statutes.

The Luceros' are aware the Court has rescheduled the evidentiary hearing for August 2020. Ms. Goddard recommends that exchanges stop immediately and the DCFS investigator suggested this Motion be filed to ensure that Paisley is not returned to the McGrew's home pending the outcome of their investigation. Waiting for the scheduled hearing may cause significant and continuing trauma, and is not in Paisley's best interest. The Lucero's seek an Order suspending the exchanges immediately until a hearing can be held on this matter.

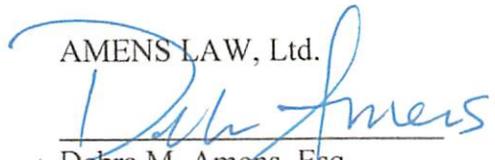
This is an *Ex Parte* Motion given the need for the exchange on Thursday, June 18, 2020, to be suspended to ensure that Paisley is not returned to the McGrews' this week. This motion will be provided to the Attorney's involved as a courtesy but the Lucero's are asking for immediate relief given the recent incident and not returning the child until an investigation can be completed.

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IV. CONCLUSION

The Lucero's respectfully ask this Court for an *Ex Parte* Order Suspending the Guardianship Exchanges between the McGrews' and Lucero's for Paisley Stone and leaving her in the care of the Lucero's, based on the recent incident, the recommendation of her Counselor and the DCFS investigation, and for such further relief as may be just and proper.

DATED this 17th day of June, 2020.

AMENS LAW, Ltd.

Debra M. Amens, Esq.
Nevada Bar No. 12681
Attorney for the Luceros

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DECLARATION

(NRS 53.045)

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT: (1) I AM THE CO-GUARDIAN HEREIN, (2) I HAVE READ THE STATEMENTS CONTAINED HEREIN AND AFFIRM THAT THEY ARE BASED ON MY ATTESTATIONS, (3) I BELIEVE THESE STATEMENTS TO BE TRUE, AND (4) THE REQUESTED RELIEF IS NEEDED.

DATE this 17th day of June, 2020.



PAMMY LUCERO

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DATE this 17th day of June, 2020.



MICHAEL LUCERO

EXHIBIT A

EXHIBIT A

Gerri Goddard, M.A., M.F.T.
615 Sierra Rose Drive Suite #4
Reno, NV 89511
775-826-1002

EDUCATION

1975-1979 Trinity Parochial High School
Dickinson, North Dakota

1979-1981 University of North Dakota
Grand Forks, North Dakota
Major: Speech Pathology & Audiology

1982-1984 University of Nevada Reno
Reno, Nevada
Major: Speech Pathology & Audiology
Degree: Bachelor of Science

1984-1987 University of Nevada Reno
Reno, Nevada
Major: Counseling Psychology & Personnel Guidance
Degree: Master's of Arts

PROFESSIONAL WORK EXPERIENCE

1991-Present Private Practice
615 Sierra Rose Drive #4
Reno, NV 89511

TITLE: Marriage & Family Therapist
Sole Proprietor

DUTIES: Provide clinical assessment, treatment intervention, treatment planning and disposition planning for outpatient care. Services are primarily provided to children, adolescents and their families. Focus of clinical care is on a variety of diagnostic difficulties. Maintain and case manage all aspects of clinical intervention including coordination of care with multiple adjunctive treatment providers including Psychiatrists, Psychologists, School Personnel, Probation Officers, Pediatricians, and Attorneys

Provide consultation, clinical assessment and intervention to parents, families and children involved in high conflict divorce.

Coordinate clinical recommendations between various legal counsels and Family Court Judges. Provide court testimony as expert witness, and written reports.

1998-2001

Federal Occupational Health
Vasquez Behavioral Services
100 South Greenleaf
Gurnee, IL

TITLE: Employee Assistance Counselor for United States Postal Service

DUTIES: Provide clinical assistance and interventions for United States Postal Service Employees throughout Northern Nevada and California Districts. Assist with management training, crisis intervention and assistance to work sight conflicts and hostile environments. Case management of all aspects of clinical involvement with employees to provide resources and follow up assistance.

1987-1998

Truckee Meadows Hospital (HCA)
West Hills Hospital
1240 East Ninth Street
Reno, NV 89512

TITLE: Clinical Program Director
Clinical Case Manager & Therapist

DUTIES: Provide clinical program management and development for private inpatient psychiatric hospital, serving the child and adolescent units. Management and coordination of acute care unit along with the multidisciplinary treatment staff. Administrative duties to supervise treatment staff of Nurses, Teachers, Social Services, Allied Staff, Physicians, Psychiatrists, and Psychologists. Provide ongoing individual and family assessment and treatment throughout all phases of hospitalization and disposition planning.

Providing clinical intervention to children, adolescents and their families. Implemented a continuum of care for aftercare planning and placement. Provided onsite emergency assessment.

Development and implementation of Community resources, business planning and budget. Assisted with managed care requirements, insurance benefit information, accreditation and

licensure with varying boards, implemented policy and procedures for inpatient and outpatient programs.

1982-1987

Children's Behavioral Services
2655 Enterprise Road
Reno, NV 89512

TITLE: Teaching Assistant, Play Therapist, Family Consultant

DUTIES: Multiple clinical roles to provide interventions and clinical assessment to children and families through State Agency. Screening and interview for potential clients of agency, consultation with Child Psychiatrist, and other staff of multidisciplinary treatment team. Conducted children's therapy groups and parent education classes. Provided play therapy for children experiencing adjustment problems, behavioral difficulties, and victims of abuse and neglect. Assisted with the general care and supervision of children placed in home-based residential setting. Developed and implemented appropriate treatment plans and goals. Determined treatment progression and disposition planning for outpatient levels of care.

January 1987- June 1987

Washoe County School District
Sparks Middle School
Sparks, NV 89431

TITLE: School Counselor Intern

DUTIES: Provided on sight intervention to Middle School Students. Implemented a variety of counseling services including consultation to Teachers, Principals, Dean of Students, and coordinating with other school counseling personnel. Provided student assistance for academic advisement and appropriate counseling interventions as indicated.

LICENSURE & CERTIFICATION

Licensed Marriage & Family Therapist Nevada #0587

Clinical Member of American Association of
Marriage & Family Therapists #62606

Licensed Associate Social Worker (Inactive)

Licensed Health & Life Insurance Producer (Inactive)

Participate in training and educational seminars to remain current with clinical methods, research and empirical data. Extensive training and experience with children, adolescents and families along a continuum of care and intervention.

REFERENCES

Available upon request

EXHIBIT B

EXHIBIT B

Gerri Goddard, M.A., M.F.T.



**Marriage & Family
Therapist**

615 Sierra Race Drive #4
Reno, NV 89521

Phone 775-826-0002
Fax 775-826-7878
E-mail: gerigoddard@bopghd.net

February 24, 2020

**Debra Amens
P.O. BOX 488
Battle Mountain, NV. 89820**

RE: Paisley Grace Stone (05/26/2016)

Dear Counselor,

Please accept the following as a clinical review of Paisley Stone. Paisley Stone's parents are Kristen Stone (22) her mother, and TJ McGrue, who committed suicide on 05/26/2017, on Paisley's first birthday. Paisley's mother has chronic drug/addiction problems, and Paisley has little if any contact with her mother. Subsequently, Pamela and Michael Lucero maternal grandparents were granted physical and legal guardianship. Pamela and Michael provided an extensive history regarding Paisley's short history, along with details of their daughter, Kristen's life and Paisley's father, TJ.

Paisley is a very precocious toddler, who is verbal, engaging and curious and strong willed. Paisley engages in conversation quickly and her language and vocabulary are quite extensive for a nearly four year old child. According to the Lucero's attorney, all sides agreed that Paisley would benefit from counseling, and were referred to have Paisley participate in therapy. Paisley was initially seen on 11/15/2019 with her maternal grandparents. The paternal grandparents have not, to date, made any contact with myself to be involved in Paisley's care and treatment.

Paisley and her grandparents have participated in play therapy sessions with Paisley since November, both in person and thru FaceTime sessions. Paisley is very engaging and attentive during sessions, and particularly animated during the Facetime sessions, as she is in her own environment and clearly very comfortable and confident in her maternal grandparents home. Paisley has been very verbal about not wanting to go to visits at her paternal grandparents home, and last week reported that her "Nanny", her name for the paternal grandmother, "whipped me with a spoon". It is also remarkable to note that Paisley has been observed on two separate occasions just immediately before the exchange time to go to her paternal grandparents' home having a complete temper tantrum. Her behavior is completely out of character from all other times that Paisley has been observed. She is non-compliant, refusing to get dressed, and actually ran out of her maternal grandparents' home without any clothes on in an attempt to hide. Additionally when she does arrive to the exchange house, she continues to be very difficult, refusing to get out of the car, kicking, screaming and stating she does not

want to go. It has taken up to three adults to control her physically to get her into the home to be picked up by her paternal grandparents.

Paisley was also observed in person the day after her week visit with her paternal grandparents, and again her behavior was extraordinarily different. She was withdrawn, refusing to engage, and non-compliant. Paisley was seen again the very next day, and her behavior was back to her homeostasis of engaging, verbal and animated. It is a direct correlation between Paisley's disturbing behavior and visitation with her paternal grandparents.

These behaviors are clinically concerning and have significant signs of severe emotional disturbance. Paisley has had multiple traumatic events in her short little life. Having lost her father to suicide and her mother to the horrors of addiction, should have been more than enough for her to endure. To then be forced into having shared custody with two sets of grandparents is more than she should be forced to have to experience. Children, by nature, are very resilient. Particularly when trauma occurs, and the adults in their life provide the necessary support, love, acceptance and developmental necessities. Paisley clearly has a bond and secure attachment with her maternal grandparents. Her behavior literally screams that she does not have this bond and secure attachment with her paternal grandparents. When children act out to this degree, it is imperative that the adults who are left in charge of their safety and well-being, act sooner rather than later to protect. Regardless of what is or is not occurring in her paternal grandparents home, is not safe nor in the best interest of Paisley to continue visitation at this time.

The clinical picture is such that the following recommendations are made:

- 1) Visitation with the paternal grandparents cease immediately.
- 2) Paternal grandparents to be involved in the treatment of Paisley to help assess and determine the causes and reasons as to why Paisley is so adamant about not having visitation with them.
- 3) Develop a process of reunification with the paternal grandparents so that Paisley can have positive and rewarding experiences with them. Then move to a more gradual schedule where Paisley can have quality time with them if and when it is clinically indicated.
- 4) Paisley to continue with her play therapy to help support her voicing her concerns and to also provide an arena to heal from the many traumas she has experienced.
- 5) Maternal grandparents will continue to be involved with her care as they have been.

It has been very enjoyable working with Paisley and her maternal grandparents. Please do not hesitate to contact me should you require additional information or clarification.

Respectfully,

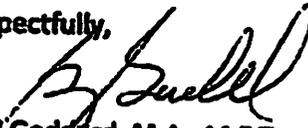

Geri Goddard, M.A., M.F.T.

EXHIBIT C

EXHIBIT C

Gerri Goddard, M.A., M.F.T.



Marriage & Family
Therapist

615 Sierra Rose Drive #4
Reno, NV 89511

Phone: 775-826-1002
Fax: 775-826-7575
E-mail: gerigoddard@sbcglobal.net

April 15, 2020

Debra Amens
P.O. BOX 488
Battle Mountain, NV 89820

RE: Paisley Grace Stone (DOB: 05/26/2016)

Dear Counselor,

Please accept this as an addendum to the report dated 02/24/2020 regarding Paisley Grace Stone. The initial report was reviewed by the attorneys for each of the parties. Subsequently, there was a request to have a meeting with the paternal grandparents, prior to the report being submitted to the court. It is remarkable to note that all parties were invited to attend and participate when treatment was initiated, November 2019.

A FaceTime session was scheduled and held with Maria McGrew, the paternal grandmother of Paisley Grace Stone. There have been additional follow up sessions with Maria, along with FaceTime calls to Paisley while she is in the care of her paternal grandmother. Maria was questioned as to why she had not reached out to schedule prior to this time. Maria reports that she was not aware of Paisley's treatment with me.

A comprehensive psychosocial history was obtained from Maria. She detailed the difficulties that presented with her son, TJ McGrew. TJ was involved in a horrific gun accident in which he shot and killed his best friend when he was 16 years old. Maria reports that this incident scarred TJ and changed the course of his life. Maria states that TJ refused to get help and eventually required him to leave the home due to ongoing behavioral and addiction related problems. Maria states that TJ's untimely death has been devastating to their family.

Maria states that she was unaware of TJ and Kristen's relationship and the pregnancy of Paisley until friend of TJ's reached out to her to inform her that TJ was going to have a baby. Maria states that after Paisley was born, she was insistent that TJ obtain a paternity test. However, she states that this was not an indication that she was not accepting of Paisley. Maria further reports that she and her husband obtained shared guardianship of Paisley at the request of Kristen. It is remarkable to note, that a comprehensive psychosocial history was also obtained from Pam and Michael Lucero. Many of the same events were reviewed, and there are many discrepancies in the stories. The conflict between the families continues to be problematic.

- 1) It is clinically determined that Patsley is not in harms' way while in her paternal grandparents' home.
- 2) For whatever reason the paternal grandparents were not participating in Patsley's treatment. However, Maria is cooperative and willing to participate.
- 3) It is clinically significant that Patsley is making statements that are negative and/or derogatory about her paternal grandparents' home. So, even tho Patsley's statements of being fearful, resistant and accusatory might not be absolute truths, she is making them because she is in distress.
- 4) Patsley has essentially lost both of her parents. This traumatic event, in and of itself will have long-lasting impact on Patsley's development. It is essential that unnecessary disruptions be eliminated.
- 5) Week to week visitation between her grandparents is cumbersome to Patsley and extraordinarily disruptive. The exchange process to move Patsley between the homes is also extraordinarily cumbersome and disruptive.
- 6) The fact that the grandparents are not on good terms, and not communicating, leaves Patsley as the "messenger". She is a toddler and this alone is distressing and disruptive. Patsley is required to navigate the differences of each household. Causing a great deal of confusion for her.

The clinical picture is such that the following recommendations are made:

parenting styles.

apparent that there is no continuity of care between the households, and markedly different that there is no communication between herself and the maternal grandparents. It is also feels responsible for transferring messages between the households. Maria does acknowledge "Granite will tell Miss Geri if you are mean to me". These are clear indicators that Patsley outside". Upon the most recent exchange, Maria reported that Patsley spontaneously stated, catch the "virus". Immediately, Maria, contradicted Patsley, stating, "of course you can go spontaneously talked about the "virus" and stated she couldn't go outside so she wouldn't were also noted. Particularly Patsley's statements following the exchange. Patsley Observations and assessment of Patsley, and her interactions with her paternal grandmother

grandparent's home. Patsley was also actively engaged with other children while at her grandchild. These children are very close to their paternal grandparents, and it was also apparent that Patsley had a close and familiar relationship with them as well.

for Facetime calls when requested. Patsley is clearly comfortable in the presence and care of her paternal grandmother. She was verbal, articulate and engaging during Facetime calls, and showed no distress, hesitation to disclosing or any fear while being observed at her paternal grandparent's home. Patsley was also actively engaged with other children while at her paternal grandparent's home. Maria stated that these children were some of her other

- 7) Paisley needs a home base, and one set of "parents" to be in charge, to solidify her secure attachment to adults. The frequent back and forth between the homes of her grandparents, along with the conflict that is occurring between the grandparents, interferes with the secure attachment process. It is recommended that the home base be the Lucero home. This has essentially been Paisley's home since her birth.
- 8) Paisley does have a connection with her paternal grandmother, and cousins. These relationships need to be supported and cultivated. Establishing predictable, short visits are the least disruptive to Paisley. As Paisley grows and develops, expansion of time can be possibly determined.
- 9) It is highly recommended that the grandparents find a means to communicate effectively regarding Paisley's care, health and well fare.
- 10) Paisley remain involved in Play Therapy to assist her in emotional development. Both sets of grandparents are welcome to participate in Paisley's care.

It continues to be delightful working with Paisley, and I look forward to supporting her and her family. Please contact me should you require additional information or clarification.

Respectfully,



Gerl Goddard, M.A., M.F.T.

EXHIBIT D

EXHIBIT D

Chovan

FILED

2021 MAR 26 PM 4:35

ELKO CO DISTRICT COURT

CLERK _____ DEPUTY Am

1 The Undersigned hereby affirms this document
2 does not contain a social security number.

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6 **IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7
8 **IN AND FOR THE COUNTY OF ELKO**

9
10 IN THE MATTER OF THE GUARDIANSHIP
11 OF THE PERSON AND ESTATE OF
12 PAISLEY GRACE STONE (dob 5/27/16), and
13 CARTAR THOMAS FERGUSON
14 (dob 1/17/18).

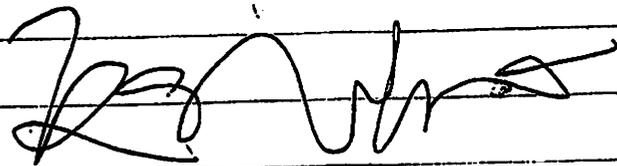
CASE NO. PR-GU-18-67
DEPT. NO. 1

LETTER FROM MOTHER PER
REQUEST OF JUDGE

Judge Hill

March 15, 2021

My name is Kristin Stone
I would like to ask you to please
give my kids back. (Paisly and
Carter.) I love them so much
we have lost so much time together
Mayce and I need and want
them in our life I will do my
best. If they cant be with me
I want them to be with my
granny (Pamela Lucero) and my papa
(Michael Lucero) so my kids
can be kept together and I can
be apart of there lives. My
grandparents love us all and
will support us as a family.



1 *The Undersigned hereby affirms this document*
2 *does not contain a social security number.*

3 **IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
4 **IN AND FOR THE COUNTY OF ELKO**

7 **IN THE MATTER OF THE GUARDIANSHIP**
8 **OF THE PERSON AND ESTATE OF**

9 **PAISLEY GRACE STONE (dob 5/27/16), and**
10 **CARTER THOMAS FERGUSON**
11 **(dob 1/17/18).**

CASE NO. PR-GU-18-67, PR-GU-18-49
AND PR-GU-18-56
DEPT. NO. 1

ORDER APPOINTING GENERAL
GUARDIANS

12 **THIS MATTER, a competing request for Guardianship of the above minor**
13 **children, heard over several continued evidentiary hearings, had its final day of evidence on**
14 **March 4, 2021. The Parties involved have been temporary co-guardians of the minor protected**
15 **persons since June 21, 2018, after three (3) separate petitions for guardianship were filed in May,**
16 **2018.**

18 **Co-Guardians, MICHAEL and PAMELA LUCERO (hereinafter collectively**
19 **referred to as "the Luceros"), are the great grandparents of PAISLEY GRACE STONE**
20 **(hereinafter "Paisley"), born on May, 27, 2016, and CARTER THOMAS FERGUSON**
21 **(hereinafter "Carter"), born on January 17, 2018 and the Grandparents of the children's mother,**
22 **KRISTIN STONE (hereinafter "Mother") who they raised as co-Guardians. Co-Guardians,**
23 **DONALD and VICKY FERGUSON (hereinafter collectively referred to as "the Fergusons") are**
24 **the (great) grandparents of Carter, having adopted their grandson, KEVIN FERGUSON**
25 **(hereinafter "Carter's Father). Co-Guardians, JOHN and MARIA McGREW (hereinafter**
26 **collectively referred to as "the McGrews"), are the paternal Grandparents of Paisley. Paisley's**
27 **ORDER APPOINTING GENERAL GUARDIANS - 1**

1 father is deceased.

2 Mother was appointed an attorney initially who subsequently withdraw. Mother
3 represented herself, pro per at the final hearing.

4 The co-guardians have mostly been sharing legal and physical custody of the
5 children since the temporary guardianship was issued. The arrangement is that one (1) week,
6 the minor protected persons stay with the Luceros' and the next week the children are split up
7 with Paisley going with the McGrews' and Carter going with the Fergusons'. Exchanges occur
8 at the the co-guardians respective homes on Thursdays of each week. This has been a temporary
9 arrangement that has continued for almost three (3) years and while it has allowed the children
10 to become more familiar and bonded with the McGrews' and Fergusons', none of the Parties
11 sought to continue the guardianship in its present form and each family sought a final award of
12 guardianship.
13
14

15 HAVING heard testimony, having reviewed past hearing testimony, and after a
16 review of all papers filed herein, the Court now makes the following FINDINGS OF FACTS:
17

18 1. That both of the minor protected persons were born in Elko County and
19 have lived in Elko County all of their lives.

20 2. That there is no formal custody order associated with either child and that
21 prior to the filing of the petitions for guardianship the children were in the care of their Mother.
22

23 3. That the proposed minor protected persons cannot provide care,
24 maintenance and support for themselves (Paisley age 4 almost 5 years old, Cartar age 3).

25 4. That just prior to the filing of the petitions for guardianship in May 2018,
26 the children were in the care of Mother, that she was struggling with grief of the recent loss of
27 Paisley's Father, that she was using drugs and was only staying on and off with the Luceros'. And,
28

1 that Mother, initially, asked the McGrews' and Fergusons' if they could watch her children while
2 she went to go get 'help'.

3
4
5 That Mother has subsequently participated in the majority of the Court
6 hearings held in this matter, and at that at the final hearing she testified that her goal is the have
7 her children back in her care. She testified to being sober and stable and that she is living with
8 her grandparents' (full-time since December 2020), the Luceros', who are having her care for her
9 children, when they are in their home. In addition to Paisley and Carter, Mother has an infant,
10 named Mayce, who resides full-time with the Luceros' and has since her birth in June, 2020.

11
12 That Carter's Father struggles with drug addictions. He participated in the
13 hearing in August 2020 and despite testifying to being sober under oath, he tested presumptively
14 positive for Methamphetamine. That was his only appearance and while there was testimony that
15 he helps the Fergusons' with care for Carter there is no evidence that he has ever had the child
16 solely in his care.
17
18 That the children's Mother is currently doing well with her sobriety but
19 that the sobriety is only recent and she has not been able to obtain employment, housing and the
20 financial means to cover the needs of the children.

21
22 That at the commencement of these guardianship actions when Mother
23 reached out for help, the McGrews' and Fergusons' asked that she sign a consent for Guardianship
24 as a condition for that help. They and their attorney, Travis Gerber, met with Mother at the Gerber
25 Law Offices and that she did indeed sign a consent for Guardianship.
26
27 That following the signing of the Guardianship, the couples drove Mother
28 to the bus stop, got her a ticket to Stockton, California and gave her some cash.

1 10. That Mother testified that she felt pressured and that she did not fully
2 understand what she was signing, understanding only that if the children needed medical care
3 while she was gone, they could take the children to the doctor.
4

5 11. Mother also testified that she knew no one in Stockton, California.
6

7 12. That later that week, the Luceros' received a call from a woman in Stockton,
8 California, advising them that Kristin was sleeping in her garage. Pamela Lucero, drove to
9 Stockton to pick up her Granddaughter and return her to Elko and learned of the signing of the
10 consent.
11

12 13. That the Lucero's filed their petition for Guardianship over the minor the
13 protective persons and that Mother signed a new consent for Guardianship.
14

15 14. Mother did, in fact, need someone to take care of the children as she was
16 struggling with grief, was using drugs and was living on the streets. She would leave the
17 Luceros' home and disappear for weeks on end. The Luceros' would only allow her around the
18 children when she was sober. That she had minimal contact with the Fergusons' and McGrews'
19 following the incident where they put her a bus to California.
20

21 15. The Court held its initial evidentiary hearing on January 23, 2019. The
22 McGrews' and the Ferguson's appeared with their counsel, Travis Gerber, Esq. of Gerber Law
23 Offices; and the Lucero's appeared with their counsel, Debra M. Amens, Esq. of Amens Law,
24 Ltd. The Court appointed, Michelle Rodriguez, Esq. to represent the minor protected persons.
25 The Court entered a temporary Guardianship order, appointing each family to be temporary co-
26 Guardians of the minor protected persons. The Lucero's and the McGrews' were temporary co-
27 Guardians of Paisley with a week-on/week-off visitation schedule; and, the Luceros' and the
28 Fergusons' were temporary co-Guardians of Carter, with a week-on/week-off visitation schedule.

1 The schedule was created so that every other week the sibling would be together in the Luceros'
2 home.

3 16. The Court set the matter for an evidentiary hearing so that a permanent
4 Guardianship arrangement could be established. While the temporary co-guardianship
5 arrangement has been in place the majority of the time there has been a temporary guardianship,
6 there have been problems with the Parties being able to cooperate in co-parent.
7

8 17. Each respective family has complied with the Court's orders but the initial
9 resentment for how the Guardianship actions' developed and past issues between, especially the
10 Luceros' and the McGrews' has interfered with a cooperative co-guardianship arrangement.
11

12 18. That Paisley, in particular, has had significant trouble adjusting to the two
13 (2) homes and the different parenting style, and the Parties agreed to get her into counseling. The
14 Luceros' moved forward (with initial agreement and involvement with the McGrews') in finding
15 a counselor in Reno, Geri Goddard, M.A., MFT. The McGrew's involvement with the counseling
16 came late, but Ms. Goddard was able to see Paisley in both environments and see her exchange
17 distress. The McGrews' involvement with Paisley's counselor was short-lived and they claim
18 because the Luceros' were paying for the counselor and had met with her several times that her
19 allegiance was to the Luceros'. Ms. Goddard testified that her allegiance was to Paisley.
20

21 19. That in June 2020, the Luceros' filed an *ExParte Emergency Motion For*
22 *An Order Suspending Co-Guardians Exchanges And To Leave The Minor Protected Person in*
23 *the Care of the Luceros*. The Order was issued on June 18, 2020 and a hearing was held on the
24 issue on July 7, 2020. The Motion was filed following an incident where Paisley, was allegedly
25 disciplined with a wooden spoon leaving bruises along the back side of her legs and buttocks.
26 Maria McGrew admitted to using a spanking spoon but denied the bruising was from punishment
27

1 and rather had occurred following a fall against the corner of the hearth to their pellet stove.
2 Evidence was also presented that Paisley was exhibiting severe reaction to exchanges from the
3 Lucero home to the McGrew's home and that Paisley had gained a significant amount of weight
4 in the short-time she was solely in the care of the Luceros.
5

6 20. That after hearing evidence, the Court re-instated the week-on/week-off
7 rotation schedule and ordered the Luceros' and McGrews' to attend co-parenting sessions with
8 Janell Anderson to work on reducing the stress of exchanges and improve the cooperation
9 between the Guardians. The Court also ordered that the McGrews were not to spank Paisley and
10 suggested that Ms. McGrew engage in parenting classes aimed at how to discipline young
11 children. No evidence was submitted of Ms. McGrew's participation in said training.
12

13 21. That significant evidence has been submitted suggesting that the parenting
14 style of the Luceros and the McGrews are very different. Ms. Anderson testified that was not able
15 to make progress in the co-parenting sessions given some deep seated resentments between, in
16 particular Pamela Lucero and Maria McGrew, and unresolved grief. She ended her work with
17 the Parties in the fall of 2020, concerned that the sessions were actually making the relationships
18 even more contentious.
19

20 22. That following Ms. Anderson's withdrawal, the Parties entered a stage of
21 relative calm and exchanges were less contentious. Paisley remained in counseling with Ms.
22 Goddard and she was seen by a Nutritionist with the co-guardians both working to ensure Paisley
23 remained a healthy, happy child.
24

25 23. That on March 4, 2021, the final portion of the Evidentiary hearing was
26 held and the presentation of evidence for all sides was completed. Ms. Anderson and Ms.
27 Goddard testified as did Mother. Both professionals, testified that the focus of the guardianship
28

1 needed to be on the possibility of reunifying the children with their Mother and supporting her
2 continued sobriety. They also both testified that differences in parenting style between the homes
3 was a source of stress for Paisley and Ms. Goddard testified that from a child perspective the
4 week-on/week-off exchange schedule was stressful for Paisley and that splitting up the sibling
5 unit was also confusing.
6

7 24. That the Luceros' had Carter and Paisley assessed by the Nevada Early
8 Intervention Service (NEIS) and had followed up on behalf of Carter with the Shriner's Hospital
9 following their recommendations provided.
10

11 25. That it was the Luceros that engaged with a Nutritionist on Paisley's behalf
12 and that both the Luceros' and McGrews' sought medical help from professionals as situations
13 arised.
14

15 26. That Mother made an impassioned plea to this Court, for the return of the
16 children to her care and that if that was not possible that the Guardianship be awarded to the
17 Luceros' so that she could have access to them as she continued to work on becoming more stable.
18 She testified that she did not feel that she was wanted at the McGrews' home and that a
19 guardianship with the Luceros' offered her the most opportunity to remain in the children's lives
20 and that it kept her children together.
21

22 27. That throughout the course of the evidentiary hearings, there has been
23 evidence presented of past parenting issues of all the parties, but the focus appeared to be on the
24 Luceros' primarily. The childrens' attorney suggested and the Court agreed to review, in camera,
25 all of the Division of Child and Family Services (DCFS) reports related to the three (3) sets of
26 co-Guardians. The Court having done so, found that each of the Parties have had prior
27 involvement with DCFS and that these were not relevant to the matter at hand.
28

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The Court makes the following CONCLUSIONS OF LAW:

1. **That this Court has personal and subject matter jurisdiction over the matter and minor protected persons and pursuant to NRS 159A.018, Nevada is the 'home state' of the children who have been physically present for at least six (6) consecutive months immediately preceding the filing of the petitions for appointment of guardians.**
2. **This Court has jurisdiction over this matter under Nevada law and the Uniform Child Custody Jurisdiction Enforcement Act.**
3. **That Elko County is the proper venue for this guardianship as the minor protected persons reside in the County and have done so all of their lives.**
4. **That the proposed minor protected persons are minor children, with Paisley being four (4), almost five (5) years of age and Carter being three (3) years old. That due to their minority, the children cannot provide care, maintenance, and support for themselves without the assistance of a parent or another adult guardian. That the Petitioner have met their burden in showing that the minor protected persons are in need of a Guardian to meet their needs for protection, care, stable housing, assistance with food and medical care.**
5. **That the minor protected persons' Mother has resumed some of the responsibilities of parenthood while living with the Luceros' but that her stability is still fresh and that she needs time to become fully able to provide the protection, care, stable housing, and assistance with food and medical care.**

- 1 6. **That Carter's Father has not shown that he can provide the protection, care, stable**
2 **housing support, and assistance with medical care for the minor protected person.**
- 3
- 4 7. **That Paisley's Father is deceased.**
- 5
- 6 8. **That all co-Guardians have provided proper notice of their petitions and that all**
7 **interested parties have had multiple opportunities to come forward with their**
8 **concerns related to the Guardianship.**
- 9
- 10 9. **There is a preference under Nevada Law and a rebuttable presumption that if a**
11 **parent is qualified and suitable, they will be appointed the Guardian of a minor**
12 **child, unless there is a showing that some extraordinary circumstance exists or that**
13 **the parent is unfit and is unable to provide care for the child.**
- 14
- 15 10. **That the Co-Guardians have the legal duty to overcome the presumption by**
16 **showing that 'the parent is unfit' or that 'some other extraordinary circumstance**
17 **exists'.**
- 18
- 19 11. **That the testimony presented provides the Court with clear and convincing**
20 **evidence that none of the parents involved are currently suitable to care for the**
21 **minor protected person although evidence suggests that Mother is working hard to**
22 **become stable and able to provide for their needs.**
- 23
- 24 12. **That the Co-Guardians' have met their burden of overcoming the presumption that**
25 **currently the parents are unfit in that none of the minor protected persons have the**
26 **ability to provide for the basic needs of the children; and that if they are using**
27 **illicit drugs, both Mother and Carter's Father could actually pose a significant**
28 **safety risk.**

- 1 **13. That the minor protected persons are represented by their own attorney and that**
2 **the Court also provided an appointed attorney to ensure Mother's due process**
3 **rights were protected.**
- 4 **14. That none of the current temporary co-guardians are professional guardians and**
5 **that they all represent they are all related by blood and are grandparents and/or**
6 **great grandparents of the children with equal preference in the eyes of the Court.**
- 7 **15. That Mother has requested the Court place the children in the home of the Luceros'**
8 **and appoint them as sole co-guardians of both Paisley and Carter, so that the**
9 **siblings can remain together and so that she will have access to the children as she**
10 **regains her stability.**
- 11 **16. That each of the temporary co-guardians qualify to operate as guardians and they**
12 **testified the none of them had been suspended for misconduct or disbarred from**
13 **the practice of law, the practice of accounting or any profession which involves**
14 **the management or sale of money, investments, securities or real property and**
15 **requires licensure in Nevada or any other State. Co-guardian Pamela Lucero was**
16 **convicted of felony over 40 years ago, and the rest of the co-guardians have never**
17 **been convicted of a felony. The Lucero's also have filed for bankruptcy three (3)**
18 **years ago due to crushing medical debt. Each of the co-guardians are financially**
19 **stable, with adequate resources to care for the minor protected persons.**
- 20 **17. That the minor protected persons are not of Native American descent.**
- 21 **18. That the minor protected persons are not a party to any pending legal or criminal**
22 **case and there is not case brought under Chapter 432B of the Nevada Revised**
23 **Statutes pending.**
- 24
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- 1 19. **Based on the competing nature of the petitions before the Court, the court must**
2 **consider certain factors and ultimately determine which placement would be in the**
3 **minor children's best interest. NRS 159A.061.**
- 4 20. **That the evidence suggests that prior to the situation that led to Mother requesting**
5 **help as she dealt with her 'grief', she had been the children's primary custodian**
6 **and is closely bonded with the children.**
- 7 21. **That the children have lived in the Lucero's home most of their lives.**
- 8 22. **While each of the minor protected persons have had different Father's, they were**
9 **be raised together and have a close sibling bond with each other.**
- 10 23. **That they have a new little half-sister that also resides in the Luceros' home and**
11 **they are closing with bonded with her.**
- 12 24. **That the Luceros' and Mother have testified that Mother is now living with them**
13 **again and helping with the children.**
- 14 25. **That the Luceros' have also testified that they do not let Mother around the**
15 **children if she is using drugs**
- 16 26. **That Mother testified that she does not believe she will maintain her bond with**
17 **the children if this Court grants either the McGrews' or the Ferguson's petition to**
18 **be the children's respective co-guardians.**
- 19 27. **That because the sibling bond is so important especially after the children have**
20 **gone through so much in losing their Fathers, and for awhile their Mother, they**
21 **rely on and need each other.**
- 22 28. **That the children are closely bonded with the Luceros' who have had them in their**
23 **care the majority of their lives.**
- 24
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1 29. That it is not in the best interest of the children to removed from the Luceros' home
2 because of their strong bond with the Luceros', nor is it in their best interest to be
3 separated from each other and their new little sister.

4 30. That appointment of the Lucero's as the minor protected persons' co-guardians is
5 the best opportunity to for Mother to regain the care, custody and control of the
6 children.

7 31. That, while the temporary guardianship has been in place the paternal grandparents
8 and great grandparents have been able to bond with the minor protected persons,
9 the children need more stability than the current arrangement has allowed.

10 32. That because of their involvement in this three (3) year effort, it is important that
11 they maintain a significant role in the lives of the children but as Grandparents,
12 not guardians. That a weekend a month for grandparent visitation by the McGrews'
13 and Fergusons' is appropriate to maintain that bond.

14 **NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED and DECREED:**

15 1. That MICHAEL LUCERO and PAMELA LUCERO, Co-Guardians of both
16 PAISLEY GRACE STONE (hereinafter "Paisley"), born on May, 27, 2016, and CARTER
17 THOMAS FERGUSON (hereinafter "Carter"), born on January 17, 2018 herein, are appointed
18 the Co-Guardians of the Person and Estate of the minor protected persons.

19 2. The appointed Co-Guardians shall have all of the authority granted such Co-
20 Guardians as outlined in Chapter 159 of the Nevada Revised Statutes, sections NRS 159.077
21 through NRS 159.111 are responsible for management of the protected persons' Estate, if any
22 they may acquire, as set forth in Chapter 159 of the Nevada Revised Statutes.

1 3. Because the minor protected person has no property and no income at this time,
2 the appointed Co-Guardians shall not have to post any bond.

3 4. If, however, the protected person is discovered to have property or acquire
4 property hereafter, the Co-Guardians shall immediately report the acquisition of such property to
5 this Court. The Court will then set the amount of the Guardian's bond, if necessary.
6

7 5. That the Minor protected persons will live with the co-guardians during the
8 Guardianship. Mother is allowed to be present with the children and to help provide for their care
9 at the discretion of the Luceros.
10

11 6. That the temporary co-guardians, DONALD and VICKY FERGUSON, the (great)
12 grandparents of Carter; and the temporary co-guardians, JOHN and MARIA MCGREW, the
13 paternal Grandparents of Paisley, are hereby released from their obligation to the minor protected
14 persons under the temporary guardianship.

15 7. That the discharged co-guardians shall have a minimum of one (1) weekend visit
16 with their respective grandchild on the second (2nd) of each month; and, that they and the Luceros'
17 are encouraged to expand opportunities for the visitation.
18

19 8. The Luceros' are advised that if this Guardianship continues for a period of 12
20 months or longer they must file with this Court annually a report on the circumstances of the
21 minor protected person and an accounting must be made in writing annually with the Court..
22

23 9. That the co-guardians act under the authority and continued jurisdiction of the
24 Court and must comply with the provision of the Nevada Revised Statutes regulating
25 Guardianship and must comply with the Orders of this Court

26 10. That the natural Mother, may petition this Court to terminate the Guardianship
27 when that parent is in a position to resume the custody and support of the minor protected persons
28

1 and can demonstrate that ability to this Court; provided, however, if in the future, the Mother and
2 Guardians agree that the Guardianship should be terminated, either Mother or the Co-Guardians
3 may petition the court to end the Guardianship and have the matter heard by the Court upon a
4 written stipulation of the parties to end the Guardianship.
5

6 **IT IS SO ORDERED.**

7 DATED this _____ day of _____, 2021.
8

9 _____
10 Hon. Kriston Hill
11 DISTRICT COURT JUDGE

12 Submitted by
13 AMENS LAW, Ltd.

14 

15 _____
16 Debra M. Amens, Esq. Nevada Bar No. 12681
17 *Attorney for Co-Guardians*
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Calendar
for 6-23-21

1 DEBRA M. AMENS, ESQ.
2 Amens Law, Ltd., Nevada Bar No. 12681
3 P.O. Box 488, Battle Mountain, NV 89820
4 T: 775-235-2222 F: 775-635-9146
5 Email: debra.amenslawfirm.com

2021 JUN -7 AM 10:05

ELKO DISTRICT COURT

CLERK _____ DEPUTY RP

6 The Undersigned hereby affirms this document
7 does not contain a social security number.

8 **IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

9 **IN AND FOR THE COUNTY OF ELKO**

10 IN THE MATTER OF THE GUARDIANSHIP
11 OF THE PERSON AND ESTATE OF

CASE NO. PR-GU-18-49, PR-GU-18-56 &
PR-GU-18-67
DEPT. NO. 1

12 PAISLEY GRACE STONE (dob 5/27/16), and
13 CARTAR THOMAS FERGUSON
(dob 1/17/18).

MOTION FOR RECONSIDERATION

14 COMES NOW, Co-Guardians PAMELA and MICHAEL LUCERO ("hereinafter
15 collectively referred to as "Luceros"), by and through their attorney, Debra M. Amens, Esq. of
16 Amens Law, Ltd. and moves this Court to Reconsider its FINDINGS OF FACT AND ORDER
17 GRANTING GUARDIANSHIP issued in the above entitled case on May 13, 2021 with the
18 Notice of Entry of Order being filed on May 24, 2021.

19 This Motion is made and based upon the accompanying Memorandum of Points and
20 Authorities, the supporting Declaration of Co-Guardians, the Luceros, the papers and evidence
21 filed herein and any evidence received and oral arguments entertained at a hearing on this motion.

22 DATED this 7th day of June, 2021.

23 AMENS LAW, Ltd.

24 Debra M. Amens
25 Debra M. Amens, Esq.

26 Nevada Bar No. 12681

27 Attorney for the Luceros

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. NATURE OF THE MOTION**

3 On April 13, 2018, Maria and John McGrew (hereinafter collectively referred to as "the
4 McGrews") and the Vickie and Donald Ferguson (hereinafter collectively referred to as "the
5 Fergusons"), by and through their attorney, Travis Gerber, Esq. of Gerber Law Office, filed a
6 Petition for Guardianship over PAISLEY STONE (hereinafter "Paisley"), born on May 26, 2016,
7 in Case No. PR-GU-18-56 and over CARTAR FERGUSON (hereinafter "Cartar") born on
8 January 17, 2018, in Case No. PR-GU-18-49.
9
10

11 The Luceros, the previous Guardians and Grandparents of Mother, KRISTIN STONE
12 (who for a short time was appointed an attorney, David Loreman, Esq.) ("Mother") of the above
13 children, were not consulted prior to the paternal grandparents and great grandparents actions
14 despite both children primarily residing in the Lucero home since their birth. The Luceros, then
15 filed their own Petition for Guardianship of both children on May 22, 2018, in Case No. PR-GU-
16 18-67. The Court held a brief hearing and granted a temporary shared Guardianship of the
17 children between the Luceros and the McGrews over Paisley and a shared Guardianship of the
18 children between the Luceros and the Ferguson's over Cartar. The Court appointed Michelle
19 Rodriquez, Esq. to represent the children's interest.
20

21 The majority of the time since the 2018 initial hearing the parties have exchanged the
22 children on a week-on/week-off basis.
23

24 Since the grant of temporary co-Guardianship, the Court has been trying to complete an
25 evidentiary hearing which, almost three (3) years later was concluded finally on March 4, 2021,
26 with a new judge presiding. An Order was issued on May 14, 2021, granting the McGrews
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1 general guardianship over Paisley and the Ferguson's general guardianship over Cartar. The
2 Luceros are asking respectfully asking this Court to reconsider its Order.

3 II. FACTUAL STATEMENT

4 Paisley and Cartar had lived with the Luceros' since their birth as their Mother was mostly
5 living with the Luceros. The minor protected persons are closely bonded with the Lucero family.
6 At the start of this Guardianship, the situation between the Parties was very different. Mother was
7 19 years old and had two (2) children. Paisley was two (2) years old and had lost her Father, TJ
8 McGrew to suicide when she was just one (1) years old. This death was hard on Mother and
9 Paisley. Mother had then entered into a relationship, with Kevin Ferguson, who is the Father of
10 Cartar. Both Fathers were known to have substance abuse issues and Mother was introduced to
11 these drugs through these relationships. The relationship with Kevin was turbulent and Mother
12 was left caring for both children. Being young and needing help she mostly relied on the Luceros.
13 The children were always well cared for but the Luceros were not tolerant of Mother's involvement
14 with any drugs and her being gone for long periods of time. Mother and the Luceros had a period
15 of time when there was conflict. The Luceros had been Mother's guardians and Mother has been
16 challenged with a learning disability. Mother was dealing with significant loss, her youth, and the
17 realization that being a Mother of two (2) young children was a full-time job, especially with no
18 partner to share in the responsibility. Mother sought to get help from the paternal grandparents,
19 who had only been involved on the periphery, especially the McGrews who did not believe Paisley
20 was their granddaughter until after their son's death and paternity test was performed. Prior, they
21 had no contact.

22 Seeking respite and avoidance of conflict with the Luceros, Mother asked if the McGrews
23 and Ferguson's would care for the children while she left to put her thoughts in order. This was a
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1 low point for Mother. The McGrews and Ferguson's demanded that she sign paperwork
2 consenting to a temporary guardianship but explaining it to her (in their attorney's office) that it
3 was only so that they could obtain medical assistance if needed during her absence. They jointly
4 assured her 'that they would never take the children from her'. Mother testified that she signed
5 the consent under significant pressure (duress) and that she did not understand that they were
6 seeking anything beyond permission to get medical help for the children if required while she was
7 gone.
8

9 Worse yet, the McGrews and the Fergusons, then took Mother to the train station and put
10 her on a train to Stockton, California and paid her \$20. All of this is in the court record. The
11 explanation provided was that the McGrews and the Fergusons were only doing what Mother had
12 asked for; but the reality is that Mother was grieving, confused, and seeking respite. If they had
13 inquired, they would have learned that she knew no one in Stockton, California, nor did she have
14 a viable plan. Both families knew that Mother had a learning disability and was not in her right
15 mind and/or understanding the situation given the significant stress they put her in. They took
16 advantage of Mother at a vulnerable time and then they took her children.
17

18 No one has claimed that at that moment, the children were in poor shape or that Mother
19 was incapable of caring for the children. Mother testified that she had been providing for their
20 needs and was just seeking some time off to get her head straight. The Luceros' became aware of
21 all of this activity when a woman they did not know called them from Stockton, California to tell
22 them that their Granddaughter was sleeping in her garage. The Luceros' traveled to Stockton and
23 retrieved Mother, returning her to Elko. That is when they learned of the Guardianship and
24 Kristin's supposed 'consent' to it. Kristin indicated that she was pressured to sign it and that she
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1 wanted her children back in the care of Luceros. The Luceros then filed for guardianship to bring
2 the children home.

3 The drama of how these competing guardianships got started is important here, because it
4 relates to why the Luceros have lingering resentment, especially to the McGrews, who they felt
5 had orchestrated the ploy. The Luceros see the initial actions, not as being done for the best interest
6 of the minor protected persons or for Mother's well-being, but rather as a blatant attempt to take
7 the children from Mother and to physically remove her from the area.

8
9 Mother seeing the temporary Guardianship granted and not having the burden of child care,
10 then withdrew and for a period of time continued to be irresponsible and take full advantage of the
11 freedom. She started a new relationship and in early 2020 gave birth to another girl with a new
12 Father. Now, with the responsibility again to raise a child, Mother has settled down and with the
13 Lucero's assistance, is caring for this child. The Father is involved and now providing Mother
14 with financial and emotional support. They just had their second child together, another girl,
15 Annabelle, born on May 29, 2021.

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17
18 Mother is sober (and has been since Mayce birth in early 2020) and is doing well.
19 Testimony from both professionals involved in the case, Paisley's counselor, Geri Goddard and
20 the family advocate, Janell Anderson, indicated that the objective in regards to the minor protected
21 persons should be to reunify them with Mother. The child's attorney also advocated for the same.
22
23 Mother is bonded with all of her children and the Court heard testimony about how close both
24 Paisley and Cartar are to their little sister, Mayce. Given the recently issued Order Paisley has
25 only briefly met her new baby sister, Annabelle, and Cartar has not met his new little sister.

26 The three (3) year temporary Co-Guardianship has allowed Mother time to mature and the
27 minor protected persons to get to know their paternal grandparents. Testimony was provided that
28

1 the parenting styles between, especially the Luceros and McGrews was significantly different and
2 that it was causing stress for specifically, Paisley. There was no evidence that the Luceros were
3 doing anything that would alienate Paisley from the McGrews; it was the Counselor's concern
4 with the use of a 'spanking spoon' and bruising on Paisley along with the child's disclosures, that
5 led to brief pause in the week-on/week-off exchange schedule and a direct order from the Court
6 that all such physical discipline cease.
7

8 As the week on/week off exchanges went on between the Luceros and the other guardians
9 it became apparent that the minor protected persons, specifically Paisley, was having difficulty
10 with the exchanges and/or the loss of persons close to her (her Father, less time with her Mother,
11 etc.). The child's attorney suggested the Guardians arrange for counseling (play therapy) for
12 Paisley. The Lucero's put Paisley on Barbara Stoll's waiting list and then were able to get in and
13 have Paisley start seeing Geri Goddard out of Reno. Ms. Goddard reached out to both the Lucero's
14 and to the McGrews. The Lucero's participated in the intake and the Ms. Goddard was able to
15 involve the McGrews later in the process. Ms. Goddard, testified that the exchanges were difficult
16 for Paisley and that while she was benefitting from contact with both sets of Grandparents, her
17 perceived home was with the Luceros. The different parenting style was difficult on the child and
18 that the week on/week off schedule was unnecessary just as long as there was regular visitation in
19 order for the child to maintain a bond. At the last hearing in March 2021, Ms. Goddard testified
20 to having observed the minor protected persons with their sibling and with their Mother and
21 indicated that the family unit was intact and important for the children. She indicated that the best
22 interest of the children was served in keeping them with their mother and their sibling and
23 supporting those bonds. This assessment was seconded by the family advocate, Janell Andersen,
24 who had worked with the Guardians on trying to improve co-parenting.
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1 In addition to getting Paisley mental health checkups, the Luceros were directly involved
2 with having Cartar assessed by Nevada's Early Invention Services (NEIS) on two (2) different
3 occasions over the three (3) year temporary guardianship and the Lucero's follow up on some
4 concerns raised by the assessments of his development of legs. Donald Ferguson testified that he
5 thought Cartar may have some other problems going on (ie. Autism) but no assessments were
6 arranged by the Fergusons and the NEIS assessment indicated that they did not feel like he had
7 issues with Autism. The NEIS information was shared with the Fergusons. All of this was
8 presented in Court.
9

10 Paisley's weight was brought up as concern by the McGrews who took her to a doctor to
11 show the Court that she was off the charts for her weight and height for her age group. Both Maria
12 McGrew and Pamela Lucero attended a follow up appointment with Dr. Hernandez, Paisley's
13 Pediatrician, who specifically said that she was not concerned about her weight and that she was
14 just big for age. Maria testified about weight changes from week to week and was weighing
15 Paisley after every exchange. The Luceros attempted to have a joint meeting with a nutritionist
16 and finally were able to get an appointment at the beginning of 2021 where only one family could
17 attend due to Covid. The nutritionist also did not express alarm at Paisley's weight but did provide
18 guidance on healthy eating and activities which were shared between the Guardians. The Luceros
19 had been following the same diet advice given (which was the same as provided by Dr. Hernandez)
20 The Court has expressed concern that this occurred just prior to the March 2021 hearing, when it
21 had been scheduled for months and the actual appointment was in January 2021. In reality it is
22 the Luceros that have continued to ensure both children are getting the medical and mental health
23 assessments they have needed throughout the Guardianship.
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1 Since the birth of Mayce, Mother has been living with the Luceros full-time and caring for
2 the children. Mayce did have a small amount of illegal substances in her system so the Division
3 of Child and Family Services ("DCFS") were called and they requested that Mayce be released
4 into the care of the Luceros. Since just prior to Mayce's birth, Mother has been clean and sober
5 and focused on being a good parent. Mother has participated in the majority of every guardianship
6 hearing and has only left the courtroom on one occasion when she began emotionally distraught
7 with the testimony. She has repeatedly asked that the children be returned to her care and if not
8 left with the Lucero's. See Exhibit A. Letter from Mother per Request of Judge.

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10
11 The only other parent is Kevin Ferguson, Cartar's dad, who attended one hearing. At the
12 hearing Vickie Ferguson was testifying about how good Kevin was doing now that he was sober
13 and living with them. A drug test was requested and Kevin tested positive for Methamphetamine,
14 indicating his drug use was continuing despite several criminal charges and time in jail, and that
15 his Grandmother, Vickie, was unable to discern when he was high. Vickie is not healthy and
16 struggles to be able to even pick up the child. Her health has further deteriorated and she is the
17 primary caregiver during the day for Cartar, who by all accounts is an active, boisterous little boy
18 who is three (3) years old. Now that the Fergusons have Cartar every week, Vickie does not even
19 have a break to rest up for the next week of child care. The Luceros, who have always been
20 friendly with the Fergusons are very concerned for both Cartar and Vickie in this new arrangement
21 following the order. The Fergusons have blocked communication with the Luceros. Similarly,
22 the McGrews have asked that the Luceros not communicate with them about requesting visitation
23 and that they will provide only supervised visitation (by Maria) for Mother if she specifically
24 requests it.
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1 The Court, despite objection, viewed DCFS records of the family and seemed to indicate
2 that only the Luceros had any involvement with DCFS over the years they were raising their
3 families. The Luceros do not believe that to be the case, especially when the McGrews son was a
4 teenager. The Luceros, only DCFS involvement with children in their custody was based on
5 allegations made by a granddaughter against their son which were never corroborated. The
6 granddaughter later recanted her story. Their granddaughter was returned to their care and the
7 frustration that the Division had with the Luceros was related to how protective they were of their
8 family versus aligned with the division.
9

10 The Court's Order also indicates that it appeared that Pamela lied to law enforcement to
11 impede their search for a particular boy. The Luceros (Pamela) testified that they had never lied
12 to law enforcement and she had no knowledge of who the boy was or that he was present at a house
13 (not their house) that they were cleaning and preparing for sale. The fact that the boy was found at
14 the home, did not mean that the Luceros had any knowledge that he was there, they did not have
15 control of the home, and simply did not know he was hiding and/or being hidden there. The
16 Luceros understand that there are other DCFS reports related to the other Guardians and are
17 concerned that the other Guardians legal efforts simply attempted to paint the Luceros and
18 specifically Pamela Lucero, as a bad person. The Luceros are a close knit family and they are
19 proud of the children they have raised who have grown to be good law abiding citizens with a
20 strong work ethic. The fact that they were distraught with what the McGrews and Fergusons did
21 at the beginning of this Guardian action is understandable. Nonetheless, they have complied with
22 every Order and dis everything that the Court has asked of them during the co-Guardianship. They
23 have encouraged the children to have a good bond with the other grandparents and tried to reduce
24 the stress of the exchanges. They advised the Court per the Court's request in the closing proposed
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1 orders that should they be granted Guardianship until Mother had petitioned the Court for its
2 termination, they would offer alternating weekend visits with the other grandparents on an on-
3 going basis.

4 Since the order, the Luceros have only been allowed a two (2) hour visit with the children
5 on Paisley's birthday, after requesting an on-going visitation schedule. At first the offer was for
6 only a supervised visit by the McGrews. This is the only time that they have seen both children
7 together since the order was issued in mid May. The school was informed by Maria McGrew that
8 no information about Paisley should be provided to the Luceros.

9
10 At Paisley's graduation from Kindergarten held on June 3, 2021, the Luceros, Mother, and
11 the McGrews were all present. The school specifically wanted the Luceros there as they were
12 receiving special acknowledgment by the teacher and administration for all of the volunteer work
13 and contributions they have provided to the class. Paisley was allowed to stay only one (1) hour
14 after graduation with the other children at the party and was allowed only limited time with the
15 Lucero's. During her short stay she saw her Mother and the new baby, Annabelle, for the first
16 time. The Lucero's report that Paisley came up and said to her Papa (Michael Lucero) "Namy
17 said I could never, ever see you and Granny again". She also indicated that she does not see Cartar,
18 who was also not in attendance at Paisley's graduation. The Lucero family totaled over 20 people
19 who were there to see Paisley graduate. The almost complete withholding of Paisley and Cartar
20 from any contact with the Luceros or Mother, is breaking their hearts; but more importantly it is
21 also not in the children's best interest.

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1 I. LEGAL ARGUMENT

2 **RECONSIDERATION OF THE CUSTODY ORDER IS WARRANTED**
3 **PURSUANT TO NRCP 59 & NRCP 60.**

4 A. NRCP 59

5 The Luceros makes this motion for leave to reconsider and/or alter or amend the Court's
6 Order of , pursuant to NRCP 59(1). To the extent applicable, Rule 59(a) provides:

- 7 (a) Grounds. A new trial may be granted to all or any
8 parties and on all or part of the issues for any of the
9 following cause or grounds materially affecting the
10 substantial rights of an aggrieved party: (1)
11 **Irregularity in the proceedings of the court, jury,**
12 **master, or adverse party, or any order of the court,**
13 **or master, or abuse of discretion by which either**
14 **party was prevented from having a fair trial; (2)**
15 **Misconduct of the jury or prevailing party; (3)**
16 **Accident or surprise which ordinary prudence could**
17 **not have guarded against; (4) Newly discovered**
18 **evidence material for the party making the motion**
19 **which the party could not, with reasonable diligence,**
20 **have discovered and produced at the trial; (5)**
21 **Manifest disregard by the jury of the instructions of**
22 **the court; (6) Excessive damages appearing to have**
23 **been given under the influence of passion or**
24 **prejudice; or, (7) Error in law occurring at the trial**
25 **and objected to be the party making the motion.**
26 **On a motion for a new trial in an action tried without**
27 **a jury, the court may open the judgment if one has**
28 **been entered, take additional testimony, amend**
findings of facts and conclusions of law or make new
finding and conclusions, and direct the entry of a new
judgment. (Emphasis added)

25 This Court inherited a case where a 'temporary guardianship' had been in place for almost
26 three (3) years. The evidentiary trial on this was rescheduled several times over that time period
27 and started and continued several times over that period. The focus of the proceedings became
28

1 the animosity of the Luceros and the McGrews and key issues related to the best interest of the
2 children were downplayed.

3 **1. The Court found that there was clear and convincing evidence that the children**
4 **were in need of guardianship.**

5 At the beginning of the guardianship litigation, we found Mother seeking temporary help
6 to care for her children (while she got her head straight). There were no reports that the children
7 were being neglected and/or were not cared for. Mother sought respite with the child's extended
8 family but had been caring for the children and making sure their needs were met. Because of
9 concern about her lifestyle, she was having conflict with the Luceros who provided the majority
10 of her child care support and she sought help from the McGrews and Fergusons. In normal
11 circumstances, this would have been a logical resource for her and she certainly did not expect
12 that this would be the basis for her losing access to her children. In fact she was told exactly the
13 opposite by the persons she was asking for temporary help – “we will never take your children
14 away from you”.

15 Now, three (3) years later, she is only being allowed ‘supervised’ visits if she specifically
16 asks permission from the person that took her kids. This while she is the primary care provider
17 of two other children, is sober and doing well. It should be noted that Mother has never been
18 arrested for anything including drugs nor has she failed a requested drug test. No evidence was
19 presented that she had engaged in habitual use of alcohol or any controlled substance during the
20 previous 6 months and she consistently denied the same during the various hearings. At the start
21 of this the Luceros were concerned that she was unfocused and concerned about her choices in
22 regards to who she was hanging out with but that is not Kristin of today. The Court states that
23 the “child’s mother poses a significant safety risk of either physical or emotional danger to the
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1 children because of her significant past drug use, her failure to engage in any counseling or
2 rehabilitation, and her inability to care for the children without complete dependency on
3 LUCERO”.

4 First, no evidence was presented to the court about Mother’s significant past drug use.
5 She was present in court and there was never a request to have her drug tested nor a request that
6 she submit to drug testing despite her repeated claims of not having a drug issue.
7

8 The fact that Mother has decided for the benefit of her children to live with the Luceros is
9 a reasoned choice in her circumstances. The Luceros have been her primary support all of her
10 life. The father’s involved with Paisley and Cartar are unable and/or unwilling to provide support
11 for the children. Mother does have a learning disability but this is not a reason to take her children
12 from her, she has demonstrated that ability to ask for help when she has needed it and to be
13 protective of her children’s safety and needs prior to causing them any discomfort. Mother’s
14 disability does not preclude her from her fundamental right to parent her children and the fact that
15 she is and will likely rely on support from the Luceros is a choice she can make.
16
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18 Testimony was provided by Paisley’s counselor, that Mother is doing well, that she has
19 seen her care for the children and the of the close bond that exists between the minor protected
20 persons, their Mother, and their sibling – the one (1) sibling they have been able to bond with.
21

22 **2. The McGrews [and Ferguson’s] would foster on-going relationships better.**

23 The Court indicates that because of testimony from the family advocate, it reasoned that
24 the McGrews would foster on-going relationships between Paisely and the Luceros, while the
25 Luceros would not so reciprocate but in actuality the opposite has occurred. As requested by the
26 Court for closing arguments that Parties were to submit final proposed Orders which were to
27 include visitation plan. The Lucero’s did so and which included visitation for the other families
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1 aimed at ensuring the bond between the minor protected parties and former guardians would be
2 maintained. Apparently, that was not done by the Fergusons and/or the McGrews because after
3 the Guardianship was granted to them, they have no plan, despite repeated requests to their
4 counsel on how visitation with the Luceros and Mother was to occur. They are not even
5 concerned about maintaining the childrens' bond with the Luceros, their Mother, or the children's
6 biological siblings. And, have taken steps to advise the school not to talk with the Luceros.
7

8 Ms Andersen also testified that give how Mother is doing, the focus of the guardianship
9 needed to be on reunifying the children fully with their Mother. This was also the
10 recommendation of the Counselor and brought up by the children's attorney. The outcome of the
11 current order completely misses that objective.
12

13 **3. Parental Consent to Guardianship**

14 The Court indicates that Cartar's father consented to the Ferguson's guardianship of
15 Cartar. Mother has issued several consents – first to the McGrews and Fergusons under direct
16 undue influence by the McGrews and Fergusons which later she formally revoked. She then
17 subsequently issued consent to Guardianship to the Luceros. Even after the last hearing, where
18 she articulated a request that her children be returned to her care, she provided the Court with a
19 letter indicating if the Court was not going to return the children to her care then she requested
20 that they be left in the care of the Luceros.
21

22 **4. Luceros home is unstructured and chaotic**

23 The Court concludes that the Luceros have an unstructured chaotic home. No such
24 evidence was provided the Court. There was discussion from both the family advocate that they
25 parenting styles were different with the McGrews style being very structured vs. the Luceros but
26 this does not translate into a chaotic, unstructured home. The children have routines and
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1 discipline. They are well-fed and cared for. The original court had to advise the McGrews to
2 stop using corporeal punishment after the child came home with bruises and repeatedly told her
3 counselor that "Namy is mean".

4
5 **5. Luceros neglecting Paisley's medical needs.**

6 The Court indicates that the Luceros were not taking care of Paisley's medical needs. That
7 was not the situation at all. Evidence was submitted indicating that Paisley's pediatrician told
8 both Luceros and McGrews at joint appointment that she was not overly concerned with Paisley's
9 weight but was concerned that the Guardians not make it a focal point for Paisley. The McGrews
10 allege that the Luceros were overfeeding Paisley. This allegation was apparently supported by a
11 DCFS worker visiting the Lucero home after allegations of abuse against the McGrews seeing
12 Michael Lucero eating McDonald's french-fries. This is certainly not clear and convincing
13 evidence of medical neglect and instead the physician warned the co-guardians about focusing
14 too much on weight and 'calories' and rather suggested they each work on helping the child make
15 positive food choices and portion control. The Luceros have never neglected the medical needs
16 of any of the children they have raised and here, in particular have sought evaluations for each of
17 the minor protected persons when issues have arisen.

18
19
20 **6. Lucero has felony and a bankruptcy**

21 Pamela Lucero does have a felony on her record that occurred forty (40) years ago in the
22 State of Louisiana for which she was given probation. The Lucero's did file for bankruptcy five
23 (5) years ago due to crushing medical debt following a horrific accident. They do not have a great
24 deal of interactions with law enforcement nor was there evidence of that submitted. And as
25 indicated supra, Pamela Lucero testified that she did not lie to law enforcement regarding her
26 awareness of whether a suspect was in the home they were cleaning (not her own home). The
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1 Luceros have been granted guardianship by this Court in the past even given these issues.
2 Similarly, DCFS has relied on the Luceros to provide stable and loving homes for children even
3 after there was an instance they found concerning.

4 **7. Best Interest of the children is the primary focus of a Guardianship decision.**

5 The guiding principal in appointing a Guardian is the best interest of the minor protected
6 person. NRS 159A.061 (9).

7 This Guardianship for the minor protected persons needed to be decided based on the
8 children's best interest. The Luceros do not believe that Mother's parental preference has been
9 overcome and could not terminate their guardianship action due to the competing actions of the
10 McGrews and Fergusons. There is no guardianship in place for Mayce and the request is being
11 withdraw concurrently. Mother has physical custody of Mayce and Anabelle and is doing a great
12 job. The situation today, three (3) years later is very different than it was at the start of this
13 guardianship litigation. The current order does not reflect that, nor does it focus on the best
14 interest of the children.
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18 **B. NRCP 60(b) – GROUND FOR RELIEF FROM A FINAL JUDGMENT, ORDER**
19 **OR PROCEEDING**

20 NRCP 60(b) which states in pertinent part:

21 On motion and upon such terms as are just, the court may
22 relieve a party or a party's legal representative from a final
23 judgment, order, or proceeding for the following
24 reasons: (6) any other reason that justifies relief.

25 NRCP 50 (b) (6) provides an opportunity to Reconsider and reissue this Order after the
26 Court has had a full opportunity to consider the best interest of the minor children. The Order and
27 focus of the argument for the guardianship with the McGrews and Fergusons has been on how
28

1 'bad' the Luceros are. The Court did not provide meaningful review of what evidence from DCFS
2 they reviewed and/or what evidence might have been missing in that review (including
3 investigations into the death of a child in the McGrews home). Nor were the Luceros allowed to
4 provide rebuttal about those allegations. Being unable to address any of these issues or present
5 their side of the story to these past unrepresented issues is patently unjust and the reliance on such
6 dated evidence is questionably relevant (as the objection raised) in this current guardianship action.
7

8 Allegations that the Lucero's home is unstructured and/or chaotic does not make it so and
9 this Court must focus on evidence not allegations. The Parties have shared custody of these
10 children for three years without incident (other than the bruising of Paisley at the McGrews and
11 Paisley's disclosures).
12

13 NRS 159A.61(A) provides that:

14 "In determining whether to appoint a guardian of the person or estate of
15 a proposed protected minor and who should be appointed, the court must always
16 act in the best interests of the proposed protected minor."

17 The Luceros have focused their case on the best interest of the children rather than attacking
18 the McGrews or the Fergusons. They can provide fully for the children. The children are siblings
19 that should be allowed to live together with each other and their other siblings. The children are
20 and have been closely bonded with the Luceros since their birth, while the other guardians had
21 significant periods of non-involvement and the McGrews even denied Paisely was their
22 granddaughter. Truly, the Luceros have dedicated their lives to the well-being of these and all of
23 their children and grandchildren including Mother, and it is understandable that they resented how
24 this guardianship litigation ensued. But, their actions over the last three (3) years have shown a
25 willingness to work with the other guardians and to provide on-going visitation for the children to
26 have a meaningful relationship with the other grandparents.
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1 The children being placed with the Luceros, provides a continuing opportunity for Mother
2 and the children to be fully reunited. This factor was cited as an important consideration by our
3 Courts in *In the Matter of Guardianship of N.S.*, when they cited a California Court of Appeals
4 finding that an “underlying purpose of the relative placement preference is to facilitate
5 reunification. . . . A relative, who presumably has a broader interest in family unity, is more likely
6 than a stranger to be supportive of the parent-child relationship and less likely to develop a
7 conflicting emotional bond with the child.” In *Matter of Guardianship of N.S.*, 130 P.3d 657, 662,
8 122 Nev. 305, 309 (2006) quoting *Cesar V. v. Superior Court*, 91 Cal.App.4th 1023, 111
9 Cal.Rptr.2d 243, 249-50 (2001).” Here, it is clear that the Luceros, as being on the maternal side
10 of the family, have a broader interest in Mother’s reunification than do the paternal grandparents
11 based on their own actions in providing only ‘supervised’ visitation and sending Mother off
12 initially.

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15 The Luceros are committed and have proposed meaningful visitation for the McGrews and
16 Fergusons to remain bonded with the children. The McGrews and the Fergusons (by their silence)
17 are not providing meaningful visitation for the Luceros, the children’s mother, and/or any of the
18 siblings. This Order and the subsequent change in the custodial arrangement is adversely affecting
19 these children and is keeping them and their Mother from being able to be reunited just as she has
20 turned the corner and accepted the responsibilities and rights of parenthood. She has expressed a
21 desire to do so. And, as noted in *Litz*, “This court certainly does not want to discourage parents
22 from willingly granting temporary guardianships, while working through problems in their own
23 lives, if that is in the child's best interest.” *Litz v. Bernum*, 888 P.2d 438, 440, 111 Nev. 35, 37
24 (1995). The Luceros are the best choice for a guardianship that allows for Mother to continue to
25 work through her problems in an environment that provides a loving, stable home to Paisley and
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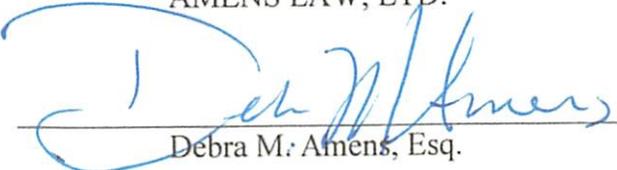
1 Cartar, while also allowing for a continued bond with their paternal grandparents.

2 **III. CONCLUSION**

3 The Luceros ask this Court to Reconsider its Order and find that guardianship with the
4 McGrews and Fergusons is not in the best interest of these children for the reasons articulated
5 above, and for such further relief as may be just and proper.

6 DATED this 7th day of June, 2021.

7
8 AMENS LAW, LTD.

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11 Debra M. Amens, Esq.
12 Nevada Bar No. 12681
13 *Attorney for Luceros'*

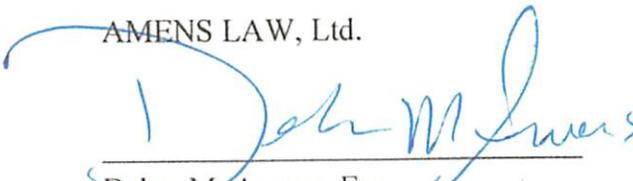
14 **NOTICE OF MOTION**

15 TO: TRAVIS GERBER
16 MICHELLE RODRIGUEZ

17 PLEASE TAKE NOTICE that the Luceros have filed a *Motion for Reconsideration* as to
18 the Guardianship Order issued on May 13, 2021. An opposition must be filed in fourteen (14)
19 days after service of the Motion is made herein.

20 DATED this 7th day of June, 2021.

21 AMENS LAW, Ltd.

22 
23 _____

24 Debra M. Amens, Esq.
25 Nevada Bar No. 12681
26 P.O. Box 488, Battle Mountain, NV 89820
27 Phone: (775)235-2222

DECLARATION

(NRS 53.045)

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT: (1) I AM A PARTY HEREIN, (2) I HAVE READ THE STATEMENTS CONTAINED IN THE MOTION FOR RECONSIDERATION OR HAVE HAD THEM READ TO ME, (3) THE STATEMENTS MADE ARE FROM MY OWN PERSONAL KNOWLEDGE OR INFORMATION FROM A RELIABLE SOURCE, (4) I BELIEVE THESE STATEMENTS TO BE TRUE, AND (5) THE REQUESTED RELIEF IS NEEDED.

Dated this 7th day of June, 2021.



MICHAEL LUCERO

DECLARATION

(NRS 53.045)

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT: (1) I AM A PARTY HEREIN, (2) I HAVE READ THE STATEMENTS CONTAINED IN THE MOTION FOR RECONSIDERATION OR HAVE HAD THEM READ TO ME, (3) THE STATEMENTS MADE ARE FROM MY OWN PERSONAL KNOWLEDGE OR INFORMATION FROM A RELIABLE SOURCE, (4) I BELIEVE THESE STATEMENTS TO BE TRUE , AND (5) THE REQUESTED RELIEF IS NEEDED.

Dated this 7 day of June, 2021.



PAMELA LUCERO

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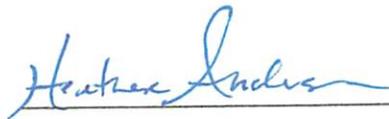
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I work with AMENS LAW, LTD, and that on the 7th day of June, 2021, I served a copy of the MOTION FOR RECONSIDERATION by delivering a true and correct copy of same in a sealed envelope, properly addressed via First Class

Mail to the following:

Travis W. Gerber, Esq.
GERBER LAW OFFICES, LLP
491 4th Street
Elko, NV 89801

Michelle Rodriquez, Esq.
P.O. Box 704
Wells, NV 89835



HEATHER ANDERSEN, Paralegal

EXHIBIT A

EXHIBIT A

1 *The Undersigned hereby affirms this document*
2 *does not contain a social security number.*

2021 MAR 26 PM 4:35

CLERK 48 DISTRICT COURT

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6 **IN THE FOURTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF ELKO**
8

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10 **IN THE MATTER OF THE GUARDIANSHIP**
11 **OF THE PERSON AND ESTATE OF**

CASE NO. PR-GU-18-67
DEPT. NO. 1

12 **PAISLEY GRACE STONE (dob 5/27/16), and**
13 **CARTAR THOMAS FERGUSON**
14 **(dob 1/17/18).**

LETTER FROM MOTHER PER
REQUEST OF JUDGE

Judge Hill

March 15, 2021

My name is Kristin Stone. I would like to ask you to please give my kids back. (Paisly and Carter.) I love them so much we have lost so much time together Mayce and I need and want them in our life I will do my best. If they cant be with me I want them to be with my granny (Pamela Lucero) and my papa (Michael Lucero) so my kids can be kept together and I can be apart of there lives. My grandparents love us all and will support us as a family.

