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

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Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

OFFICE OF THE CLERK

IN THE MATTER OF THE
GUARDIANSHIP OF THE PERSON
AND ESTATES OF C.T.F. AND
P.G.S., MINOR PROTECTED
PERSONS.

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

FAST TRACK REPLY

1. Appellants, Pamela and Michael Lucero, (hereinafter "Lucero's"
or "Appellants"), by and through their attorney, Debra M. Amens, Esq. of Amens
Law, Ltd., hereby files this Fast Track Reply to Respondents Fast Track Response.

2. Appellant's Attorney contact information is:

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There are several points that dispel the arguments raised by Respondent's
Fast Track Response.

1 A. APPELLANTS RESPONSE TO "STATEMENT OF FACTS" IN
2 RESPONDENT's BRIEF

3 Respondents' brief starts by stating that the Court found by clear and
4 convincing evidence that the children are in need of guardianship. While the Court
5 stated that, in its Order dated May 13, 2021, it did not have adequate evidence in
6 support of the statement. The Luceros are not attempting to relitigate the facts rather
7 to point out the lack of evidence presented such that a Court could find by clear and
8 convincing evidence the Mother was unfit and/or that the Luceros were unsuitable.
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10 Respondent indicates that a consent was filed by the paternal father of Cartar
11 Ferguson, Appellant does not have a copy of a filed consent. There was no evidence
12 presented that Mother was abusing methamphetamine other than the claims of the
13 Guardians. Mother consistently refuted that claim at every court appearance. The
14 only evidence submitted of substance abuse was presumptive positive test taken of
15 the biological father of Cartar after sworn testimony by his Mother that he was sober
16 and no longer using methamphetamines. *TR2pp172-173*.
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18 The Court references that Mother had been appointed an attorney who she
19 failed to stay in contact with, but no testimony was evinced from Mother on why
20 she had failed to utilize his services. The Court indicated that on the final day,
21 Mother appeared to be 'confused'. Basically, Mother clearly objected that any
22 Guardianship was needed, because she was successfully caring for her younger
23 daughter and was in a committed relationship with the child's Father. She clearly
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1 stated that if the Court was going to continue a Guardianship, then she would still
2 like access to the children and that she believed that would only be accomplished if
3 Appellants were the Guardians. *Tr3pp46-47*. She clearly repeated her consistent
4 message to the court in her closing letter. Mother was not confused as to what she
5 wanted and what the court asked her to weigh in on. She was confused why the
6 Court would continue an unnecessary guardianship because both the childrens
7 counselor and the family advocate spoke about the focus of the guardianship needed
8 to be on reunifying the children with their Mother. *Tr3p15, Tr3p61*. Mother,
9 throughout this ordeal, has been focusing on the needs of her children – she asked
10 for help when she needed it and she determined how best to maximize the time she
11 had with the children when the Temporary Guardianship was in place. She was
12 also right about which Guardianship would allow her access to her children.
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18 There was no evidence presented that the children were in poor condition
19 when the Guardianship started, showing that Mother had the capacity, even then
20 when she was stricken with grief, to ensure the children were well cared for.
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22 The Court failed to give appropriate weight to the Respondents' actions in
23 establishing the Guardianship under the pretext that Mother had consented. They
24 basically pressured her to sign over her children and then sent her out of state to get
25 rid of her. She testified that she wanted Appellants to be granted Guardians if the
26 court was going to continue the Guardianship so that she would be able to continue
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1 to be with her children as they were closely bonded and that without Appellants'
2 appointment she would not be able to see her children AND that is exactly what
3 happened. Respondents' brief claims that Appellants and Mother moved to
4 Colorado immediately after the Order was issued – that is not true, they only left
5 Nevada after Respondents' made it clear that there would be no in-person visitation
6 and only monitored video visitation which also is not occurring. These denials have
7 been devastating to Appellants and Mother; so devastating that the family took
8 solace with other family members living in Colorado. Appellants still have their
9 home in Elko County and have driven back (771 miles one-way) when the one in-
10 person visit was allowed (November). Since the order, Mother and Appellants have
11 been able to see the children for one (1) hour at Paisley's graduation (June) and a
12 two (2) hour visit in November.

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18 Appellants were understandably upset with how the Guardianship was
19 initiated and have claimed, as Respondents point out in their brief, that the children
20 need to be raised by their Mother. During the temporary Guardianship, Mother and
21 the Luceros had all of the children together every other week and the Counselor
22 found that to be a real positive for the children. *TR3p68*. The Counselor also found
23 that Paisley in particular was having difficulty with the arrangement and being in
24 the care of Respondent due to issues of Respondent 'body shaming' Paisley and
25 being overly strict. *Tr3p65*. The child's pediatrician and nutritionist also counseled

1 against talking about the child's weight. *Tr3p.89*. This was a focus of Respondent,
2 who also had to be ordered by the Court to stop engaging in corporeal punishment
3 (which Respondent has admitted to).
4

5 While the Luceros were concerned about the stress the exchanges were
6 having on, primarily, Paisley, they always followed the Court's orders. In their
7 written closing argument (proposed order), they built in weekend visitations with
8 the other grandparents in order for the paternal Grandparents to maintain a strong
9 bond with the children. The Court instead, granted Respondents' guardianships
10 thereby ensuring they could remove Mother (and Appellants) from the minor
11 protected persons' lives. This is what Respondents were trying to do when they put
12 Mother on a train to California and it is what the Court allowed them get away with.
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16 **B. RESPONDENTS BRIEF FAILS TO ADDRESS THE LACK OF**
17 **FINDING ON WHAT IS IN THE BEST INTEREST OF THE**
18 **CHILDREN.**

19 Mother discussed how bonded the children were with each other and their
20 little sister. *Tr3p45*. They now have two little sisters (Mayce and Annabelle) and
21 they have only met the newborn one (1) time in November. Mother is raising these
22 other siblings, is holding down a full-time job, and remains in a committed
23 relationship; but this Court rejected her Petition to Terminate the Guardianships in
24 Cases PR-GU-18-49 (Ferguson Guardianship) and PR-GU-18-56 (McGrew
25 Guardianship), claiming it had no jurisdiction due to this appeal.
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1 Mother testified about how hard splitting up Cartar and Paisley each week
2 was for the children (as did the children's counselor). Now they are not even
3 reunified every other week and Appellants' hope, but do not know whether, they
4 are even getting visits with each other, some of the time. They are certainly not
5 getting visits with the Luceros, Mother, or their other sisters. The Court's lack of
6 findings on how this was the best course of action for the children is a critical error.
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8 The Lucero's were the only Guardians following up with physicians about
9 Cartar's early developmental issues, they were the only Guardians that contacted a
10 nutritionist about Paisley weight issues. The Luceros are the Guardians that sought
11 and paid for a counselor to help Paisley deal with her transition issues. They
12 provided for the children medical insurance and bought the lionshare of their clothes.
13 They had both children living primarily with them since their birth and it was
14 Appellants that made sure that the McGrews had an on-going relationship with
15 Paisley after their son died; and, yet it is the Appellants that can no longer have
16 visitation either in person or by video conference. Despite Respondents hint
17 otherwise, much evidence exists that, since the time of the lower Court's order, the
18 Lucero's and Mother are being denied visitation with the children; but since the
19 Court has denied Mother's Petition for Termination signed on October 15, 2021,
20 for lack of jurisdiction, that evidence is not before any court.
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1 C. APPELLANTS' OBJECTIONS OVER THE COURTS IN CAMERA
2 REVIEW OF EVIDENCE AND ITS OBJECTION TO THE
3 ATTORNEYS' CONFLICT OF INTEREST WERE PRESERVED.

4 Due process allows for Parties in a suit to see and address the evidence used
5 against them. What the lower Court saw is heresay and Appellants had no way of
6 countering what was claimed and/or pointing out why it was or was not relevant
7 and/or whether it was a complete record. The Court concludes that because there
8 was a DCFS case against the Luceros', they were not fit to be guardians but the case
9 against them resulted in the children being returned to the Luceros and the Court
10 was not privy (we surmise) on how many times DCFS placed children in the care
11 of the Luceros. This would have been elicited if there was cross examination. The
12 Appellants' also understand that there was a DCFS investigation involving the
13 McGrews because of a child's death by gunshot case that occurred in their basement
14 - but not having access to the records makes that claim impossible to show or even
15 ask about because we have no idea how complete the notes and/or documents were,
16 how far back the notes go and/or what all was included in the banker box of material
17 provided just to the Court. The Attorneys' conflict of interest also caused this case
18 to be more about Appellants' background and less about the best interest of the
19 children and accomplishing the goals of guardianship. It proved to be a devastating
20 error.

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The Court, had enough evidence to determine the best interest of the children, if it focused on that issue and addressed the factors that the Nevada Legislature encourages the Court to consider.

VERIFICATION

1. I hereby certify that this fast-track reply complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and typestyle requirements of NRAP32(a)(6) because:

X This fast-track reply has been prepared in a proportionally spaced typeface using Microsoft Office Word 360 in 14-point Times New Roman type style.

2. I further certify that this fast-track reply response complies with the page-or type-volume limitations of NRAP 3E(e)(2) because it is either:

X Proportionately spaced, has a typeface of 14 points or more,
and contains 1723 words.

3. Finally, I recognize that under NRAP 3E I am responsible for timely filing a fast-track reply and that the Supreme Court of Nevada may impose Sanctions for failing to timely file a fast-track reply. I therefore certify that the information provided in this fast-track reply is true and complete to the best of my knowledge, information and belief.

1 DATED this 14th day of December, 2021.

3 AMENS LAW, Ltd.

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5 _____
6 Debra M. Amens, Esq.
7 Nevada Bar No. 12681
8 *Attorney for Appellants*

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HEATHER ANDERSEN, Paralegal

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Supreme Court No. 83443
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**NRAP 26.1 DISCLOSURE FOR
REPLY BRIEF**

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16
17 The undersigned counsel of record certifies that the following are
18 persons and entities as described in NRAP 26.1(a), and must be disclosed. These
19 representations are made in order that the judges of this court may evaluate possible
20 disqualification or recusal.
21

22 Appellants are Pamela and Michael Lucero, represented by and through their
23 attorney, Debra M. Amens, Esq. of Amens Law, Ltd.
24

25 Respondents are Guardians of Minor Protected Person, C.T.F., Vickie and
26 Donald Ferguson, represented by and through their attorney, Travis W. Gerber, Esq.
27 of Gerber Law Offices, LLP; and,
28

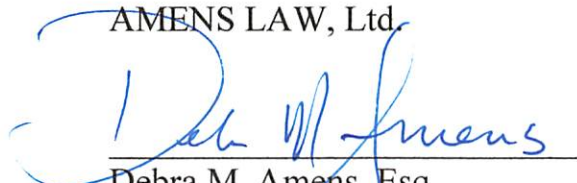
1 Guardians of Minor Protected Person, P.G.S., Maria and John McGrew, also
2 represented by and through their attorney, Travis W. Gerber, Esq. of Gerber Law
3 Offices, LLP.
4

5 Attorney for the minor protected persons, P.G. S. and C.T.F. is Diana
6 Hillawaert, Esq. of Hillawaert Law
7

8 Mother of, P.G.S. and C.T.F. is Kriston Stone, in proper person.
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10 DATED this 13th day of December, 2021.
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12 AMENS LAW, Ltd.

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15 Debra M. Amens, Esq.

16 Nevada Bar No. 12681

17 *Attorney of record for*

18 *Pamela and Michael Lucero*
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