

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

2 WILLIAM DIMONACO,

3 Appellant,

4 vs.

5 ADRIANA FERRANDO,

6 Respondent.

SUPREME COURT CASE No.: 80576

DISTRICT COURT CASE No.

D-16-539340-C

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Nov 10 2021 02:24 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

7 **RESPONDENT'S APPENDIX**

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RESPONDENT'S APPENDIX

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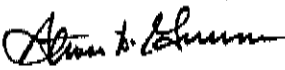
 Plaintiff's Notice of Entry of Stipulated Partial Parenting Agreement,
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CLERK OF THE COURT

1 MOT
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DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

11 WILLIAM DIMONACO,
12 Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

13 vs.

MOTION FOR TEMPORARY ORDERS

14 ADRIANA DAVINA FERRANDO,
15 Defendant.

Hearing Date: January 3, 2017
Hearing Time: 9:00 AM

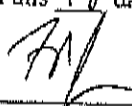
16 COMES NOW Plaintiff, William DiMonaco, by and through his counsel, F. Peter
17 James, Esq., who hereby moves this Honorable Court for the following relief:

- 18 • For an award of joint legal and joint physical custody;
- 19 • For a joint physical custody visitation schedule;
- 20 • For child support to be set pursuant to *Wright v. Osburn* and impute income on Mom;
- 21 • For confirmation that Plaintiff shall provide the child's medical insurance;
- 22 • For a standard 30/30 rule as to the child's unreimbursed medical, dental, optical,
23 surgical, and orthodontic expenses; and
- 24 • For an award of attorney's fees and costs.

///

1 This Motion is made and based on the papers and pleadings on file herein, the attached
2 points and authorities, the attached affidavit(s) / declaration(s), the attached exhibit(s), and
3 upon any oral argument the Court will entertain.


4 Dated this 18 day of November, 2016

5 
6 LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
7 Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
8 Las Vegas, Nevada 89102
702-256-0087
9 Counsel for Plaintiff

10 NOTICE OF MOTION

11 Please take notice that the present Motion shall be heard on the 3rd day of
12 January, 2017, at the hour of 9:00 a.m. in Department Q of the Eighth
13 Judicial District Court, Family Division, located at 601 North Pecos Road; Las Vegas, Nevada
14 89101 in courtroom 1.

15 Dated this 18 day of November, 2016

16 
17 LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
18 Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
19 Las Vegas, Nevada 89102
702-256-0087
20 Counsel for Plaintiff

1 POINTS AND AUTHORITIES

2 I.

3 BACKGROUND

4 Plaintiff, William DiMonaco (hereinafter "Dad"), and Defendant, Adrianna Ferrando
5 (hereinafter "Mom"), have one child together, to wit: Grayson DiMonaco-Ferrando (born
6 August 12, 2014) (hereinafter the "child"). There is no dispute as to paternity. (See Complaint
7 at ¶ 5 and Counterclaim at ¶ 4).

8 The parties started dating in May 2013 and later began to cohabitate. In March 2014,
9 the parties ended their dating relationship and Mom moved out into another apartment in the
10 same complex. The parties maintained a friendship, though. Mom was pregnant when the
11 parties ended their relationship.

12 When the child was born, Dad was in the hospital with Mom. After Mom left the
13 hospital, Dad visited the child at Mom's house—Mom's rules. Dad had begun dating Tracy
14 McAuliff ("Tracy") after he and Mom broke up.

15 In October 2014, Dad, who is active duty in the United State Air Force, was deployed
16 to Afghanistan. While deployed, Mom would send Dad pictures of the child (among other
17 pictures) and they would all Facetime.

18 Things changed drastically when Dad returned from deployment in April 2015. Mom
19 made is abundantly clear that Dad was not permitted to take the child without Mom being
20 present. Mom also made it abundantly clear that the child was forbidden from meeting Tracy.
21 Mom has not permitted Dad to have visitation away from her—for no cause whatsoever.

22 Dad initially acquiesced to Mom's demands as he hoped to eventually have the same
23 co-parenting relationship he has with his ex-wife. Dad has a fantastic co-parenting relationship
24

1 with his ex-wife regarding their child, McKenna DiMonaco (born May 24, 2011). (See
2 Affidavit of Courtney Janson filed October 21, 2016). Dad and Courtney have been co-
3 parenting fantastically well since their divorce three years ago. (*Id.*). Dad and Courtney simply
4 work things out when a co-parenting issue arises. (*Id.*). Though Dad hopes to have as good a
5 co-parenting relationship with Mom as he does with his ex-wife, Mom has other plans,
6 however.

7 Mom continues to dictate terms to Dad as to when he can see the child, how he sees
8 the child, where he sees the child, and with whom he sees the child. The coordination between
9 Dad and Mom has been through text messages. Mom will not talk with Dad about co-parenting
10 issues as she must have it in writing—this is far different than how Dad co-parents with
11 Courtney.

12 Mom has blocked Dad from the child for many reasons and for no reason. Mom has
13 denied Dad the child because she had plans with friends, she did not feel well, and for a plethora
14 of other baseless reasons. Dad has raised a child before this one and has glowing reviews from
15 his ex-wife as to his parenting and co-parenting skills. (*Id.*). Mom has no basis whatsoever
16 to deny Dad the child. Still, Dad has kept the peace.

17 From March through May 2016, Mom permitted Dad to see the child three times in
18 three months. Dad had continuously texted her to ask to see the child. Dad even missed a
19 class so that he could visit the child. When Mom did allow Dad to visit the child, the visits
20 typically lasted only 45 to 90 minutes—Mom has cut off all visitation since August 2016. The
21 visits would take place in Dad's truck, a restaurant, or at the park. Dad would even offer to
22 run errands with Mom just to spend more time with the child.

1 When Mom's relationship with her fiancé grew, Mom further restricted Dad's
2 visitation with the child. All the while, Mom grew to be more and more combative towards
3 Dad and his relationship with the child. It is Mom's plan to eliminate Dad from the picture
4 and have her fiancé be the child's stand-in father. Mom wants Dad to terminate his parental
5 rights so her fiancé may adopt the child.¹

6 Dad grew up in an abusive home. Dad knows firsthand how damaging that can be to a
7 child to grow up with the manipulation, the control, and the emotional abuse that goes with
8 them. Dad recognizes Mom's combative tendencies, as well as her manipulation and
9 controlling behaviors. This is partly why the parties broke off their relationship. Dad does not
10 want the child to grow up in such a household. Dad has not been too assertive in asserting his
11 rights to the child as to not cause more conflict, as it will negatively affect the child. Dad now
12 realizes that Mom will not change and that she will continue to frustrate his visitation unless
13 the Court steps in.

14 As stated, Dad has the co-parenting relationship with his ex-wife that the courts dream
15 that divorced / separated parents will have with each other. Dad and Courtney simply work it
16 out for the benefit of their daughter. They have not once been back to court—there is no need
17 as they work it out. Dad wants this relationship with Mom, but she is disinclined to acquiesce
18 to his request.

19 Mom has not allowed Dad to visit Grayson since August 2016.

20 ///

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23 ¹ Nevada law only permits a step-parent adoption, not a fiancé adoption. See NRS
24 127.030. As such, Mom is mistaken as to Nevada law and her desire for Dad to terminate his
parental rights is a legal impossibility.

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II.

DISCUSSION

The Court should award the parties joint legal and joint physical custody of the child both as a temporary and as a final order. The Court should also set a joint physical custody visitation schedule. The Court should set child support and impute income on Mom. The Court should confirm that Dad shall provide the child's health insurance. The Court should implement a standard 30/30 rule as to the child's unreimbursed medical, dental, optical, surgical, and orthodontic expenses. The Court should also award Dad attorney's fees and costs.

A. THE COURT SHOULD AWARD THE PARTIES JOINT LEGAL AND JOINT PHYSICAL CUSTODY OF THE CHILD

The Court should award the parties joint legal and joint physical custody of the child. There is no cause to award anything but joint legal and joint physical custody.²

NRS 125C.002 provides:

1. When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if:
 - (a) The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or
 - (b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.

² If any parent has cause to request primary physical custody of the child, it is Dad. Mom has hindered Dad's relationship with the child in favor of her new fiancé. Mom wants to force Dad out of the picture. Mom is also extremely high conflict, as will be demonstrated. Mom's precarious financial situation is also cause for Dad to have primary physical custody as Mom's financials show that she and the child (while in her care) will very soon be destitute.

- 1 2. The court may award joint legal custody without awarding joint physical
2 custody.

3 NRS 125C.0025 provides:

- 4 1. When a court is making a determination regarding the physical custody of a
5 child, there is a preference that joint physical custody would be in the best
6 interest of a minor child if:
7 (a) The parents have agreed to an award of joint physical custody or so
8 agree in open court at a hearing for the purpose of determining the
9 physical custody of the minor child; or
10 (b) A parent has demonstrated, or has attempted to demonstrate but has had
11 his or her efforts frustrated by the other parent, an intent to establish a
12 meaningful relationship with the minor child.
- 13 2. For assistance in determining whether an award of joint physical custody is
14 appropriate, the court may direct that an investigation be conducted.

15 NRS 125C.003 provides in relevant part:

- 16 1. A court may award primary physical custody to a parent if the court determines
17 that joint physical custody is not in the best interest of a child. An award of joint
18 physical custody is presumed not to be in the best interest of the child if:
19 (a) The court determines by substantial evidence that a parent is unable to
20 adequately care for a minor child for at least 146 days of the year;
21 (b) A child is born out of wedlock and the provisions of subsection 2 are
22 applicable; or
23 (c) Except as otherwise provided in subsection 6 of NRS 125C.0035 or
24 NRS 125C.210, there has been a determination by the court after an
evidentiary hearing and finding by clear and convincing evidence that a
parent has engaged in one or more acts of domestic violence against the
child, a parent of the child or any other person residing with the child.
The presumption created by this paragraph is a rebuttable presumption.
2. A court may award primary physical custody of a child born out of wedlock to:
- (a) The mother of the child if:
- (1) The mother has not married the father of the child;

1 (2) A judgment or order of a court, or a judgment or order entered
2 pursuant to an expedited process, determining the paternity of
the child has not been entered; and

3 (3) The father of the child:

4 (I) Is not subject to any presumption of paternity under NRS
126.051;

5 (II) Has never acknowledged paternity pursuant to NRS
126.053; or

6 (III) Has had actual knowledge of his paternity but has
abandoned the child.

7 (b) The father of the child if:

8 (1) The mother has abandoned the child; and

9 (2) The father has provided sole care and custody of the child in her
absence.

10 Here, the presumption of joint legal custody applies. Dad been a part of the child's life
11 to the extent that Mom has allowed it. Mom has been frustrating (to say the least) Dad's
12 attempts to have a relationship with the child. Dad is listed as the child's natural father on the
13 birth certificate. The child bears Dad's surname.

14 The preference for joint physical custody applies as well. Dad been a part of the child's
15 life to the extent that Mom has allowed it. Mom has been frustrating (to say the least) Dad's
16 attempts to have a relationship with the child. Dad is more than capable of exercising 146 days
17 a year with the child—as he does with his other child from a prior marriage. (See Affidavit of
18 Courtney Janson filed October 21, 2016). None of the disqualifying factors under NRS
19 125C.003 apply. Moreover, the newly-revised statutes (AB 263) are prospective looking and
20 do not look back at historical timeshare—for the very reason of the facts of this case. As such,
21 there is a preference for joint physical custody in this case.

22 “In determining the question of custody of children, the court's paramount
23 consideration should be the welfare of the child.” *Culbertson v. Culbertson*, 91 Nev. 230, 233,

1 533 P.2d 768, 770 (1975). The best interest factors for a custody determination are delineated
2 in NRS 125C.0035(4), which are as follows:

3 4. In determining the best interest of the child, the court shall consider and set
4 forth its specific findings concerning, among other things:

- 5 (a) The wishes of the child if the child is of sufficient age and capacity to
form an intelligent preference as to his or her custody.
- 6 (b) Any nomination by a parent or a guardian for the child.
- 7 (c) Which parent is more likely to allow the child to have frequent
associations and a continuing relationship with the noncustodial parent.
- 8 (d) The level of conflict between the parents.
- 9 (e) The ability of the parents to cooperate to meet the needs of the child.
- 10 (f) The mental and physical health of the parents.
- 11 (g) The physical, developmental and emotional needs of the child.
- 12 (h) The nature of the relationship of the child with each parent.
- 13 (i) The ability of the child to maintain a relationship with any sibling.
- 14 (j) Any history of parental abuse or neglect of the child or a sibling of the
child.
- 15 (k) Whether either parent or any other person seeking custody has engaged
in an act of domestic violence against the child, a parent of the child or
any other person residing with the child.
- 16 (l) Whether either parent or any other person seeking custody has
committed any act of abduction against the child or any other child.

17 It is in the child's best interest for the parties to have joint legal and joint physical
18 custody of the child based on the best interest factors, as follows:³

- 19 (a) The wishes of the child if the child is of sufficient age and capacity
20 to form an intelligent preference as to his or her custody

21 N/A. The child is two years old.

- 22 (b) Any nomination by a parent or a guardian for the child

23 N/A.

24 ³ The facts detailed herein also apply in this section, even if not specifically delineated.

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

Over the past two years of the child's life Mom has controlled all of Dad's and the child's interactions. Mom frequently blames Dad for his lack of interaction with the child. Dad has never been allowed to take the child without Mom's supervision. Dad has done his best to accommodate Mom's demands, but despite his efforts, nothing has change. Mom controls when and where Dad meets her to spend time with the child.

None of Dad's family or friends have meet the child because Adrianna does not like that Dad's family is not a "traditional" family. Dad refers to his ex-wife's family as his family. Dad has done his best to be accommodating to Mom and her family, while Mom has not allowed Dad's family to meet Grayson.

Mom wants nothing more than to push Dad out of the way and have her fiancé stand in as the child's father. Mom is trying to frustrate Dad's relationship to the point that he gives up. That is not going to happen.

The Court should note that Mom has withheld the child from Dad since August 2016.

(d) The level of conflict between the parents

The parties have very little contact with each other outside of the child. What conflict they do have is due to Mom withholding the child from Dad—dictating terms of visitation instead of freely giving the child to him. The parties have had text message tirades where both parties have resorted to name calling and insults. Dad takes responsibility for his improper language. Still, the disputes surround Mom purposefully withholding the child from Dad and her intent to drive him out of the child's life.

1 Dad grew up in an abusive household and does not want his children to go through
2 what he went through. Mom is very manipulative and very controlling. Her actions have
3 shown Dad that she is relentless and will stop at nothing to drive Dad out of the child's life.
4 Dad even considered severing his relationship with the child to spare him (the child) growing
5 up in a verbally abusive, manipulative, and controlling household. Dad, however, came to an
6 epiphany that Mom will engage in such verbal abuse, manipulation, and control with
7 whomever she is involved—whether it be Dad, Mom's current fiancé, or someone else.
8 Whether Dad is in the picture or not, the child will still be with a mother who thrives on conflict.
9 Dad realized that giving the child up out of love was not going to spare the child from Mom's
10 emotional abuse. That is when Dad filed the present custody action.

11 (e) The ability of the parents to cooperate to meet the needs of the child

12 Dad has an outstanding relationship with McKenna's mother and her husband. All
13 three of them work together to do what is best for McKenna, including taking vacations
14 together and coordinating care for her. (See Affidavit of Courtney Janson filed October 21,
15 2016). Dad hopes that Mom and he could have a relationship similar to this, but Mom has
16 done nothing to indicate that this is the type of relationship she would like to have with him.
17 In fact, Mom has shown that she wants Dad out of the child's life.

18 Mom must secretly envy Dad's co-parenting relationship with his ex-wife and mother
19 of his daughter as she (Mom) is so adamant about the child not meeting Dad's family. "The
20 lady doth protest too much, methinks."⁴

21
22
23 _____
24 ⁴ William Shakespeare's HAMLET: Act III, Scene II.

1 Dad's ex-wife gives Dad a glowing affidavit of his parenting and co-parenting skills.
2 Dad puts his children first. That Dad can co-parent with his ex-wife and her husband evidences
3 that he is not the problem parent. The common denominator with the lack of co-parenting is
4 Mom.

5 Oddly, Mom used to co-parent much better (though she always controlled Dad's
6 visitation). Mom used to tell Dad when the child needed diapers, when he had a doctor
7 appointment, and the like. Since Mom has been involved with her fiancé, Mom
8 communicating with Dad over such things has come to a screeching halt. Now, Mom will
9 notify Dad that the child is sick—but only when it means Dad's visitations (that were then-
10 existing) would not take place. As stated, Mom has withheld the child from Dad completely
11 since August 2016.

12 **(f) The mental and physical health of the parents**

13 Dad has no health issues (mental or physical) that would prevent him from effectively
14 parenting. Dad is not aware of any mental or physical issues with Mom that would prevent
15 her from parenting.

16 Mom clearly has issues with control, which absolutely affects co-parenting. If her
17 behaviors continue, a psychological / psychiatric evaluation might shed some light on Mom's
18 issues.

19 **(g) The physical, developmental and emotional needs of the child**

20 Dad has raised his daughter with his now ex-wife, Courtney. Dad is a great parent
21 and a great co-parent with his ex-wife. (See Affidavit of Courtney Janson filed October 21,
22 2016). Dad is actively involved with his daughter. Dad is experienced in raising children.
23 Dad is a good role model for the child as he is a college graduate, is active duty in the USAF,

1 and is a special agent in the USAF (which is akin to a police detective in civilian police forces).

2 A child needs both parents—a mother and a father.

3 As stated herein, Mom is withholding the child from Dad. Dad should be having equal
4 time with the child, but Mom has frustrated Dad's relationship with the child. This is not good
5 for the child, yet Mom is forcing this position.

6 (h) The nature of the relationship of the child with each parent

7 As stated, Mom has frustrated Dad's relationship with the child to the extreme. Mom
8 only allowed visits on her terms—take it or leave it. Dad does not accept this Morton's Fork.
9 Dad is fully involved in his daughter's life. Dad's ex-wife gives him a stellar review as a
10 parent and as a co-parent.

11 Until Mom began dating her current fiancé, Mom gave Dad better access to the child
12 than she did before she started dating him. Still, Mom has only allowed Dad visitation when
13 she is present. Dad's visitation have taken place at the park and in his truck (while parked at
14 Mom's house). Mom refuses to permit Dad to have the child away from her—as if he is an
15 unfit parent. That Mom pled the Court for sole legal and primary physical custody of the
16 child with supervised visitation to Dad is a farce. (See Answer and Counterclaim at ¶¶ 6-7).
17 That in and of itself tells the Court that Mom is a "my child" mother.

18 Dad is requesting the Court's assistance to order Mom to allow him to have a
19 relationship with the child. There is no cause whatsoever for anything other than joint legal
20 and joint physical custody of the child.

21 (i) The ability of the child to maintain a relationship with any sibling

22 Dad has another child (McKenna) who is three years older than the child at issue in
23 this litigation. Mom has not permitted the child and McKenna to have a relationship. The

1 siblings need to know each other. Mom is frustrating their relationship. McKenna asks to see
2 the child very often. McKenna knows Grayson is her brother and is troubled that she cannot
3 see him.

4 **(j) Any history of parental abuse or neglect of the child or a sibling of**
5 **the child**

6 There is no known history of abuse or neglect—other than Mom denying the child his
7 father, which is emotional abuse.

8 **(k) Whether either parent or any other person seeking custody has**
9 **engaged in an act of domestic violence against the child, a parent**
10 **of the child or any other person residing with the child**

11 There is no known history of domestic violence.

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

14 There is no known history of abduction. Given Mom's history, however, it is likely
15 that she will not follow the Court's visitation orders. Failure to follow a visitation order is,
16 technically kidnapping under Nevada law. *See* NRS 200.359(1).

17 Under the new custody laws (AB 263), Mom is committing a category D felony.
18 Current Nevada law provides that parents of a child have joint legal and joint physical custody
19 of a child until a court enters an order to the contrary. *See* NRS 125C.0015. No court has
20 entered any custody orders as to the child; thus, the joint legal and joint physical custody
21 statutory determination controls.

22 NRS 200.359(2) provides that when parents have joint legal and joint physical custody
23 under NRS 125C.0015, a parent who willfully withholds a child from the other parent with the

1 intent to frustrate the efforts of the other parent's relationship with the child is guilty of a
2 category D felony. This is precisely what is happening in this case.

3 Moreover, Nevada law provides that when a parent establishes by clear and convincing
4 evidence that the other parent has violated NRS 200.359, it is presumed that it is not in the
5 child's best interest for the offending parent to have even joint custody of the child and it is
6 presumed that the offending parent has supervised visitation. See NRS 125C.0035(7) and
7 125C.0035(8); see also NRS 125C.240. So, as it sits, Nevada law presumes that Mom should
8 not have even joint custody of the child and that her visitation should be supervised.

9 Nevada's public policy against what Mom is doing (frustrating Dad's visitation) is so
10 strong that Nevada has made her conduct a felony. Adding to that, Nevada's policy is to award
11 Dad sole legal and primary physical custody and to have Mom's visitation supervised. Now,
12 Dad is not requesting sole legal and primary physical—he is requesting joint legal and joint
13 physical custody. Dad is a reasonable parent who just wants to see the child. Mom is the bad
14 actor here who needs the Court to tell her that her actions are unacceptable. Dad hopes that
15 Mom will see the light, change her ways, and become the co-parent that he is with his other
16 child.

17 * * *

18 There is no cause for anything but joint legal and joint physical custody in this case,
19 save in favor of Dad, but he is only requesting joint physical custody.

20 Mom is frustrating Dad's relationship with the child, which, as stated, is a felony. Dad
21 is the posterchild for a proper co-parent. Dad's co-parenting relationship with his ex-wife is
22 what the Courts hope all parents will achieve—knowing that if they only even come close it
23 would be a miracle. As to his other child, Dad works it out with his ex-wife and her new

1 husband. Dad's long-time girlfriend (whom Dad's ex-wife deems equivalent to family) works
2 it out with Dad's ex-wife and her husband. So, Dad works it out with everyone in his life as
3 to his other child.

4 Still, Mom is frustrating Dad's relationship with the child at issue. The common
5 denominator for there being an issue is Mom.

6 The Court should award the parties joint legal and joint physical custody of the child.

7 **B. THE COURT SHOULD SET A JOINT PHYSICAL CUSTODY VISITATION**
8 **SCHEDULE**

9 The Court should set a visitation schedule compliant with joint physical custody. The
10 Court may make visitation orders as are in the child's best interest. *See* NRS 125C.0045(1).

11 Here, joint physical custody is proper. The Court should set a schedule that allows
12 Dad's other child (McKenna Rose DiMonaco) to have frequent associations with Grayson.
13 The regular visitation and the holidays should mirror each other for both children.⁵

14 **C. THE COURT SHOULD SET CHILD SUPPORT AND IMPUTE INCOME ON**
15 **MOM**

16 The Court should set child support pursuant to *Wright v. Osburn* and impute income
17 on Mom. As this is a joint physical custody case, the Court should set child support pursuant
18 to *Wright v. Osburn*, subject to the deviations delineated herein. As one child is at issue, child
19 support is set at 18% of the parties' gross monthly incomes, subject to offset and subject to the
20

21
22
23 ⁵ This may prove to be difficult as Dad and his ex-wife (Courtney Janson) have a semi-
24 fluid schedule as they just work out any deviations in their visitation schedule when the need
arises. (*See* Affidavit of Courtney Janson filed October 21, 2016).

1 statutory cap after the offset. *See* NRS 125B.070; *see Wright v. Osburn*, 114 Nev. 1367, 97-
2 P.2d 1071 (1998); *see also Wesley v. Foster*, 119 Nev. 110, 65 P.3d 251 (2003).

3 Dad's income is easily verifiable as he is employed by the United States Air Force.
4 Dad's income is stated in his Financial Disclosure Form. Dad's gross monthly income is
5 \$5,352. (*See* Financial Disclosure Form filed October 19, 2016).

6 Mom's income, however, is an issue. Mom provides that she has no income. (*See*
7 Financial Disclosure Form filed November 2, 2016). Mom has some college education. (*Id.*).
8 Mom has bills and a fiancé, but no contribution from him. (*Id.*). Mom offers nothing as to
9 how she pays her bills. (*Id.*).

10 The Court should impute Mom's true earning capacity on her for the calculation of
11 child support. "If a parent who has an obligation for support is willfully underemployed or
12 unemployed to avoid an obligation for support of a child, that obligation must be based upon
13 the parent's true potential earning capacity." NRS 125B.080(8). However,

14 where evidence of willful underemployment preponderates, a presumption will arise
15 that such underemployment is for the purpose of avoiding support. Once this
16 presumption arises, the burden of proving willful underemployment for reasons other
than avoidance of a support obligation will shift to the supporting parent.

17 *Minnear v. Minnear*, 107 Nev. 495, 497-98, 814 P.2d 85, 86-87 (1991).

18 Mom claims no income and specifically states that her fiancé does not assist with her
19 finances. (*See* FDF filed November 2, 2016 at 5). Mom needs to get a job before she becomes
20 homeless. Mom has an earning capacity that will be determined during discovery.

21 As a supplement / alternative to imputing income, the Court should look at Mom's
22 fiancé's income to negate Dad paying child support into Mom's household. *See Lewis v. Hicks*,

1 108 Nev. 1107, 843 P.2d 828 (1992); *see also* *Rodgers v. Rodgers*, 110 Nev. 1370, 887 P.2d
2 269 (1994).

3 The Court should also, if there is a child support obligation for Dad, award Dad a
4 deviation for the legal responsibility for supporting another child. All parents are legally
5 charged with supporting their children. *See* NRS 125B.020(1). Dad has another child from a
6 prior marriage, to wit: McKenna Rose DiMonaco (born May 24, 2011). (*See* Affidavit of
7 Courtney Janson filed October 21, 2016). Dad has McKenna half of the time. Dad should
8 receive a deviation for his legal obligation to care for another child. Deviations under NRS
9 125B.080(9) are taken after the statutory cap is applied. *See* *Garrett v. Garrett*, 111 Nev. 972,
10 899 P.2d 1112 (1995).

11 As such, the Court should set child support pursuant to joint physical custody, impute
12 income on Mom and/or consider Mom's fiancé's income to negate Dad paying child support
13 into their household, and award Dad a deviation for the care of his other child. Until the Court
14 determines Mom's true earning capacity, the Court should stay any rulings on child support.

15 **D. THE COURT SHOULD CONFIRM THAT DAD SHALL PROVIDE THE**
16 **CHILD'S HEALTH INSURANCE**

17 The Court should confirm that Dad shall provide the child's health insurance so long
18 as the same is available through his employer at a reasonable cost. Courts are permitted to
19 enter orders as to the child's care, maintenance and support as are in the child's best interest.
20 *See* NRS 125C.0045(1). Courts are required to make a determination as to the child's medical
21 insurance. *See* NRS 125B.085.

1 Here, Dad is on active duty in the United States Air Force. One of Dad's benefits is
2 medical coverage for the child. Currently, there is no cost for Dad covering the child as the
3 military takes care of the premium.

4 The Court should order Dad to provide the child's medical insurance so long as the
5 same is available through his employer at a reasonable cost. *See* NRS 125B.085(2) (defining
6 "reasonable cost").

7 **E. THE COURT SHOULD IMPLEMENT A STANDARD 30/30 RULE**

8 The Court should implement a standard 30/30 rule for the child's unreimbursed
9 medical, dental, optical, surgical, and orthodontic expenses. Courts are permitted to enter
10 orders for a child's support as are in the child's best interest. *See* NRS 125.0045(1). Absent
11 extraordinary circumstances, the parties shall equally divide the children's unreimbursed
12 medical, dental, optical, surgical, and orthodontic expenses. *See* NRS 125B.080(7).

13 Here, the Court should implement a standard 30/30 rule for the parties to equally divide
14 the child's unreimbursed medical, dental, optical surgical, and orthodontic expenses. Dad
15 offers the following 30/30 rule:

16 The child's unreimbursed medical, dental, optical, orthodontic, and mental health
17 expenses should be equally born by each party subject to the 30/30 rule. The 30/30
18 rule provides that the party paying any unreimbursed medical expenses has thirty (30)
19 days from the date the expense is paid to forward proof of payment to the opposing
20 party. If that party does not timely forward the proof of payment, then that party waives
21 the right to be reimbursed for that expense. Upon receipt of a timely-forwarded proof
22 of payment of an unreimbursed medical expense, the receiving party has thirty (30)
23 days to reimburse the paying party one-half of the expense or to object to the expense.
24 If the receiving party does not either object to the expense or reimburse the paying party
for half of the expense, then that party is subject to sanctions for contempt of court.

22 Mom has already agreed to this provision. (*Compare* Complaint at ¶ 13 with Answer
23 at 1:23). As such, the Court should implement the above 30/30 rule.

1 **F. THE COURT SHOULD AWARD DAD ATTORNEY'S FEES AND COSTS**

2 The Court should award Dad attorney's fees and costs for having to bring this matter
3 before the Court. NRS 18.010 allows the Court to liberally award fees when a party maintains
4 a frivolous position. EDCR 7.60 permits an award of fees when a party unnecessarily protracts
5 the litigation. NRS 126.171 allows the Court to award fees in a paternity / custody action.

6 Here, there is absolutely no basis for the Court to award anything other than joint legal
7 and joint physical custody of the child. Dad is the only party that has a basis for sole legal and
8 primary physical custody based upon the statutory presumption delineated herein; however,
9 Dad is only requesting joint legal and joint physical custody. Mom has been improperly
10 withholding the child. Dad is a perfectly fit parent who has an outstanding parenting and co-
11 parenting relationship with his ex-wife. Not many parents in custody litigation have a glowing
12 recommendation from an ex-spouse. Dad does.

13 In determining the reasonableness of the fees to be awarded, the Court must analyze
14 the following factors:

- 15 • The qualities of the advocate: his ability, training, education, experience, professional
16 standing, and skill;
- 17 • The character of the work to be done: its difficulty, intricacy, importance, the time and
18 skill required, the responsibility imposed, and the prominence and character of the
19 parties where they affect the importance of the litigation;
- 20 • The work actually performed by the lawyer: the skill, time, and attention given to the
21 work; and
- 22 • The result: whether the attorney was successful and what benefits were derived.

1 See *Brunzell v. Golden State Nat. Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969); see also
2 *Miller v. Wilfong*, 121 Nev. 619, 623-24, 119 P.3d 727, 730 (2005). The Court must also
3 consider the relative income of the parties as this is a domestic case. *Miller*, 121 Nev. at 623-
4 24, 119 P.3d at 730. No one element should predominate or be given undue weight. *Brunzell*,
5 85 Nev. at 349, 455 P.2d at 33.

6 As to the *Brunzell* factors, Counsel has successfully litigated countless cases in the
7 Family Division of this district court. Counsel has successfully litigated numerous appeals and
8 writ petitions at the Nevada Supreme Court. Numerous Family Court judges have confirmed
9 that Counsel's legal acumen warranted charging \$350 per hour—with none disagreeing.
10 Counsel is in his eleventh year of practice. In addition to numerous other accolades, Counsel
11 has recently been named one of the top family law attorneys in the state—and received a hand-
12 signed letter from Sen. Harry Reid regarding the same. Counsel is a court-approved Settlement
13 Master whom the Family Courts appoints cases for him to mediate on a pro bono basis. All of
14 the substantive work in this matter was performed by Counsel, not any junior associate or
15 paralegal. What work was done by a paralegal was billed at a lower rate and supervised /
16 amended by Counsel. The legal work did require review of the complex factual history and of
17 several key Nevada cases as to the issues presented. To satisfy *Miller*, the parties have each
18 filed Financial Disclosure Forms; however, the Court should be imputing income on Mom as
19 she is voluntarily unemployed. As to the result, that is up to the Court.

20 Should the Court be so inclined to award Dad attorney's fees, he will file a
21 Memorandum of Fees and Costs with the redacted billing statements to comply with *Love v.*
22 *Love*.

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III.

CONCLUSION

Based on the foregoing, the Court should enter the following orders:

- Awarding the parties joint legal and joint physical custody of the child;
- Setting a joint physical custody visitation schedule;
- Setting child support pursuant to *Wright v. Osburn* and imputing income on Mom;
- Confirming that Dad shall maintain the child's health insurance so long as the same is available through his employer at a reasonable cost;
- Implementing a standard 30/30 rule; and
- Awarding Dad attorney's fees and costs as incurred.

Dated this 18 day of November, 2016



LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89102
Counsel for Plaintiff

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 WILLIAM DIMONACO

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

WILLIAM DIMONACO

Plaintiff/Petitioner

v.

ADRIANA DAVINA FERRANDO

Defendant/Respondent

Case No. D-16-539340-C

Dept. Q

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

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

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

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

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

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

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

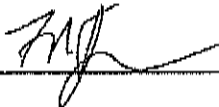
The total filing fee for the motion/opposition I am filing with this form is:

☒\$0 ☐\$25 ☐\$57 ☐\$82 ☐\$129 ☐\$154

Party filing Motion/Opposition: William DiMonaco via F. Peter James, Esq.

Date 11-18-2016

Signature of Party or Preparer



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Allen D. Lamm
CLERK OF THE COURT

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

WILLIAM DIMONICO,

Plaintiff,

V5.

ADRIANA DAVINA FERRANDO,

Defendant.

CASE NO. D-16-539340-C
DEPT. NO. Q

Hearing Date: 11/29/16
Time: 10:00 am

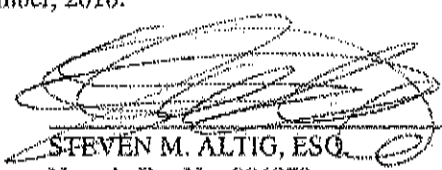
**OPPOSITION TO MOTION FOR TEMPORARY RELIEF AND COUNTERMOTION
FOR PRIMARY CUSTODY, CHILD SUPPORT, ARREARAGES, AND ATTORNEY'S
FEES**

COMES NOW the Defendant, ADRIANA FERRANDO, by and through her attorney, STEVEN M. ALTIG, ESQ., and moves this Honorable Court for the following relief:

1. For an Order denying the Plaintiff's requested relief;
2. For joint legal and primary physical custody of the parties' minor child;
3. For an order requiring the Plaintiff to pay 18% of his gross monthly income to the Defendant;
4. For an order setting constructive child support arrearages;
5. For attorney's fees;
6. For such other and further relief as this Court deems just and proper in the premises.

1 This Opposition and Countermotion is made and based upon the papers and pleadings on
2 file herein, the Affidavits on file herein, the exhibits attached hereto and incorporated herein by
3 reference, the Points and Authorities submitted herewith and any argument which may adduced
4 at the time of hearing.

5 DATED this 24th day of November, 2016.

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8 
STEVEN M. ALTIG, ESQ.

Nevada Bar No. 006879

Adras & Altig, Attorneys at Law

601 S. Seventh Street

Las Vegas, Nevada 89101

(702) 385-7227

Email: steven@adraslaw.com

Attorney for Defendant

13
14 **POINTS AND AUTHORITIES**

15 I. **DECLARATIONS AND RELEVANT FACTUAL BACKGROUND.**

16 A. **DECLARATION OF ADRIANA FERRANDO.**

17 County of Clark)
18) ss.
19 State of Nevada)

20 ADRIANA FERRANDO, hereby declares under the penalty of perjury of the laws of the State of
Nevada that the following statements are true and correct. This Declaration is made pursuant to the
provisions of NRS 53.045:

- 21 1. That the Plaintiff and I were never married but our relationship produced one
22 child to wit: GRAYSON DIMONACO-FERRANDO DOB: August 12, 2014
23 2. That the Plaintiff has not been present and involved in GRAYSON's life.
24 3. That the Plaintiff and I broke up while I was pregnant with GRAYSON.
25 4. That GRASYSON was born and I was in the hospital for 2 days. The Plaintiff
26 was present the day that GRAYSON was born. The Plaintiff left the hospital and came back to
27 visit one night. I left the hospital and notified the Plaintiff that Grayson and I were home.
28

1 5. From August 14, 2014 to October 14, 2014 the Plaintiff came to visit with
2 GRAYSON at most three (3) times. He would only spend about 10 minutes on each visit. The
3 Plaintiff said that he was too busy taking care of his other responsibilities.

4 6. Sometime around October 14, 2014, the Plaintiff was deployed to Afghanistan.
5 He did not return from Afghanistan until sometime during mid-April of 2015. While the
6 Plaintiff was in Afghanistan he asked not a single question about GRAYSON nor did he
7 Facetime with GRAYSON. All the Plaintiff would ask is that I send him dirty pictures and that I
8 have dirty Facetimes with him.

9 7. On April 13, 2015, the Plaintiff asked if he could see GRAYSON. We met at the
10 park near my house and the Plaintiff spent about 15 minutes with Grayson and then left.

11 8. That between April of 2015 through May of 2016 I would ask for the Plaintiff to
12 come visit with GRAYSON and the Plaintiff would not. I even asked the Plaintiff to set up a
13 permanent visitation schedule and he would not do that because he didn't want to let GRAYSON
14 down given his other priorities. The Plaintiff would not keep our visitation plans on most
15 occasions. During this time period the Plaintiff came to visit with GRAYSON on less than 10
16 occasions. These visitations would last about 15 minutes each. On only one occasion the
17 Plaintiff spent 45 minutes with GRAYSON. The Plaintiff would only do visitations on his lunch
18 breaks and would not allow me to bring GRAYSON to his home. In fact, I still have no idea
19 where the Plaintiff lives.

20 9. Between June 2, 2016 and August 6, 2016 the Plaintiff visited with Grayson a
21 total of about five times. Again most visits were short with the longest visit being about 45
22 minutes. I offered the Plaintiff time with GRAYSON on Father's Day and the Plaintiff refused
23 the time. The Plaintiff told me that he could not visit with GRAYSON on GRAYSON's
24 birthday because he had to go to Georgia for work. That was untrue.

25 10. August 6, 2016 was the final time that the Plaintiff saw GRAYSON.

26 11. That the Plaintiff rarely asks if he can spend time with GRAYSON.
27
28

1 12. On September 13, 2016, the Plaintiff asked if he could see GRAYSON. I told the
2 Plaintiff that I would bring GRAYSON to his house. The Plaintiff refused. He stop texting me
3 back and I didn't hear back from him for two (2) days. The Plaintiff never saw GRAYSON.

4 13. Since September 13, 2016, the Plaintiff has not asked to see GRAYSON at all.

5 14. That I have always supported a relationship between the Plaintiff and
6 GRAYSON. It is the Plaintiff who has not attempted to have a relationship with GRAYSON
7 and who has asked me twice to terminate his parental rights. These messages are conspicuously
8 missing from the messages turned in by the Plaintiff. (see Exhibit A)

9 15. The Plaintiff is emotionally unstable. He said to me on multiple occasions that he
10 wished that he would die so he wouldn't have to take care of GRAYSON. He has told me that
11 he hoped me and his ex-wife would jump off bridges. He refused to let me know where he lives.

12 16. That the Plaintiff has been a little more consistent with the payment of support.
13 That is until August of 2016. The Plaintiff has not paid a penny since August of 2016. The
14 amounts he has paid have fluctuated from time to time.

15 17. Based upon the Plaintiff's income noted on his FDF his child support obligation
16 should be \$749 per month.

17 18. During the time that the Plaintiff was paying support he did not provide payment
18 for August 2014, September 2014, September 2016, and October 2016. From October 2014
19 through December 2014 he paid \$420 per month. From January 2015 through January 2016 he
20 paid \$220 per month. From February 2016 through August 2016 he again paid \$420 per month,
21 (see the Schedule of Payments attached as Exhibit B) As a result, his initial child support
22 arrearages are in the neighborhood of \$13,912.

23 I declare under the penalty of perjury of the laws of the State of Nevada that the
24 foregoing is true and correct to the best of my information and belief.

25 Executed this 25th day of November, 2016.

26 
27 ADRIANA DAVINA FERRANDO
28 ///

1 II. ARGUMENT.

2 A. THE BEST INTEREST OF THE PARTIES' MINOR CHILD REQUIRE
3 THAT PLAINTIFF BE AWARDED SOLE LEGAL AND PRIMARY
4 PHYSICAL CUSTODY OF SAID MINOR CHILD.

5 There does not exist an order of the Court establishing custody of the minor child in this
6 action. Consequently, the "best interest" standard is the appropriate legal standard for the Court.

7 The "best interest" standard is set forth in NRS §125.480:

8 **NRS 125.480 Best interests of child; preferences; presumptions when court determines**
9 **parent or person seeking custody is perpetrator of domestic violence or has committed act**
10 **of abduction against child or any other child.**

- 11 1. In determining custody of a minor child in an action brought under this chapter, the sole
12 consideration of the court is the best interest of the child. If it appears to the court that joint
13 custody would be in the best interest of the child, the court may grant custody to the parties
14 jointly.
- 15 2. Preference must not be given to either parent for the sole reason that the parent is the mother
16 or the father of the child.
- 17 3. The court shall award custody in the following order of preference unless in a particular case
18 the best interest of the child requires otherwise:
 - 19 (a) To both parents jointly pursuant to NRS 125.490 or to either parent. If the
20 court does not enter an order awarding joint custody of a child after either parent
21 has applied for joint custody, the court shall state in its decision the reason for its
22 denial of the parent's application.
 - 23 (b) To a person or persons in whose home the child has been living and where the
24 child has had a wholesome and stable environment.
 - 25 (c) To any person related within the fifth degree of consanguinity to the child
26 whom the court finds suitable and able to provide proper care and guidance for
27 the child, regardless of whether the relative resides within this State.
 - 28 (d) To any other person or persons whom the court finds suitable and able to
provide proper care and guidance for the child.
4. In determining the best interest of the child, the court shall consider and set forth its specific
findings concerning, among other things:
 - (a) The wishes of the child if the child is of sufficient age and capacity to form
an intelligent preference as to his or her custody.
 - (b) Any nomination by a parent or a guardian for the child.
 - (c) Which parent is more likely to allow the child to have frequent associations
and a continuing relationship with the noncustodial parent.
 - (d) The level of conflict between the parents.
 - (e) The ability of the parents to cooperate to meet the needs of the child.
 - (f) The mental and physical health of the parents.
 - (g) The physical, developmental and emotional needs of the child.
 - (h) The nature of the relationship of the child with each parent.
 - (i) The ability of the child to maintain a relationship with any sibling.

1 (j) Any history of parental abuse or neglect of the child or a sibling of the child.
 2 (k) Whether either parent or any other person seeking custody has engaged in an
 3 act of domestic violence against the child, a parent of the child or any other
 4 person residing with the child.
 5 (l) Whether either parent or any other person seeking custody has committed
 6 any act of abduction against the child or any other child.
 7 5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the
 8 court after an evidentiary hearing and finding by clear and convincing evidence that either parent
 9 or any other person seeking custody has engaged in one or more acts of domestic violence
 10 against the child, a parent of the child or any other person residing with the child creates a
 11 rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic
 12 violence is not in the best interest of the child. Upon making such a determination, the court shall
 13 set forth:
 14 (a) Findings of fact that support the determination that one or more acts of
 15 domestic violence occurred; and
 16 (b) Findings that the custody or visitation arrangement ordered by the court
 17 adequately protects the child and the parent or other victim of domestic violence
 18 who resided with the child.
 19 6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each
 20 party has engaged in acts of domestic violence, it shall, if possible, then determine which person
 21 was the primary physical aggressor. In determining which party was the primary physical
 22 aggressor for the purposes of this section, the court shall consider:
 23 (a) All prior acts of domestic violence involving either party;
 24 (b) The relative severity of the injuries, if any, inflicted upon the persons
 25 involved in those prior acts of domestic violence;
 26 (c) The likelihood of future injury;
 27 (d) Whether, during the prior acts, one of the parties acted in self-defense; and
 28 (e) Any other factors which the court deems relevant to the determination.
 In such a case, if it is not possible for the court to determine which party is the primary physical
 aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is
 possible for the court to determine which party is the primary physical aggressor, the
 presumption created pursuant to subsection 5 applies only to the party determined by the court to
 be the primary physical aggressor.
 7. A determination by the court after an evidentiary hearing and finding by clear and
 convincing evidence that either parent or any other person seeking custody has committed any
 act of abduction against the child or any other child creates a rebuttable presumption that sole or
 joint custody or unsupervised visitation of the child by the perpetrator of the abduction is not in
 the best interest of the child. If the parent or other person seeking custody does not rebut the
 presumption, the court shall not enter an order for sole or joint custody or unsupervised visitation
 of the child by the perpetrator and the court shall set forth:
 (a) Findings of fact that support the determination that one or more acts of
 abduction occurred; and
 (b) Findings that the custody or visitation arrangement ordered by the court
 adequately protects the child and the parent or other person from whom the child
 was abducted.

1 8. For purposes of subsection 7, any of the following acts constitute conclusive evidence that
2 an act of abduction occurred:

3 (a) A conviction of the defendant of any violation of NRS 200.310 to 200.340,
4 inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or
5 similar conduct;

6 (b) A plea of guilty or nolo contendere by the defendant to any violation of NRS
7 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that
8 prohibits the same or similar conduct; or

9 (c) An admission by the defendant to the court of the facts contained in the
10 charging document alleging a violation of NRS 200.310 to 200.340, inclusive,
11 or 200.359 or a law of any other jurisdiction that prohibits the same or similar
12 conduct.

13 9. If, after a court enters a final order concerning custody of the child, a magistrate determines
14 there is probable cause to believe that an act of abduction has been committed against the child
15 or any other child and that a person who has been awarded sole or joint custody or unsupervised
16 visitation of the child has committed the act, the court shall, upon a motion to modify the order
17 concerning custody, reconsider the previous order concerning custody pursuant to subsections 7
18 and 8.

19 10. As used in this section:

20 (a) "Abduction" means the commission of an act described in NRS
21 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that
22 prohibits the same or similar conduct.

23 (b) "Domestic violence" means the commission of any act described in NRS
24 33.018.

25 The Court has the discretion to deviate from the presumption of "joint custody" if the
26 Court finds that the best interests of the child will not be served by an award of joint custody. In
27 a child custody case, the Court's foremost concern is the welfare of the child. Culbertson v.
28 Culbertson, 91 Nev. 230, 233, 533 P.2d 768, 770 (1975).

Here, in the case as at bar, the evidence presented to this Court establishes that the
Defendant is the parent who needs to be granted primary physical custody of GRAYSON.
GRAYSON does not know the Plaintiff. The Plaintiff's lack of a relationship with GRAYSON
is the result of his own conduct. The Defendant is the parent who keeps in mind the emotional
wellbeing of the child and has always looked out for the child's best interest. The Plaintiff has
not been present. The Plaintiff is not looking out for the emotional needs and wellbeing of
the parties' children. The Defendant should be awarded primary physical custody with the
Plaintiff having only supervised visitation until such time as the Plaintiff can develop a
relationship with GRAYSON and stability in his visitation schedule.

1 B. PLAINTIFF SHOULD BE ORDERED TO PAY PLAINTIFF 18% OF
2 HIS GROSS MONTHLY INCOME AS AND FOR THE SUPPORT AND
3 MAINTENANCE OF THE PARTIES' MINOR CHILD.

4 Once custody has been established the Plaintiff should be ordered to pay the Defendant
5 support in an amount equal to 18% of his gross monthly income.

6 N.R.S. 125B.070 provides as in relevant part follows:

7 1. As used in this section and NRS 125B.080, unless the context otherwise requires:

8
9 (a) "Gross monthly income" means the total amount of income
10 received each month from any source of a person who is not self-
11 employed or the gross income from any source of a self-employed person,
12 after deduction of all legitimate business expenses, but without deduction
13 for personal income taxes, contributions for retirement benefits,
14 contributions to a pension or for any other personal expenses.

15 (b) "Obligation for support" means the sum certain dollar amount
16 determined according to the following schedule:

- 17 (1) For one child, 18 percent;
18 (2) For two children, 25 percent;
19 (3) For three children, 29 percent;
20 (4) For four children, 31 percent; and
21 (5) For each additional child, an additional 2 percent,

22 of a parent's gross monthly income, but not more than the
23 presumptive maximum amount per month per child set forth for the
24 parent in subsection 2 for an obligation for support determined
25 pursuant to subparagraphs (1) to (4), inclusive, unless the court sets
26 forth findings of fact as to the basis for a different amount pursuant to
27 subsection 6 of NRS 125B.080.

28 2. For the purposes of paragraph (b) of subsection 1, the presumptive maximum
 amount per month per child for an obligation for support, as adjusted pursuant to
 subsection 3, is:

 There is an equal duty of each parent to contribute toward the support of their children in
proportion to their respective incomes. See NRS 125B.020(1). The needs of the child are in part
determined by the income level of the parents and the ability of each parent to contribute support

1 proportional to his or her income level.

2 Nevada's percentage of income approach reflects a public policy that, after a family
3 separation, parents should spend on their children the approximate percentage of income that
4 they would have had the family stayed together. See U.S. Department of Health and Human
5 Services, Administration For Children and Families, Office of Child Support Enforcement, *The*
6 *Treatment of Multiple Family Cases Under State Child Support Guidelines*, July, 1991, Pages 1-
7 4 (hereinafter "*Treatment*"). The statutory sum considers the child's needs as well as the income
8 that each parent should contribute to the financial responsibility of his child. The guidelines in
9 part are based on the benefit a child will receive by receiving a fair portion of the non-custodial
10 parent's income.

11 In Nevada, it was determined that 18% of the non-custodial parent's income should be
12 paid as and for the financial contribution to one child. In this case, neither parent should be
13 considered the primary custodian of the children pursuant to NRS 126.031. "Once the primary
14 custodian is identified, 'the court, then, *shall* apply the appropriate formula' and order the
15 secondary custodian to pay the formula amount." *Barbagallo vs. Barbagallo*, 105 Nev. 546, 779
16 P.2d 532, 549, 786 P.2d 673 (1991). [Emphasis added.] Further, the Supreme Court held that due
17 to "the presumptive nature of the formula, *application of the formula must be the rule, any*
18 *deviation., must be the exception.*" *Barbagallo* at 552. [Emphasis added.] The Supreme Court
19 continued by warning that "care should be taken that children do not suffer while in the care of
20 the primary custodian by reason of unwarranted reductions in the formula payments being made
21 by the secondary custodian." *Barbagallo* at 550. See also, *Lewis v. Hicks*, 108 Nev. 1107, 843
22 P.2d 828.
23

24 The Nevada Supreme Court in *Lewis*, *id.*, that "[t]he statute specifically requires that
25 child support awards be calculated from gross income and exclusive of 'any other personal
26 expenses.'" NRS 125B.070(1)(a). The legislature's purpose in using 'gross monthly' income was
27 to avoid judicial examination of the minutiae of a parent's finances." *Lewis* at 832.
28

As such, the Defendant requests an award of child support.

1 C. THE PLAINTIFF SHOULD PAY CONSTRUCTIVE CHILD SUPPORT
2 ARREAGES AS HE HAS NOT PAID SUPPORT EQUAL TO HIS
3 STAUTORY REQUIREMENT SINCE GRAYSON'S BIRTH.


4 Based upon the Plaintiff's income noted on his FDF his child support obligation should
5 be \$749 per month. During the time that the Plaintiff was paying support he did not provide
6 payment for August 2014, September 2014, September 2016, and October 2016. From October
7 2014 through December 2014 he paid \$420 per month. From January 2015 through January
8 2016 he paid \$220 per month. From February 2016 through August 2016 he again paid \$420 per
9 month. (see the Schedule of Payments attached as Exhibit B) As a result, his initial child
10 support arrearages are in the neighborhood of \$13,912.

11 D. ATTORNEY'S FEES.

12 As a result of the Plaintiff's conduct, the Defendant has been forced to file this Motion in
13 order to deal with the Plaintiff's careless behavior. The Defendant's request for attorney's fees
14 should be granted as the Defendant will be the prevailing party, pursuant to NRS 18.010 and
15 125B et. Seq.; see also Women's Fed. Sav. & Loan Ass'n v. Nevada Nat'l Bank, 623 F. Supp.
16 469 (D. Nev. 1985). Furthermore, the Defendant's request for attorney's fees is supported by
17 EDCR 5.32, EDCR 5.11, EDCR 7.60, NRS 125.180, NRS 125 et. seq., NRS 125C.180, and
18 Nevada Case Law.

19 WHEREFORE, based upon the foregoing, let an order issue granting the relief requested
20 by Plaintiff.

21 DATED this 24 day of November, 2016.

22
23 
24 STEVEN M. ALTIG, ESQ.

25 Nevada Bar No. 006879
26 Adras & Altig
27 601 S. Seventh Street
28 Las Vegas, Nevada 89101
(702) 385-7227

CERTIFICATE OF E-SERVICE

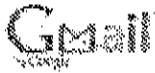
I hereby certify that I am an employee of Adras & Altig Attorneys at Law, and that on the
28th day of November, 2016, I elected to E-SERVE a true and correct filed stamped copy
of the foregoing Opposition to Motion for Temporary Relief and Countermotion for Primary
Custody, Child Support, Arrearages and Attorney's Fees, to the following:

F. Peter James, Esq.
Email: peter@peterjameslaw.com
Attorney for Plaintiff


An Employee of Adras & Altig Attorneys at Law

EXHIBIT A

RA0036



Steven Altig <steven@adraslaw.com>

Termination convo

1 message

Adriana Fwando <adriana_83@hotmail.com>
To: Steven Altig <steven@adraslaw.com>

Mon, Nov 28, 2016 at

AT&T LTE

5:13 PM



William



Thu, Aug 25, 7:10 AM

I will pay you in cash out of my savings but I want the paper work to sign if this is the way this shit is going to continue to be

I am serious I'm done I want not part of you in my life

Thu, Aug 25, 8:20 AM

What paperwork?

Thu, Aug 25, 9:47 AM

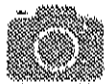
RA0037

Hello

For Jon to adopt Grayson

Thu, Aug 25, 2:51 PM

If you want to sign over your parental rights to have Jon adopt Grayson, let me know for sure. I will have my lawyer file



iMessage



●●●●● AT&T LTE

5:13 PM



William



Thu, Aug 25, 2:51 PM

If you want to sign over your parental rights to have Jon adopt Grayson, let me know for sure. I will have my lawyer file the papers.

RA0038

Yes gray needs a steady life
not this shit

Ok. Do you understand what
that entails? You will not be
responsible for him emotionally
or financially. We will need to
go to court and you will have to
say that you don't want to be
responsible for Grayson and
that you want Jon to adopt him.

Is that what you want?

Not at all but this doesn't work
and I'm done with this

So I will



iMessage



●●○○○ AT&T LTE

5:14 PM





William



If this isn't what you want then be there for him. Emotionally and financially. If you don't want to be there emotionally and financially, then let me know. Yes or No. If you do not want to be responsible for Grayson, I will have my lawyer file the papers.

I told you to have them drawn up. I want you out of my life completely and it's what's best for Grayson

If you get served with any paperwork, my attorneys name is Steve Altig.

Yes ma'am

Mon, Aug 29, 7:35 PM

The papers are drafted. Would you like to set up a time to go sign them at my attorney's



iMessage



Sent from my iPhone

RA0041

EXHIBIT B

RA0042

1 **SCHD**

2 Adras & Altig Attorneys at Law
3 Steven M. Altig, Esq.
4 Nevada Bar No. 6879
5 601 S. Seventh Street
6 Las Vegas, Nevada 89101
7 (Phone) 702-385-7227
8 (Fax) 702-974-3677
9 Email: steven@adraslaw.com
10 Attorney for Defendant

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 **WILLIAM DIMONACO**

14 Plaintiff(s),

CASE NO. D-16-539340-C

15 -vs-

DEPT. NO. Q

16 **ADRIANA DAVINA FERRANDO**

17 Defendant(s).

18 **SCHEDULE OF PAYMENTS**

19 **STATE OF CLARK)**

) ss:

20 **COUNTY OF NEVADA)**

21 ADRIANA DAVINA FERRANDO, being first sworn, deposes and says:

22 I am owed and entitled to receive certain periodic monthly payments from WILLIAM
23 DIMONACO. WILLIAM DOMONACO has failed to make all of those payments when due as
24 set forth herein. The following schedule is a true and accurate statement of all payment due
25 dates and of any payments received by me during the months noted.

26 Further, affiant sayeth naught.
27
28

1 I declare under penalty of perjury under the law of the State of Nevada that the
2 foregoing is true and correct.

3 EXECUTED this 28th day of November, 2016.

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ADRIANA DAVINA FERRANDO

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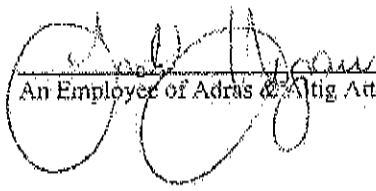
DUE DATE SET BY COURT DECREE	AMOUNT DUE THIS PAYMENT	DATE PAYMENT RECEIVED THIS MO.	AMOUNT OF PAYMENT RECEIVED	TOTAL ARREARAGES THIS MONTH
		10/01/2014	420.00	
		10/31/2014	420.00	
		12/01/2014	420.00	
		12/31/2014	220.00	
		1/30/2015	220.00	
		02/27/2015	220.00	
		04/01/2015	220.00	
		05/01/2015	220.00	
		06/01/2015	220.00	
		07/01/2016	220.00	
		07/31/2015	220.00	
		09/01/2015	220.00	
		10/01/2015	220.00	
		10/30/2015	220.00	
		12/01/2015	220.00	
		12/31/2015	220.00	
		02/01/2016	420.00	
		03/01/2016	420.00	
		04/01/2016	420.00	
		04/29/2016	420.00	
		06/01/2016	420.00	
		07/01/2016	420.00	
		08/01/2016	420.00	
		09/01/2016	0.00	
		10/01/2016	0.00	
		11/01/2016	0.00	
		12/01/2016	0.00	

(PLEASE USE ADDITIONAL PAGES FOR ADDITIONAL ENTRIES)

CERTIFICATE OF E-SERVICE

I hereby certify that I am an employee of Adrus & Altig Attorneys at Law, and that on the 28th day of November, 2016, I elected to E-SERVE a true and correct filed stamped copy of the foregoing Schedule of Payments, to the following:

F. Peter James, Esq.
Email: peter@peterjameslaw.com
Attorney for Plaintiff


An Employee of Adrus & Altig Attorneys at Law

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

William Demofaco

Plaintiff/Petitioner

Adriana Davina Lebeand

Defendant/Respondent

Case No. D-110-539340C

Dept. Q

MOTION/OPPPOSITION
FEE INFORMATION SHEET

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

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

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

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

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

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

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

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

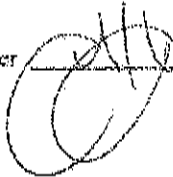
Party filing Motion/Opposition:

Steven Altig

Date

11/28/16

Signature of Party or Preparer



RA0047

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Child Custody Complaint**COURT MINUTES****November 29, 2016**

D-16-539340-C

William Eugene DiMonaco, Plaintiff.

vs.

Adriana Davina Ferrando, Defendant.

November 29,
2016

10:00 AM

All Pending Motions

HEARD BY: Duckworth, Bryce C.**COURTROOM:** Courtroom 01**COURT CLERK:** Michael A. Padilla (mp); Karen Christensen**PARTIES:**Adriana Ferrando, Defendant, Counter
Claimant, present

Steven Altig, Attorney, present

Grayson DiMonaco-Ferrando, Subject Minor,
not presentWilliam DiMonaco, Plaintiff, Counter
Defendant, present

F James, Attorney, present

JOURNAL ENTRIES

- PLAINTIFF'S MOTION TO STRIKE ANSWER AND COUNTERMOTION ... DEFENDANT'S
OPPOSITION TO MOTION TO STRIKE ANSWER AND COUNTERMOTION FOR ATTORNEY'S
FEES ... PLAINTIFF'S MOTION FOR TEMPORARY ORDERS ... DEFENDANT'S OPPOSITION TO
MOTION TO STRIKE ANSWER AND COUNTERCLAIM AND COUNTERMOTION FOR
ATTORNEY'S FEES ... EARLY CASE CONFERENCE.

Court reviewed the matters at issue. Mr. James stated Plaintiff exercises a week-on/week-off
schedule with his other child in which he and the mother co-parent very well and are flexible with
each other. Discussion regarding a visitation schedule; child exchanges; co-parenting issues;
Plaintiff's living situation; child support; and the \$2,000.00 medical expense. Following discussion,
COURT ORDERED, as follows:

PRINT DATE:	11/29/2016	Page 1 of 3	Minutes Date:	November 29, 2016
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

RA0048

1. Parties are to attend MEDIATION through the Family Mediation Center (FMC). Order for FMC Services signed and filed in OPEN COURT. RETURN HEARING set for 3/13/17 at 9:00 AM.
2. The parties shall have JOINT LEGAL CUSTODY of the minor child.
3. Defendant shall have TEMPORARY PRIMARY PHYSICAL CUSTODY of the minor child.
4. For this coming weekend, Plaintiff's VISITATION with the minor child shall be on Saturday (12/3/16) and Sunday (12/4/16) from 9:00 AM to 12:00 PM. Defendant shall be allowed to be present during this VISITATION, which shall serve more as reunification between Plaintiff and minor child (the Court does not view this as supervision). These VISITS shall take place at the Gravity Zone located on Tenaya.
5. Beginning 12/10/16 and for the month of December 2016, Plaintiff's VISITATION shall be every Saturday and Sunday from 10:00 AM to 6:00 PM. However, on Christmas day, his VISIT shall be from 12:00 PM to 6:00 PM.
6. Beginning January 2017, Plaintiff's VISITATION shall be every Saturday at 10:00 AM to Sunday at 6:00 PM. The Court expects an additional overnight to be implemented at some point.
7. CHILD EXCHANGES shall take place at the Taco Bell located on Sky Point and the 215.
8. Plaintiff is to have a car seat for the minor child.
9. Plaintiff's TEMPORARY CHILD SUPPORT obligation is set at six hundred fifty dollars (\$650.00) per month beginning December 2016, due and payable on the 1st and 15th day of each month. This amount takes into consideration a deviation for the care of another child.
10. The issue of ARREARS is DEFERRED.
11. Both parties shall continue to provide medical/health insurance for the minor child.
12. Plaintiff is to follow through with the approximately two thousand dollar (\$2,000.00) medical expense issue.
13. Any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the

PRINT DATE:	11/29/2016	Page 2 of 3	Minutes Date:	November 29, 2016
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

other party within thirty days of incurring such expense, if not tendered within the thirty day period, the Court may consider it as a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period, the party may be subject to a finding of contempt and appropriate sanctions.

14. Plaintiff's Motion to Strike Answer and Counterclaim is DENIED.

15. The request for ATTORNEY'S FEES is DENIED.

Mr. James is to prepare the Order from today's hearing with Mr. Altig to countersign.

INTERIM CONDITIONS:

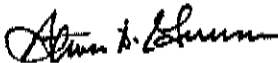
FUTURE HEARINGS: *Canceled: January 03, 2017 9:00 AM Motion*

March 13, 2017 9:00 AM Early Case Conference
Duckworth, Bryce C.
Courtroom 01

March 13, 2017 9:00 AM Return Hearing
Duckworth, Bryce C.
Courtroom 01

PRINT DATE:	11/29/2016	Page 3 of 3	Minutes Date:	November 29, 2016
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.


CLERK OF THE COURT

ORDER
LAW OFFICES OF F. PETER JAMES, ESQ.
F. Peter James, Esq.
Nevada Bar No. 10091
Peter@PeterJamesLaw.com
3821 West Charleston Boulevard, Suite 250
Las Vegas, Nevada 89102
702-256-0087
702-256-0145 (fax)
Counsel for Plaintiff

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

WILLIAM DIMONACO,

Plaintiff,

vs.

ADRIANA DAVINA FERRANDO,

Defendant.

CASE NO. : D-16-539340-C
DEPT. NO. : Q

ORDER

Hearing Date: November 29, 2016
Hearing Time: 10:00 a.m.

This matter came before the Court on the 29th day of November, 2016 on Plaintiff's Motion to Strike Answer and Counterclaim, Defendant's Opposition and Countermotion, Plaintiff's Motion for Temporary Orders (heard on shortened time), and for an Early Case Conference / Evaluation. F. Peter James, Esq. appeared with Plaintiff, William DiMonaco. Steven M. Altig, Esq. appeared with Defendant, Adriana Ferrando. The Honorable Bryce C. Duckworth presided over the matter.

The Court reviewed the matters at issue. Mr. James stated that Plaintiff exercises a week on / week off schedule with his other child and that Plaintiff and the mother of his other child co-parent very well and are flexible with each other. There was discussion regarding a

RECEIVED

FAMILY COURT
DEPARTMENT Q

1 visitation schedule, child exchanges, co-parenting issues, Plaintiff's living situation, child
2 support, and the \$2,000 medical expense.

3 The Court, having read the papers and pleadings on file herein, having heard argument
4 and from the parties, being well advised in the premises, and for sufficient cause shown, hereby
5 finds and orders as follows:

6 **THE COURT HEREBY FINDS** that it has jurisdiction over the subject matter and
7 over the parties. The minor child at issue is Grayson Ashton DiMonaco-Ferrando (born August
8 12, 2014) (hereinafter "the child"). The child was born in Nevada and has resided in Nevada
9 for his entire life. As such, the Court has the necessary UCCJEA jurisdiction to enter orders
10 as to child custody and visitation. Nevada is the child's home state and state of habitual
11 residence.

12 **THE COURT FURTHER FINDS** that Plaintiff is the child's natural father. (*Compare*
13 *Complaint at ¶ 5 with Answer at ¶ 3*). Plaintiff and Defendant signed an affidavit of paternity
14 which has not been rescinded or revoked. (*Id.*). Plaintiff appears on the child's birth certificate
15 as the child's natural father. (*Id.*).

16 **THE COURT FURTHER FINDS** that there is a statutory mandate to build parent-
17 child relationships. (Video Record at 10:29:42).

18 **THE COURT FURTHER FINDS** that, regardless of fault (which is neither being
19 decided today nor is it relevant to the statutory mandate to build relationships), Plaintiff has
20 had a limited relationship with the child. (Video Record at 10:36:20).

21 **THE COURT FURTHER FINDS** that it must determine if either parent is incapable
22 of caring for the child for at least 146 days per year. If the Court cannot make that finding,
23 then this is likely a joint physical custody case. (Video Record at 10:37:10). The Court is
24

1 gradually increasing Plaintiff's visitation, starting with daytime visits and working into
2 overnights. (Video Record at 10:38:00). The Court notes that, just because it is slowly building
3 Plaintiff's visits and is only temporarily giving him limited time, that is not necessarily where
4 the Court will end up. (Video Record at 10:38:30). Defendant is being awarded temporary
5 primary physical custody of the child, but the Court has indicated where it is headed. The law
6 provides a preference for joint physical custody unless the Court can find a deficiency in a
7 parent. The Court does not know if it can find such a deficiency with a parent who already has
8 joint physical custody of another child. (Video Record at 10:52:00).

9 **THE COURT FURTHER FINDS** that 18% of Plaintiff's gross monthly income is
10 \$963.00; however, the statutory cap for Plaintiff's income range is \$749.00. Plaintiff also has
11 another child for whom he is legally responsible to provide care. Plaintiff has joint physical
12 custody of this child, and there is no child support obligation between him and the mother of
13 that child. A deviation in child support in the amount of \$99.00 per month is appropriate.
14 (Video Record at 10:52:50).

15 Therefor,

16 **IT IS HEREBY ORDERED** that the parties shall be referred to the Family Mediation
17 Center for mediation. (Video Record at 10:29:16). The Order for the same was prepared and
18 noticed in open court. The return hearing from FMC mediation is set for Marcy 13, 2017 at
19 9:00 a.m.

20 **IT IS FURTHER ORDERED** that the Court is not striking any pleadings. (Video
21 Record at 10:29:40). Plaintiff's request to strike Defendant's Answer and Counterclaim is
22 denied. (Video Record at 10:58:00).

1 **IT IS FURTHER ORDERED** that the parties shall be awarded joint legal custody of
2 the child. (Video Record at 10:52:40).

3 **IT IS FURTHER ORDERED** that Defendant shall have temporary primary physical
4 custody of the child. (Video Record at 10:52:42).

5 **IT IS FURTHER ORDERED** that Plaintiff shall have temporary visitation as follows:

- 6 • December visitation
 - 7 o December 3rd and 4th from 9am to noon each day an agreed-upon park (if
 - 8 weather permits) or at GravityZone (Cheyenne and Tenaya). Defendant may
 - 9 be present to ease the child and to assist in reunification. (Video Record at
 - 10 10:44:56 – 10:47:50).
 - 11 o December 10th, 11th, 17th, 18th, 24th, 31st, and January 1, 2017 from 10am to 6pm
 - 12 each day. (Video Record at 10:40:05, 10:47:50).
 - 13 o December 25th from Noon until 6pm. (Video Record at 10:50:15).
- 14 • January 2017 forward until further order of the Court
 - 15 o Beginning January 7, Plaintiff shall have visitation with the child every
 - 16 weekend from Saturday at 10am until Sunday at 6pm. (Video Record at
 - 17 10:51:20).
- 18 • Until further order of the Court or by mutual agreement, the parties shall effectuate the
- 19 child exchanges at the Taco Bell at Sky Pointe and the 215 Beltway. (Video Record at
- 20 10:47:50).
- 21 • Plaintiff shall have a car seat for the child.

22 **THE COURT NOTED** that it is not ordering further visitation time at this time. The
23 Court wants to see what the parties do in mediation. The Court expects that Plaintiff will

1 receive another overnight. The Court wants to see Defendant's role as a gatekeeper. (Video
2 Record at 10:51:20).

3 **NOTICE IS HEREBY GIVEN** of the following provision of NRS 125C.0045(6):

4 Penalty for violation of order: The abduction, concealment or detention of a
5 child in violation of this order is punishable as a category D felony as provided in NRS
6 193.130. NRS 200.359 provides that every person having a limited right of custody to
7 a child or any parent having no right of custody to the child who willfully detains,
8 conceals or removes the child from a parent, guardian or other person having lawful
9 custody or a right of visitation of the child in violation of an order of this court, or
10 removes the child from the jurisdiction of the court without the consent of either the
11 court or all persons who have the right to custody or visitation is subject to being
12 punished for a category D felony as provided in NRS 193.130.

9 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention of October
10 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law
11 apply if a parent abducts or wrongfully retains a child in a foreign country. The parties are also
12 put on notice of the following provisions of NRS 125C.0045(8):

13 If a parent of the child lives in a foreign country or has significant
14 commitments in a foreign country:

15 The parties may agree, and the court shall include in the order for custody of
16 the child, that the United States is the country of habitual residence of the child for the
17 purposes of applying the terms of the Hague Convention as set forth in subsection 7.

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

21 **IT IS FURTHER ORDERED** that all parties shall be bound by the provisions of NRS
22 125C.006, which states:

- 23 1. If primary physical custody has been established pursuant to an order, judgment
24 or decree of a court and the custodial parent intends to relocate his or her

1 residence to a place outside of this State or to a place within this State that is at
2 such a distance that would substantially impair the ability of the other parent to
3 maintain a meaningful relationship with the child, and the custodial parent
desires to take the child with him or her, the custodial parent shall, before
relocating:

- 4 (a) Attempt to obtain the written consent of the noncustodial parent to
relocate with the child; and
5 (b) If the noncustodial parent refuses to give that consent, petition the court
6 for permission to relocate with the child.

7 2. The court may award reasonable attorney's fees and costs to the custodial parent
8 if the court finds that the noncustodial parent refused to consent to the custodial
parent's relocation with the child:

- 9 (a) Without having reasonable grounds for such refusal; or
10 (b) For the purpose of harassing the custodial parent.

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

13 **IT IS FURTHER ORDERED** that all parties shall be bound by the provisions of NRS
14 125C.0065, which states:

15 1. If joint physical custody has been established pursuant to an order, judgment or
16 decree of a court and one parent intends to relocate his or her residence to a
17 place outside of this State or to a place within this State that is at such a distance
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18 meaningful relationship with the child, and the relocating parent desires to take
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20 (b) If the non-relocating parent refuses to give that consent, petition the
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22 parent if the court finds that the non-relocating parent refused to consent to the
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- 23 (a) Without having reasonable grounds for such refusal; or
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1 (b) For the purpose of harassing the relocating parent.

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

5 **IT IS FURTHER ORDERED** that Plaintiff shall provide a crib for the child.
6 Defendant noted that the child cannot sleep in a toddler bed (which Plaintiff has provided) as
7 he gets up from sleeping and gets into things. (Video Record at 10:50:30).

8 **IT IS FURTHER ORDERED** that the parties shall use the child's diaper bag to
9 exchange the child's items and to exchange information on the child. (Video Record at
10 10:51:00).

11 **IT IS FURTHER ORDERED** that Plaintiff shall pay temporary child support to
12 Defendant in the amount of \$650.00 per month. (Video Record at 10:52:50). At least half of
13 the \$650.00 shall be due on the first day of each month with the remainder due by the fifteenth
14 day of each month. (Video Record at 10:54:28). This amount shall be effective December
15 2016. (Video Record at 10:57:35).

16 **IT IS FURTHER ORDERED** that Defendant's request for constructive child support
17 arrearages shall be deferred. (Video Record at 10:53:35). The issue of child support order being
18 retroactive to the filing of Defendant's motion shall also be deferred. Pursuant to *Ramacciotti*
19 *v. Ramacciotti*, 106 Nev. 529, 532, 795 P.2d 1042, 1048 (2004), the Court may make child
20 support retroactive to the filing of the motion; however, the Court is dealing with all child
21 support arrearages issues separately. (Video Record at 10:57:35).

22 **NOTICE IS HEREBY GIVEN** that the provisions of NRS 31A and 125.450 apply
23 regarding the collection of delinquent child support payments.

1 **NOTICE IS HEREBY GIVEN** that either party may request a review of child support
2 pursuant to NRS 125B.145.

3 **IT IS FURTHER ORDERED** that the each party shall continue their respective health
4 insurance coverage for the child. Plaintiff has TriCare. Defendant has Amerigroup. (Video
5 Record at 10:56:00).

6 **IT IS FURTHER ORDERED** that, in the event that there are any unreimbursed
7 medical, dental, optical, surgical, or orthodontic expenses for the child, the parties shall equally
8 divide the same pursuant to the 30/30 rule. The 30/30 rule provides that the party paying any
9 unreimbursed medical expenses has thirty (30) days from the date the expense is paid to
10 forward proof of payment to the opposing party. If that party does not timely forward the proof
11 of payment, then that party waives the right to be reimbursed for that expense. Upon receipt
12 of a timely-forwarded proof of payment of an unreimbursed medical expense, the receiving
13 party has thirty (30) days to reimburse the paying party one-half of the expense or to object to
14 the expense. If the receiving party does not either object to the expense or reimburse the paying
15 party for half of the expense, then that party is subject to sanctions for contempt of court.

16 **IT IS FURTHER ORDERED** that Plaintiff shall follow up with TriCare as to the
17 approximate \$2,000 medical bill relating to the child's birth that is currently being tossed
18 between the insurance providers. It is in the interest of both parties to have insurance cover as
19 much of the child's medical costs as possible. (Video Record at 10:55:49).

20 **IT IS FURTHER ORDERED** that both parties' respective requests for attorney's fees
21 are denied. (Video Record at 10:58:00).

22 ///

23 ///

1 **IT IS FURTHER ORDERED** that Mr. James shall prepare the Order from today's
2 hearing with Mr. Altig to countersign as to form and content. (Video Record at 10:57:25).

3 **IT IS SO ORDERED.**

4 Dated this JAN 27 day of January, 2017

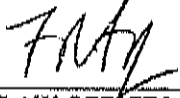
5
6 
DISTRICT COURT JUDGE mf

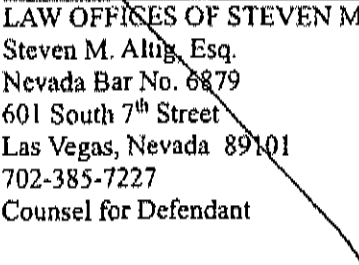
7 Respectfully submitted by

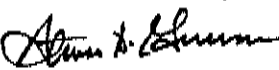
Approved as to form and content by:

8 Dated this 24 day of January, 2017

Dated this ____ day of January, 2017

9 
10 **LAW OFFICES OF F. PETER JAMES**
11 F. Peter James, Esq.
12 Nevada Bar No. 10091
13 3821 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89102
702-256-0087
Counsel for Plaintiff


LAW OFFICES OF STEVEN M. ALTIG
Steven M. Altig, Esq.
Nevada Bar No. 6879
601 South 7th Street
Las Vegas, Nevada 89101
702-385-7227
Counsel for Defendant


CLERK OF THE COURT

1 NEOJ
LAW OFFICES OF F. PETER JAMES, ESQ.
2 F. Peter James, Esq.
Nevada Bar No. 10091
3 Peter@PeterJamesLaw.com
3821 West Charleston Boulevard, Suite 250
4 Las Vegas, Nevada 89102
702-256-0087
5 702-256-0145 (fax)
Counsel for Plaintiff

6
7 **DISTRICT COURT, FAMILY DIVISION**
CLARK COUNTY, NEVADA

8 WILLIAM DIMONACO,

9 Plaintiff,

10 vs.

11 ADRIANA DAVINA FERRANDO,

12 Defendant.

CASE NO. : D-16-539340-C
DEPT. NO. : Q

NOTICE OF ENTRY OF ORDER

Hearing Date: November 29, 2016
Hearing Time: 10:00 a.m.

14 Please take notice that the attached Order was entered on January 27, 2017.

15 Dated this 7 day of February, 2017

16 

17 LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
18 Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
19 Las Vegas, Nevada 89102
702-256-0087
20 Counsel for Plaintiff

1 CERTIFICATE OF SERVICE

2 I certify that on this 7 day of February, 2017, I caused the above and
3 foregoing document entitled **NOTICE OF ENTRY OF ORDER** to be served
4 as follows:

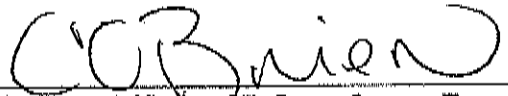
5 ☒ pursuant to EDCR 8.05(A), EDCR 8.05(F), NRCP 5(b)(2)(D)
6 and Administrative Order 14-2 captioned "In the Administrative
7 Matter of Mandatory Electronic Service in the Eighth Judicial
8 District Court," by mandatory electronic service through the
9 Eighth Judicial District Court's electronic filing system;

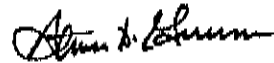
10 ☐ pursuant to EDCR 7.26 / NEFCR 9, to be sent via facsimile /
11 email;

12 to the attorney(s) / party(ies) listed below at the address(es), email address(es),
13 and/or facsimile number(s) indicated below:

14 Steven M. Altig, Esq.
15 601 South 7th Street
16 Las Vegas, Nevada 89101
17 702-385-7227
18 702-385-5351 (fax)
19 steven@adraslaw.com
20 Counsel for Defendant

19 By:


An employee of the Law Offices of F. Peter James, Esq., PLLC



CLERK OF THE COURT

1 **ORDR**
2 **LAW OFFICES OF F. PETER JAMES, ESQ.**
3 F. Peter James, Esq.
4 Nevada Bar No. 10091
5 Peter@PeterJamesLaw.com
6 3821 West Charleston Boulevard, Suite 250
7 Las Vegas, Nevada 89102
8 702-256-0087
9 702-256-0145 (fax)
10 Counsel for Plaintiff

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

13 **WILLIAM DIMONACO,**
14
15 Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

ORDER

16 vs.

17 **ADRIANA DAVINA FERRANDO,**
18
19 Defendant.

Hearing Date: November 29, 2016
Hearing Time: 10:00 a.m.

20 This matter came before the Court on the 29th day of November, 2016 on Plaintiff's
21 Motion to Strike Answer and Counterclaim, Defendant's Opposition and Countermotion,
22 Plaintiff's Motion for Temporary Orders (heard on shortened time), and for an Early Case
23 Conference / Evaluation. F. Peter James, Esq. appeared with Plaintiff, William DiMonaco.
24 Steven M. Altig, Esq. appeared with Defendant, Adriana Ferrando. The Honorable Bryce C.
Duckworth presided over the matter.

The Court reviewed the matters at issue. Mr. James stated that Plaintiff exercises a
week on / week off schedule with his other child and that Plaintiff and the mother of his other
child co-parent very well and are flexible with each other. There was discussion regarding a

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JAN 31 2017

FAMILY COURT
DEPARTMENT Q

1 visitation schedule, child exchanges, co-parenting issues, Plaintiff's living situation, child
2 support, and the \$2,000 medical expense.

3 The Court, having read the papers and pleadings on file herein, having heard argument
4 and from the parties, being well advised in the premises, and for sufficient cause shown, hereby
5 finds and orders as follows:

6 **THE COURT HEREBY FINDS** that it has jurisdiction over the subject matter and
7 over the parties. The minor child at issue is Grayson Ashton DiMonaco-Ferrando (born August
8 12, 2014) (hereinafter "the child"). The child was born in Nevada and has resided in Nevada
9 for his entire life. As such, the Court has the necessary UCCJEA jurisdiction to enter orders
10 as to child custody and visitation. Nevada is the child's home state and state of habitual
11 residence.

12 **THE COURT FURTHER FINDS** that Plaintiff is the child's natural father. (*Compare*
13 *Complaint at ¶ 5 with Answer at ¶ 3*). Plaintiff and Defendant signed an affidavit of paternity
14 which has not been rescinded or revoked. (*Id.*). Plaintiff appears on the child's birth certificate
15 as the child's natural father. (*Id.*).

16 **THE COURT FURTHER FINDS** that there is a statutory mandate to build parent-
17 child relationships. (Video Record at 10:29:42).

18 **THE COURT FURTHER FINDS** that, regardless of fault (which is neither being
19 decided today nor is it relevant to the statutory mandate to build relationships), Plaintiff has
20 had a limited relationship with the child. (Video Record at 10:36:20).

21 **THE COURT FURTHER FINDS** that it must determine if either parent is incapable
22 of caring for the child for at least 146 days per year. If the Court cannot make that finding,
23 then this is likely a joint physical custody case. (Video Record at 10:37:10). The Court is

24

1 gradually increasing Plaintiff's visitation, starting with daytime visits and working into
2 overnights. (Video Record at 10:38:00). The Court notes that, just because it is slowly building
3 Plaintiff's visits and is only temporarily giving him limited time, that is not necessarily where
4 the Court will end up. (Video Record at 10:38:30). Defendant is being awarded temporary
5 primary physical custody of the child, but the Court has indicated where it is headed. The law
6 provides a preference for joint physical custody unless the Court can find a deficiency in a
7 parent. The Court does not know if it can find such a deficiency with a parent who already has
8 joint physical custody of another child. (Video Record at 10:52:00).

9 **THE COURT FURTHER FINDS** that 18% of Plaintiff's gross monthly income is
10 \$963.00; however, the statutory cap for Plaintiff's income range is \$749.00. Plaintiff also has
11 another child for whom he is legally responsible to provide care. Plaintiff has joint physical
12 custody of this child, and there is no child support obligation between him and the mother of
13 that child. A deviation in child support in the amount of \$99.00 per month is appropriate.
14 (Video Record at 10:52:50).

15 Therefor,

16 **IT IS HEREBY ORDERED** that the parties shall be referred to the Family Mediation
17 Center for mediation. (Video Record at 10:29:16). The Order for the same was prepared and
18 noticed in open court. The return hearing from FMC mediation is set for Marcy 13, 2017 at
19 9:00 a.m.

20 **IT IS FURTHER ORDERED** that the Court is not striking any pleadings. (Video
21 Record at 10:29:40). Plaintiff's request to strike Defendant's Answer and Counterclaim is
22 denied. (Video Record at 10:58:00).

1 **IT IS FURTHER ORDERED** that the parties shall be awarded joint legal custody of
2 the child. (Video Record at 10:52:40).

3 **IT IS FURTHER ORDERED** that Defendant shall have temporary primary physical
4 custody of the child. (Video Record at 10:52:42).

5 **IT IS FURTHER ORDERED** that Plaintiff shall have temporary visitation as follows:

- 6 • December visitation
 - 7 o December 3rd and 4th from 9am to noon each day an agreed-upon park (if
 - 8 weather permits) or at GravityZone (Cheyenne and Tenaya). Defendant may
 - 9 be present to ease the child and to assist in reunification. (Video Record at
 - 10 10:44:56 – 10:47:50).
 - 11 o December 10th, 11th, 17th, 18th, 24th, 31st, and January 1, 2017 from 10am to 6pm
 - 12 each day. (Video Record at 10:40:05, 10:47:50).
 - 13 o December 25th from Noon until 6pm. (Video Record at 10:50:15).
- 14 • January 2017 forward until further order of the Court
 - 15 o Beginning January 7, Plaintiff shall have visitation with the child every
 - 16 weekend from Saturday at 10am until Sunday at 6pm. (Video Record at
 - 17 10:51:20).
- 18 • Until further order of the Court or by mutual agreement, the parties shall effectuate the
- 19 child exchanges at the Taco Bell at Sky Pointe and the 215 Beltway. (Video Record at
- 20 10:47:50).
- 21 • Plaintiff shall have a car seat for the child.

22 **THE COURT NOTED** that it is not ordering further visitation time at this time. The
23 Court wants to see what the parties do in mediation. The Court expects that Plaintiff will

1 receive another overnight. The Court wants to see Defendant's role as a gatekeeper. (Video
2 Record at 10:51:20).

3 **NOTICE IS HEREBY GIVEN** of the following provision of NRS 125C.0045(6):

4 Penalty for violation of order: The abduction, concealment or detention of a
5 child in violation of this order is punishable as a category D felony as provided in NRS
6 193.130. NRS 200.359 provides that every person having a limited right of custody to
7 a child or any parent having no right of custody to the child who willfully detains,
8 conceals or removes the child from a parent, guardian or other person having lawful
9 custody or a right of visitation of the child in violation of an order of this court, or
10 removes the child from the jurisdiction of the court without the consent of either the
11 court or all persons who have the right to custody or visitation is subject to being
12 punished for a category D felony as provided in NRS 193.130.

13 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention of October
14 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law
15 apply if a parent abducts or wrongfully retains a child in a foreign country. The parties are also
16 put on notice of the following provisions of NRS 125C.0045(8):

17 If a parent of the child lives in a foreign country or has significant
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19 The parties may agree, and the court shall include in the order for custody of
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22 Upon motion of one of the parties, the court may order the parent to post a bond
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24 or concealing the child outside the country of habitual residence. The bond must be in
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the child and returning him to his habitual residence if the child is wrongfully removed
from or concealed outside the country of habitual residence. The fact that a parent has
significant commitments in a foreign country does not create a presumption that the
parent poses an imminent risk of wrongfully removing or concealing the child.

25 **IT IS FURTHER ORDERED** that all parties shall be bound by the provisions of NRS
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28 or decree of a court and the custodial parent intends to relocate his or her

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7 Defendant noted that the child cannot sleep in a toddler bed (which Plaintiff has provided) as
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20 *v. Ramacciotti*, 106 Nev. 529, 532, 795 P.2d 1042, 1048 (2004), the Court may make child
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IT IS SO ORDERED.

Dated this JAN 27 day of January, 2017



DISTRICT COURT JUDGE

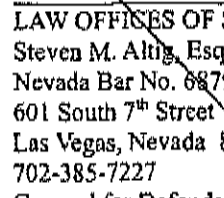
Respectfully submitted by

Approved as to form and content by:

Dated this 24 day of January, 2017

Dated this ____ day of January, 2017


LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89102
702-256-0087
Counsel for Plaintiff


LAW OFFICES OF STEVEN M. ALTIG
Steven M. Altig, Esq.
Nevada Bar No. 6879
601 South 7th Street
Las Vegas, Nevada 89101
702-385-7227
Counsel for Defendant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Child Custody Complaint**COURT MINUTES****March 13, 2017**

D-16-539340-C

William Eugene DiMonaco, Plaintiff.

vs.

Adriana Davina Ferrando, Defendant.

March 13, 2017**9:00 AM****All Pending Motions****HEARD BY:** Duckworth, Bryce C.**COURTROOM:** Courtroom 01**COURT CLERK:** Michael A. Padilla**PARTIES:**Adriana Ferrando, Defendant, Counter
Claimant, present

Steven Altig, Attorney, not present

Grayson DiMonaco-Ferrando, Subject Minor,
not presentWilliam DiMonaco, Plaintiff, Counter
Defendant, present

F James, Attorney, present

JOURNAL ENTRIES

- RETURN HEARING: FMC MEDIATION ... EARLY CASE CONFERENCE.

Attorney Paul Adras, Nevada Bar #8350, present with Defendant and on behalf of attorney Steven Altig.

Mr. James stated the parties have resolved the medical issue and the minor child is on Tricare. Mr. James stated the issue regarding Defendant going out of town at the end of the month has been resolved; Plaintiff has received an extra overnight; and there is an issue in which Defendant in communication refers to the minor child as "my child." Upon inquiry by the Court, Plaintiff stated his time is Saturday at 10:00 AM to Sunday at 6:00 PM and Thursday after work (between 4:00 PM and 4:30 PM) to Friday morning (between 6:30 AM and 7:30 AM) depending on his work schedule. Mr. Adras took issue with some of Mr. James' representation; however, he believes progress has been

PRINT DATE:	03/13/2017	Page 1 of 3	Minutes Date:	March 13, 2017
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RA0071

made and that the case can be resolved. MATTER TRAILED to allow for some discussion.

MATTER RECALLED. Mr. James stated there has been no resolution. Upon inquiry by the Court, Mr. James requested a trial date and would be requesting a large amount of attorney's fees as he does not believe this case should go to trial. COURT ORDERED, as follows:

1. Matter is set for a NON-JURY TRIAL on 6/21/17 at 1:30 PM. Each party shall have ninety (90) minutes to present their case which includes opening statements, examination time (direct and cross) and closing statements.
2. Pretrial memorandum to be exchanged and filed with courtesy copies delivered to chambers no later than 6/14/17.
3. Discovery shall close at the close of business on 6/7/17.
4. Parties are to exchange lists of witnesses no later than the close of business on 5/1/17 which is to include the name of the witness, address of the witness, telephone number and a brief description of what each witness shall have to offer. Any witness not identified in advance of the hearing who is presented at the hearing will not be permitted to testify at the hearing absent compelling circumstances. (The Court expects testimony from the parties.)
5. Parties are to exchange their proposed exhibits and they are to provide their proposed exhibits to the Court Clerk by the close of business on 6/14/17. Exhibits for Plaintiff are to be marked numerically and exhibits for Defendant are to be marked alphabetically. Exhibits are not to be filed.
6. There shall be no modification to the physical custody designation at this time.
7. Plaintiff shall continue to have TEMPORARY VISITATION with the minor child on Saturday at 10:00 AM to Sunday at 6:00 PM and Thursday after work (between 4:00 PM and 4:30 PM) to Friday morning (between 6:30 AM and 7:30 AM).

Mr. James is to prepare the Order from today's hearing with Mr. Adras to countersign.

INTERIM CONDITIONS:

FUTURE HEARINGS: June 21, 2017 1:30 PM Non-Jury Trial
Duckworth, Bryce C.
Courtroom 01

PRINT DATE:	03/13/2017	Page 2 of 3	Minutes Date:	March 13, 2017
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PRINT DATE:	03/13/2017	Page 3 of 3	Minutes Date:	March 13, 2017
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ORIGINAL

Alvin D. Quinn
CLERK OF THE COURT

ORDER

LAW OFFICES OF F. PETER JAMES, ESQ.

F. Peter James, Esq.

Nevada Bar No. 10091

Peter@PeterJamesLaw.com

3821 West Charleston Boulevard, Suite 250

Las Vegas, Nevada 89102

702-256-0087

702-256-0145 (fax)

Counsel for Plaintiff

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

WILLIAM DIMONACO,

Plaintiff,

vs.

ADRIANA DAVINA FERRANDO,

Defendant.

CASE NO. : D-16-539340-C

DEPT. NO. : Q

ORDER

Hearing Date: March 13, 2017

Hearing Time: 9:00 a.m.

This matter came before the Court on the 13th day of March, 2017 at 9:00 a.m. on a Return Hearing from Family Mediation Center (FMC) Mediation and Early Case Conference. F. Peter James, Esq. appeared with Plaintiff, William DiMonaco. Paul Adras, Esq. appeared on behalf of Steven Altig, Esq. with Defendant Adriana Ferrando. The Honorable Bryce C. Duckworth presided over the matter.

RECEIVED

APR 07 2017

**FAMILY COURT
DEPARTMENT Q**

1 The Court, having read the papers and pleadings on file herein, having
2 heard argument and from the parties, being well advised in the premises, and for
3 sufficient cause shown, hereby notes, finds and orders as follows:

4 **THE COURT NOTES** that it has already ordered joint legal custody on
5 a temporary basis and expects that to be the final order upon resolution of the
6 matter. (Video Record at 08:18:27).

7 **THE COURT NOTES** that the current schedule that the parties are
8 following is very close to a joint custody schedule and that one overnight would
9 need to be added to make a schedule that the Court would view as a joint physical
10 custody schedule. (Video Record at 08:15:27).

11 **THE COURT NOTES** that it would have to make a determination that
12 Plaintiff could not exercise 146 days of visitation each year in order to make
13 permanent the temporary primary physical custody to Defendant. (Video Record
14 at 09:59:37).

15 **THE COURT HEREBY FINDS** that a letter was received from FMC
16 indicating that mediation services were complete but that an agreement was not
17 reached. (Video Record at 08:09:52)¹.

18

19

20

¹ The time stamp was not updated to reflect Daylight Savings Time.

1 **THE COURT FURTHER FINDS** that the parties have resolved the
2 medical issue and the child is now enrolled in Tricare. (Video Record at
3 08:10:09).

4 **THE COURT FURTHER FINDS** that the issue regarding Defendant
5 going out of town at the end of the month has been resolve. (Video Record at
6 08:10:34).

7 **THE COURT FURTHER FINDS** that Plaintiff has gotten his extra
8 overnight as the Court had requested at the last hearing with attorney involvement
9 to reach the resolution. (Video Record at 08:11:19).

10 **THE COURT FURTHER FINDS** that the matter was trailed to allow the
11 parties to have further discussion. (Video Record at 08:18:50).

12 **THE COURT FURTHER FINDS** that the matter was recalled without
13 resolution of the issues. (Video Record at 09:56:19).

14 Therefor,

15 **IT IS HEREBY ORDERED** that the matter is set for Non-Jury Trial on
16 June 21, 2017 at 1:30 p.m. Each party shall have ninety (90) minutes to present
17 their case with includes opening statement, examination time (direct and cross),
18 and closing statements. (Video Record at 09:57:37).

19 **IT IS FURTHER ORDERED** that discovery shall close on June 7, 2017.
20 (Video Record at 09:58:30).

1 **IT IS FURTHER ORDERED** that Pretrial Memoranda shall be
2 exchanged and filed with courtesy copies delivered to chambers no later than
3 June 14, 2017. (Video Record at 09:58:38).

4 **IT IS FURTHER ORDERED** that the parties are to exchange lists of
5 witnesses no later than the close of business on May 1, 2017, which are to include
6 the name of the witness, address of the witness, telephone number of the witness,
7 and a brief description of what each witness shall have to offer. Any witness not
8 identified in advance of the hearing who is presented at the hearing shall not be
9 permitted to testify at the hearing absent compelling circumstances. The Court
10 expects testimony from the parties. (Video Record at 09:58:45).

11 **IT IS FURTHER ORDERED** that the parties are to exchange their
12 proposed exhibits and they are to provide their proposed exhibits to the Court
13 Clerk by the close of business on June 14, 2017. Exhibits for Plaintiff are to be
14 marked numerically and exhibits for Defendant are to be marked alphabetically.
15 Exhibits are not to be filed. (Video Record at 09:58:38).

16 **IT IS FURTHER ORDERED** that there shall be no modification to the
17 physical custody designation at this time. (Video Record at 09:59:35).

18 **IT IS FURTHER ORDERED** that Plaintiff shall continue to have
19 temporary visitation with the minor child on Saturday at 10:00 a.m. through
20 Sunday at 6:00 p.m. and Thursday after work (between 4:00 p.m. and 4:30 p.m.)

1 through Friday morning (between 6:30 a.m. and 7:30 a.m.). (Video Record at
2 08:12:30 and 09:59:23).

3 **NOTICE IS HEREBY GIVEN** of the following provision of NRS
4 125C.0045(6):

5 Penalty for violation of order: The abduction, concealment or
6 detention of a child in violation of this order is punishable as a category D
7 felony as provided in NRS 193.130. NRS 200.359 provides that every
8 person having a limited right of custody to a child or any parent having no
9 right of custody to the child who willfully detains, conceals or removes the
10 child from a parent, guardian or other person having lawful custody or a
11 right of visitation of the child in violation of an order of this court, or
12 removes the child from the jurisdiction of the court without the consent of
13 either the court or all persons who have the right to custody or visitation is
14 subject to being punished for a category D felony as provided in NRS
15 193.130.

16 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention
17 of October 25, 1980, adopted by the 14th Session of the Hague Conference on
18 Private International Law apply if a parent abducts or wrongfully retains a child
19 in a foreign country. The parties are also put on notice of the following provisions
20 of NRS 125C.0045(8):

 If a parent of the child lives in a foreign country or has significant
commitments in a foreign country:

 The parties may agree, and the court shall include in the order for
custody of the child, that the United States is the country of habitual
residence of the child for the purposes of applying the terms of the Hague
Convention as set forth in subsection 7.

1 Upon motion of one of the parties, the court may order the parent to
2 post a bond if the court determines that the parent poses an imminent risk
3 of wrongfully removing or concealing the child outside the country of
4 habitual residence. The bond must be in an amount determined by the
5 court and may be used only to pay for the cost of locating the child and
6 returning him to his habitual residence if the child is wrongfully removed
7 from or concealed outside the country of habitual residence. The fact that
8 a parent has significant commitments in a foreign country does not create
9 a presumption that the parent poses an imminent risk of wrongfully
10 removing or concealing the child.

11 **IT IS FURTHER ORDERED** that all parties shall be bound by the
12 provisions of NRS 125C.006, which states:

- 13 1. If primary physical custody has been established pursuant to an
14 order, judgment or decree of a court and the custodial parent intends
15 to relocate his or her residence to a place outside of this State or to
16 a place within this State that is at such a distance that would
17 substantially impair the ability of the other parent to maintain a
18 meaningful relationship with the child, and the custodial parent
19 desires to take the child with him or her, the custodial parent shall,
20 before relocating:
 - (a) Attempt to obtain the written consent of the noncustodial
parent to relocate with the child; and
 - (b) If the noncustodial parent refuses to give that consent, petition
the court for permission to relocate with the child.
2. The court may award reasonable attorney's fees and costs to the
custodial parent if the court finds that the noncustodial parent
refused to consent to the custodial parent's relocation with the child:
 - (a) Without having reasonable grounds for such refusal; or
 - (b) For the purpose of harassing the custodial parent.

- 1 3. A parent who relocates with a child pursuant to this section without
2 the written consent of the noncustodial parent or the permission of
 the court is subject to the provisions of NRS 200.359.

3 **IT IS FURTHER ORDERED** that all parties shall be bound by the
4 provisions of NRS 125C.0065, which states:

- 5 1. If joint physical custody has been established pursuant to an order,
6 judgment or decree of a court and one parent intends to relocate his
7 or her residence to a place outside of this State or to a place within
8 this State that is at such a distance that would substantially impair
 the ability of the other parent to maintain a meaningful relationship
 with the child, and the relocating parent desires to take the child with
 him or her, the relocating parent shall, before relocating:
- 9 (a) Attempt to obtain the written consent of the non-relocating
10 parent to relocate with the child; and
- 11 (b) If the non-relocating parent refuses to give that consent,
12 petition the court for primary physical custody for the purpose
 of relocating.
- 13 2. The court may award reasonable attorney's fees and costs to the
14 relocating parent if the court finds that the non-relocating parent
 refused to consent to the relocating parent's relocation with the
 child:
- 15 (a) Without having reasonable grounds for such refusal; or
- 16 (b) For the purpose of harassing the relocating parent.
- 17 3. A parent who relocates with a child pursuant to this section before
18 the court enters an order granting the parent primary physical
19 custody of the child and permission to relocate with the child is
20 subject to the provisions of NRS 200.359.


1 NOTICE IS HEREBY GIVEN that the provisions of NRS 31A and
2 125.450 apply regarding the collection of delinquent child support payments.

3 NOTICE IS HEREBY GIVEN that either party may request a review of
4 child support pursuant to NRS 125B.145.

5 IT IS FURTHER ORDERED that Mr. James shall prepare the order from
6 today's hearing with Mr. Adras to countersign. (Video Record at 10:01:03).

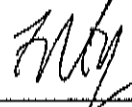
7 IT IS SO ORDERED.

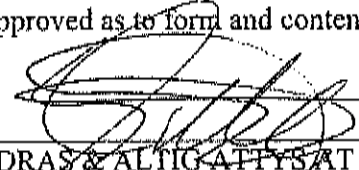
8 Dated this ____ day of _____, 2017
9 APR 13 2017

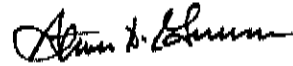
10 
DISTRICT COURT JUDGE mg

11
12 Respectfully submitted by:

Approved as to form and content by:

13 
14 LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
15 Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
16 Las Vegas, Nevada 89102
702-256-0087
17 Counsel for Plaintiff


14 ADRAS & ALTIG ATTYS AT LAW
Paul Adras, Esq.
15 Nevada Bar No. 08350
Steven Altig, Esq.
16 Nevada Bar No. 06879
601 South 7th Street
17 Las Vegas, Nevada 89101
702-385-7227
18 Counsel for Defendant


CLERK OF THE COURT

1 **NEOJ**
2 LAW OFFICES OF F. PETER JAMES, ESQ.
3 F. Peter James, Esq.
4 Nevada Bar No. 10091
5 Peter@PeterJamesLaw.com
6 3821 West Charleston Boulevard, Suite 250
7 Las Vegas, Nevada 89102
8 702-256-0087
9 702-256-0145 (fax)
10 Counsel for Plaintiff

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

13 WILLIAM DIMONACO,
14
15 Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

16 vs.

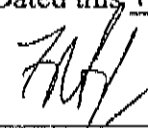
NOTICE OF ENTRY OF ORDER

17 ADRIANA DAVINA FERRANDO,
18
19 Defendant.

Hearing Date: March 13, 2017
Hearing Time: 9:00 a.m.

20 Please take notice that the attached Order was entered on April 17, 2017.

Dated this 18 day of April, 2017


21 LAW OFFICES OF F. PETER JAMES
22 F. Peter James, Esq.
23 Nevada Bar No. 10091
24 3821 W. Charleston Blvd., Suite 250
25 Las Vegas, Nevada 89102
26 702-256-0087
27 Counsel for Plaintiff

1 CERTIFICATE OF SERVICE

2 I certify that on this 18 day of April, 2017, I caused the above and
3 foregoing document entitled **NOTICE OF ENTRY OF ORDER** to be served
4 as follows:

5 ☒ pursuant to EDCR 8.05(A), EDCR 8.05(F), NRCP 5(b)(2)(D)
6 and Administrative Order 14-2 captioned "In the Administrative
7 Matter of Mandatory Electronic Service in the Eighth Judicial
8 District Court," by mandatory electronic service through the
9 Eighth Judicial District Court's electronic filing system;

10 ☐ pursuant to EDCR 7.26 / NEFCR 9, to be sent via facsimile /
11 email;

12 to the attorney(s) / party(ies) listed below at the address(es), email address(es),
13 and/or facsimile number(s) indicated below:

14 Steven M. Altig, Esq.
15 601 South 7th Street
16 Las Vegas, Nevada 89101
17 702-385-7227
18 702-385-5351 (fax)
19 steven@adraslaw.com
20 Counsel for Defendant

By: 

An employee of the Law Offices of F. Peter James, Esq., PLLC

ORIGINAL

Steven C. Duckworth
CLERK OF THE COURT

ORDER

LAW OFFICES OF F. PETER JAMES, ESQ.

F. Peter James, Esq.

Nevada Bar No. 10091

Peter@PeterJamesLaw.com

3821 West Charleston Boulevard, Suite 250

Las Vegas, Nevada 89102

702-256-0087

702-256-0145 (fax)

Counsel for Plaintiff

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

WILLIAM DIMONACO,

Plaintiff,

vs.

ADRIANA DAVINA FERRANDO,

Defendant.

CASE NO. : D-16-539340-C

DEPT. NO. : Q

ORDER

Hearing Date: March 13, 2017

Hearing Time: 9:00 a.m.

This matter came before the Court on the 13th day of March, 2017 at 9:00 a.m. on a Return Hearing from Family Mediation Center (FMC) Mediation and Early Case Conference. F. Peter James, Esq. appeared with Plaintiff, William DiMonaco. Paul Adras, Esq. appeared on behalf of Steven Altig, Esq. with Defendant Adriana Ferrando. The Honorable Bryce C. Duckworth presided over the matter.

1 of 8

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APR 07 2017

**FAMILY COURT
DEPARTMENT Q**

RA0084

1 The Court, having read the papers and pleadings on file herein, having
2 heard argument and from the parties, being well advised in the premises, and for
3 sufficient cause shown, hereby notes, finds and orders as follows:

4 **THE COURT NOTES** that it has already ordered joint legal custody on
5 a temporary basis and expects that to be the final order upon resolution of the
6 matter. (Video Record at 08:18:27).

7 **THE COURT NOTES** that the current schedule that the parties are
8 following is very close to a joint custody schedule and that one overnight would
9 need to be added to make a schedule that the Court would view as a joint physical
10 custody schedule. (Video Record at 08:15:27).

11 **THE COURT NOTES** that it would have to make a determination that
12 Plaintiff could not exercise 146 days of visitation each year in order to make
13 permanent the temporary primary physical custody to Defendant. (Video Record
14 at 09:59:37).

15 **THE COURT HEREBY FINDS** that a letter was received from FMC
16 indicating that mediation services were complete but that an agreement was not
17 reached. (Video Record at 08:09:52)¹.

18

19

20

¹ The time stamp was not updated to reflect Daylight Savings Time.

1 **THE COURT FURTHER FINDS** that the parties have resolved the
2 medical issue and the child is now enrolled in Tricare. (Video Record at
3 08:10:09).

4 **THE COURT FURTHER FINDS** that the issue regarding Defendant
5 going out of town at the end of the month has been resolve. (Video Record at
6 08:10:34).

7 **THE COURT FURTHER FINDS** that Plaintiff has gotten his extra
8 overnight as the Court had requested at the last hearing with attorney involvement
9 to reach the resolution. (Video Record at 08:11:19).

10 **THE COURT FURTHER FINDS** that the matter was trailed to allow the
11 parties to have further discussion. (Video Record at 08:18:50).

12 **THE COURT FURTHER FINDS** that the matter was recalled without
13 resolution of the issues. (Video Record at 09:56:19).

14 Therefor,

15 **IT IS HEREBY ORDERED** that the matter is set for Non-Jury Trial on
16 June 21, 2017 at 1:30 p.m. Each party shall have ninety (90) minutes to present
17 their case with includes opening statement, examination time (direct and cross),
18 and closing statements. (Video Record at 09:57:37).

19 **IT IS FURTHER ORDERED** that discovery shall close on June 7, 2017.
20 (Video Record at 09:58:30).

1 **IT IS FURTHER ORDERED** that Pretrial Memoranda shall be
2 exchanged and filed with courtesy copies delivered to chambers no later than
3 June 14, 2017. (Video Record at 09:58:38).

4 **IT IS FURTHER ORDERED** that the parties are to exchange lists of
5 witnesses no later than the close of business on May 1, 2017, which are to include
6 the name of the witness, address of the witness, telephone number of the witness,
7 and a brief description of what each witness shall have to offer. Any witness not
8 identified in advance of the hearing who is presented at the hearing shall not be
9 permitted to testify at the hearing absent compelling circumstances. The Court
10 expects testimony from the parties. (Video Record at 09:58:45).

11 **IT IS FURTHER ORDERED** that the parties are to exchange their
12 proposed exhibits and they are to provide their proposed exhibits to the Court
13 Clerk by the close of business on June 14, 2017. Exhibits for Plaintiff are to be
14 marked numerically and exhibits for Defendant are to be marked alphabetically.
15 Exhibits are not to be filed. (Video Record at 09:58:38).

16 **IT IS FURTHER ORDERED** that there shall be no modification to the
17 physical custody designation at this time. (Video Record at 09:59:35).

18 **IT IS FURTHER ORDERED** that Plaintiff shall continue to have
19 temporary visitation with the minor child on Saturday at 10:00 a.m. through
20 Sunday at 6:00 p.m. and Thursday after work (between 4:00 p.m. and 4:30 p.m.)

1 through Friday morning (between 6:30 a.m. and 7:30 a.m.). (Video Record at
2 08:12:30 and 09:59:23).

3 **NOTICE IS HEREBY GIVEN** of the following provision of NRS
4 125C.0045(6):

5 Penalty for violation of order: The abduction, concealment or
6 detention of a child in violation of this order is punishable as a category D
7 felony as provided in NRS 193.130. NRS 200.359 provides that every
8 person having a limited right of custody to a child or any parent having no
9 right of custody to the child who willfully detains, conceals or removes the
10 child from a parent, guardian or other person having lawful custody or a
11 right of visitation of the child in violation of an order of this court, or
12 removes the child from the jurisdiction of the court without the consent of
13 either the court or all persons who have the right to custody or visitation is
14 subject to being punished for a category D felony as provided in NRS
15 193.130.

16 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention
17 of October 25, 1980, adopted by the 14th Session of the Hague Conference on
18 Private International Law apply if a parent abducts or wrongfully retains a child
19 in a foreign country. The parties are also put on notice of the following provisions
20 of NRS 125C.0045(8):

 If a parent of the child lives in a foreign country or has significant
commitments in a foreign country:

 The parties may agree, and the court shall include in the order for
custody of the child, that the United States is the country of habitual
residence of the child for the purposes of applying the terms of the Hague
Convention as set forth in subsection 7.

1 Upon motion of one of the parties, the court may order the parent to
2 post a bond if the court determines that the parent poses an imminent risk
3 of wrongfully removing or concealing the child outside the country of
4 habitual residence. The bond must be in an amount determined by the
5 court and may be used only to pay for the cost of locating the child and
6 returning him to his habitual residence if the child is wrongfully removed
7 from or concealed outside the country of habitual residence. The fact that
8 a parent has significant commitments in a foreign country does not create
9 a presumption that the parent poses an imminent risk of wrongfully
10 removing or concealing the child.

11 **IT IS FURTHER ORDERED** that all parties shall be bound by the
12 provisions of NRS 125C.006, which states:

- 13 1. If primary physical custody has been established pursuant to an
14 order, judgment or decree of a court and the custodial parent intends
15 to relocate his or her residence to a place outside of this State or to
16 a place within this State that is at such a distance that would
17 substantially impair the ability of the other parent to maintain a
18 meaningful relationship with the child, and the custodial parent
19 desires to take the child with him or her, the custodial parent shall,
20 before relocating:
 - (a) Attempt to obtain the written consent of the noncustodial
parent to relocate with the child; and
 - (b) If the noncustodial parent refuses to give that consent, petition
the court for permission to relocate with the child.
2. The court may award reasonable attorney's fees and costs to the
custodial parent if the court finds that the noncustodial parent
refused to consent to the custodial parent's relocation with the child:
 - (a) Without having reasonable grounds for such refusal; or
 - (b) For the purpose of harassing the custodial parent.

- 1 3. A parent who relocates with a child pursuant to this section without
2 the written consent of the noncustodial parent or the permission of
 the court is subject to the provisions of NRS 200.359.

3 **IT IS FURTHER ORDERED** that all parties shall be bound by the
4 provisions of NRS 125C.0065, which states:

- 5 1. If joint physical custody has been established pursuant to an order,
6 judgment or decree of a court and one parent intends to relocate his
7 or her residence to a place outside of this State or to a place within
8 this State that is at such a distance that would substantially impair
 the ability of the other parent to maintain a meaningful relationship
 with the child, and the relocating parent desires to take the child with
 him or her, the relocating parent shall, before relocating:
- 9 (a) Attempt to obtain the written consent of the non-relocating
10 parent to relocate with the child; and
- 11 (b) If the non-relocating parent refuses to give that consent,
12 petition the court for primary physical custody for the purpose
 of relocating.
- 13 2. The court may award reasonable attorney's fees and costs to the
14 relocating parent if the court finds that the non-relocating parent
 refused to consent to the relocating parent's relocation with the
 child:
- 15 (a) Without having reasonable grounds for such refusal; or
- 16 (b) For the purpose of harassing the relocating parent.
- 17 3. A parent who relocates with a child pursuant to this section before
18 the court enters an order granting the parent primary physical
19 custody of the child and permission to relocate with the child is
20 subject to the provisions of NRS 200.359.

1 NOTICE IS HEREBY GIVEN that the provisions of NRS 31A and
2 125.450 apply regarding the collection of delinquent child support payments.

3 NOTICE IS HEREBY GIVEN that either party may request a review of
4 child support pursuant to NRS 125B.145.

5 IT IS FURTHER ORDERED that Mr. James shall prepare the order from
6 today's hearing with Mr. Adras to countersign. (Video Record at 10:01:03).


7 IT IS SO ORDERED.

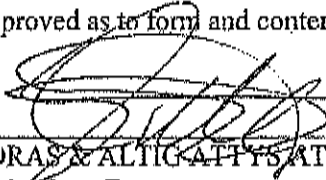
8 Dated this ____ day of _____, 2017
9 APR 13 2017

10 
DISTRICT COURT JUDGE mp

11
12 Respectfully submitted by:

Approved as to form and content by:

13 
14 LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
15 Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
16 Las Vegas, Nevada 89102
702-256-0087
17 Counsel for Plaintiff


14 ADRAS & ALTIG-ATTYS AT LAW
Paul Adras, Esq.
15 Nevada Bar No. 08350
Steven Altig, Esq.
16 Nevada Bar No. 06879
601 South 7th Street
17 Las Vegas, Nevada 89101
702-385-7227
18 Counsel for Defendant

ORIGINAL

Electronically Filed
6/12/2017 3:52 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

PAGR
LAW OFFICES OF F. PETER JAMES, ESQ.
F. Peter James, Esq.
Nevada Bar No. 10091
Pcter@PeterJamesLaw.com
3821 West Charleston Boulevard, Suite 250
Las Vegas, Nevada 89102
702-256-0087
702-256-0145 (fax)
Counsel for Plaintiff

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

WILLIAM DIMONACO,

Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

vs.

**PARTIAL PARENTING
AGREEMENT**

ADRIANA DAVINA FERRANDO,

Defendant.

STIPULATED PARTIAL PARENTING AGREEMENT

COME NOW Plaintiff, William DiMonaco (hereinafter "Dad"), by and through his counsel, F. Peter James, Esq., and Defendant, Adriana Ferrando (hereinafter "Mom"), by and through her counsel, Steven M. Altig, Esq., who stipulate and request entry of an order as follows:

1 of 9

RECEIVED
MAY 17 2017
FAMILY COURT
DEPARTMENT Q

1 **IT IS HEREBY STIPULATED** that Dad and Mom shall share joint legal
2 custody of their minor child, Grayson Ashton DiMonaco-Ferrando (born August
3 12, 2014) (hereinafter "the child").

4 **IT IS FURTHER STIPULATED** that Dad and Mom shall share joint
5 physical custody of the child effective May 1, 2017.

6 **IT IS FURTHER STIPULATED** that, for the purposes of child support
7 calculation, Mom shall have her prior income imputed upon her.

8 **IT IS FURTHER STIPULATED** that any unreimbursed medical, dental,
9 optical, surgical, and orthodontic expenses for the child shall be equally divided
10 between the parties pursuant to the 30/30 rule. The 30/30 rule provides that the
11 party paying any unreimbursed medical expenses has thirty (30) days from the
12 date the expense is paid to forward proof of payment to the opposing party. If
13 that party does not timely forward the proof of payment, then that party waives
14 the right to be reimbursed for that expense. Upon receipt of a timely-forwarded
15 proof of payment of an unreimbursed medical expense, the receiving party has
16 thirty (30) days to reimburse the paying party one-half of the expense or to object
17 to the expense. If the receiving party does not either object to the expense or
18 reimburse the paying party for half of the expense, then that party is subject to
19 sanctions for contempt of court.

20 ///

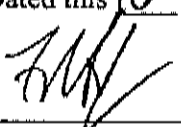
1 **IT IS FURTHER STIPULATED** that the parties shall alternate the tax
2 deduction for the child with Dad claiming the tax deduction in even years and
3 Mom claiming the tax deduction in odd years.

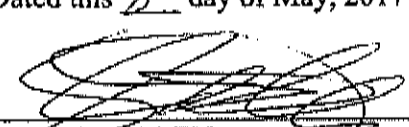
4 **IT IS FURTHER STIPULATED** that, as the parties have resolved the
5 main issues of child custody (both legal and physical) and as the parties have
6 agreed that Mom shall have her prior income imputed upon her, the non-jury trial
7 date of June 21, 2017 at 1:30 p.m. should be vacated and set as the date for the
8 unresolved issues to be argued. The parties have agreed to argue the outstanding
9 issues of the regular schedule, the holiday / vacation schedule, and child support
10 arrears, as well as any other outstanding issues (should the parties not resolve the
11 same).

12 **IT IS SO STIPULATED.**

13 Dated this 16 day of May, 2017

Dated this 24 day of May, 2017

14 
15 LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
16 Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
17 Las Vegas, Nevada 89102
702-256-0087
18 Counsel for Plaintiff

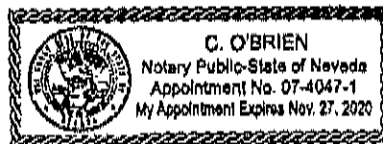

15 ADRIAS & ALTIG
Steven M. Altig, Esq.
16 Nevada Bar No. 6879
601 South 7th Street
17 Las Vegas, Nevada 89101
702-385-7227
18 Counsel for Defendant

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I am the Plaintiff herein, and I have read the foregoing *Partial Parenting Agreement* and know the contents thereof; that the same is true and correct to the best of my knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

WILLIAM DIMONACO

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)



SUBSCRIBED and SWORN to before me by William DiMonaco
this 16 day of May, 2017

NOTARY PUBLIC in and for said County and State

1 MOM'S VERIFICATION

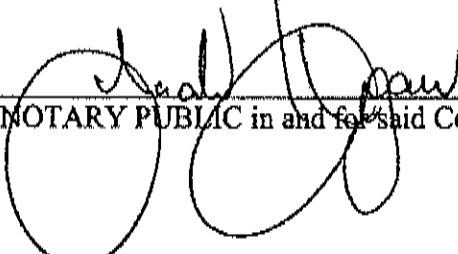
2 Adriana Ferrando being first duly sworn under penalties of perjury,
3 deposes and says:

4 I am the Defendant herein, and I have read the foregoing *Partial Parenting*
5 *Agreement* and know the contents thereof; that the same is true and correct to the
6 best of my knowledge, except as to those matters therein stated upon information
7 and belief, and as to those matters, I believe them to be true.

8 
9 ADRIANA FERRANDO

10 STATE OF CLARK)
11) ss.
12 COUNTY OF CLARK)

12 SUBSCRIBED and SWORN to before me by
13 Adriana Ferrando this 28th day of May, 2017

14 
15 NOTARY PUBLIC in and for said County and State
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1 If a parent of the child lives in a foreign country or has significant
2 commitments in a foreign country:

3 The parties may agree, and the court shall include in the order for
4 custody of the child, that the United States is the country of habitual
5 residence of the child for the purposes of applying the terms of the Hague
6 Convention as set forth in subsection 7.

7 Upon motion of one of the parties, the court may order the parent to
8 post a bond if the court determines that the parent poses an imminent risk
9 of wrongfully removing or concealing the child outside the country of
10 habitual residence. The bond must be in an amount determined by the
11 court and may be used only to pay for the cost of locating the child and
12 returning him to his habitual residence if the child is wrongfully removed
13 from or concealed outside the country of habitual residence. The fact that
14 a parent has significant commitments in a foreign country does not create
15 a presumption that the parent poses an imminent risk of wrongfully
16 removing or concealing the child.

17 **IT IS FURTHER ORDERED** that all parties shall be bound by the
18 provisions of NRS 125C.006, which states:

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

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

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

- 1 2. The court may award reasonable attorney's fees and costs to the
2 custodial parent if the court finds that the noncustodial parent
3 refused to consent to the custodial parent's relocation with the child:
- 4 (a) Without having reasonable grounds for such refusal; or
- 5 (b) For the purpose of harassing the custodial parent.
- 6 3. A parent who relocates with a child pursuant to this section without
7 the written consent of the noncustodial parent or the permission of
8 the court is subject to the provisions of NRS 200.359.

9 **IT IS FURTHER ORDERED** that all parties shall be bound by the
10 provisions of NRS 125C.0065, which states:

- 11 1. If joint physical custody has been established pursuant to an order,
12 judgment or decree of a court and one parent intends to relocate his
13 or her residence to a place outside of this State or to a place within
14 this State that is at such a distance that would substantially impair
15 the ability of the other parent to maintain a meaningful relationship
16 with the child, and the relocating parent desires to take the child with
17 him or her, the relocating parent shall, before relocating:
- 18 (a) Attempt to obtain the written consent of the non-relocating
19 parent to relocate with the child; and
- 20 (b) If the non-relocating parent refuses to give that consent,
 petition the court for primary physical custody for the purpose
 of relocating.
2. The court may award reasonable attorney's fees and costs to the
 relocating parent if the court finds that the non-relocating parent
 refused to consent to the relocating parent's relocation with the
 child:
- (a) Without having reasonable grounds for such refusal; or
- (b) For the purpose of harassing the relocating parent.

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

5 **NOTICE IS HEREBY GIVEN** that the provisions of NRS 31A and
6 125.450 apply regarding the collection of delinquent child support payments.

7 **NOTICE IS HEREBY GIVEN** that either party may request a review of
8 child support pursuant to NRS 125B.145.

9 **IT IS SO ORDERED.**

10 Dated this ____ day of May, 2017

11 JUN 08 2017

12 
13 DISTRICT COURT JUDGE 

14 Respectfully submitted by:

15 
16 LAW OFFICES OF F. PETER JAMES

17 F. Peter James, Esq.

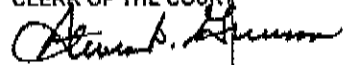
18 Nevada Bar No. 10091

19 3821 W. Charleston Blvd., Suite 250

20 Las Vegas, Nevada 89102

702-256-0087

Counsel for Plaintiff



1 **NEOJ**
LAW OFFICES OF F. PETER JAMES, ESQ.
2 F. Peter James, Esq.
Nevada Bar No. 10091
3 Peter@PeterJamesLaw.com
3821 West Charleston Boulevard, Suite 250
4 Las Vegas, Nevada 89102
702-256-0087
5 702-256-0145 (fax)
Counsel for Plaintiff

6
7 **DISTRICT COURT, FAMILY DIVISION**
CLARK COUNTY, NEVADA

8 WILLIAM DIMONACO,
9 Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

10 vs.

**NOTICE OF ENTRY OF PARTIAL
PARENTING AGREEMENT**

11 ADRIANA DAVINA FERRANDO,
12 Defendant.

13
14 ///

15 ///

16 ///

17 ///

18 ///

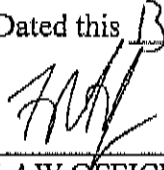
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20 ///

1 Please take notice that the attached Partial Parenting Agreement was
2 entered on June 12, 2017.

3 Dated this 13 day of June, 2017

4

5 
LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

6 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

7 Las Vegas, Nevada 89102

702-256-0087

8 Counsel for Plaintiff

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10

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1 CERTIFICATE OF SERVICE

2 I certify that on this 13 day of June, 2017, I caused the above and
3 foregoing document entitled **NOTICE OF ENTRY OF PARTIAL**
4 **PARENTING AGREEMENT** to be served as follows:

5 ☒ pursuant to EDCR 8.05(A), EDCR 8.05(F), NRCP 5(b)(2)(D)
6 and Administrative Order 14-2 captioned "In the Administrative
7 Matter of Mandatory Electronic Service in the Eighth Judicial
8 District Court," by mandatory electronic service through the
9 Eighth Judicial District Court's electronic filing system;

10 ☐ pursuant to EDCR 7.26 / NEFCR 9, to be sent via facsimile /
11 email;

12 to the attorney(s) / party(ies) listed below at the address(es), email address(es),
13 and/or facsimile number(s) indicated below:

14 Steven M. Altig, Esq.
15 601 South 7th Street
16 Las Vegas, Nevada 89101
17 702-385-7227
18 702-385-5351 (fax)
19 steven@adraslaw.com
20 Counsel for Defendant

By: COBnier

An employee of the Law Offices of F. Peter James, Esq., PLLC

● ORIGINAL ●

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6/12/2017 3:52 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

PAGR
LAW OFFICES OF F. PETER JAMES, ESQ.
F. Peter James, Esq.
Nevada Bar No. 10091
Peter@PeterJamesLaw.com
3821 West Charleston Boulevard, Suite 250
Las Vegas, Nevada 89102
702-256-0087
702-256-0145 (fax)
Counsel for Plaintiff

DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

WILLIAM DIMONACO,

Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

vs.

PARTIAL PARENTING
AGREEMENT

ADRIANA DAVINA FERRANDO,

Defendant.

STIPULATED PARTIAL PARENTING AGREEMENT

COME NOW Plaintiff, William DiMonaco (hereinafter "Dad"), by and
through his counsel, F. Peter James, Esq., and Defendant, Adriana Ferrando
(hereinafter "Mom"), by and through her counsel, Steven M. Altig, Esq., who
stipulate and request entry of an order as follows:

1 of 9

RECEIVED
MAY 17 2017
FAMILY COURT
DEPARTMENT Q

Case Number: D-16-539340-C

RA0104

1 **IT IS HEREBY STIPULATED** that Dad and Mom shall share joint legal
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8 **IT IS FURTHER STIPULATED** that any unreimbursed medical, dental,
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11 party paying any unreimbursed medical expenses has thirty (30) days from the
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13 that party does not timely forward the proof of payment, then that party waives
14 the right to be reimbursed for that expense. Upon receipt of a timely-forwarded
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16 thirty (30) days to reimburse the paying party one-half of the expense or to object
17 to the expense. If the receiving party does not either object to the expense or
18 reimburse the paying party for half of the expense, then that party is subject to
19 sanctions for contempt of court.

20 ///

1 **IT IS FURTHER STIPULATED** that the parties shall alternate the tax
2 deduction for the child with Dad claiming the tax deduction in even years and
3 Mom claiming the tax deduction in odd years.

4 **IT IS FURTHER STIPULATED** that, as the parties have resolved the
5 main issues of child custody (both legal and physical) and as the parties have
6 agreed that Mom shall have her prior income imputed upon her, the non-jury trial
7 date of June 21, 2017 at 1:30 p.m. should be vacated and set as the date for the
8 unresolved issues to be argued. The parties have agreed to argue the outstanding
9 issues of the regular schedule, the holiday / vacation schedule, and child support
10 arrears, as well as any other outstanding issues (should the parties not resolve the
11 same).

12 **IT IS SO STIPULATED.**

13 Dated this 16 day of May, 2017

Dated this 31 day of May, 2017

14

15 **LAW OFFICES OF F. PETER JAMES**

F. Peter James, Esq.

16 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

17 Las Vegas, Nevada 89102

702-256-0087

18 Counsel for Plaintiff

ADRAS & ALTIG

Steven M. Altig, Esq.

Nevada Bar No. 6879

601 South 7th Street

Las Vegas, Nevada 89101

702-385-7227

Counsel for Defendant

19

20

1 DAD'S VERIFICATION

2 William DiMonaco, being first duly sworn under penalties of perjury,
3 deposes and says:

4 I am the Plaintiff herein, and I have read the foregoing *Partial Parenting*
5 *Agreement* and know the contents thereof; that the same is true and correct to the
6 best of my knowledge, except as to those matters therein stated upon information
7 and belief, and as to those matters, I believe them to be true.

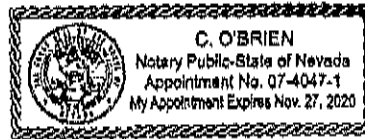
8 

9 WILLIAM DIMONACO

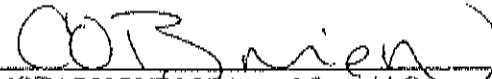
10 STATE OF NEVADA)

) ss.

11 COUNTY OF CLARK)



12 SUBSCRIBED and SWORN to before me by William DiMonaco
13 this 16 day of May, 2017

14 

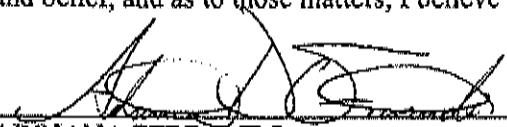
15 NOTARY PUBLIC in and for said County and State
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MOM'S VERIFICATION

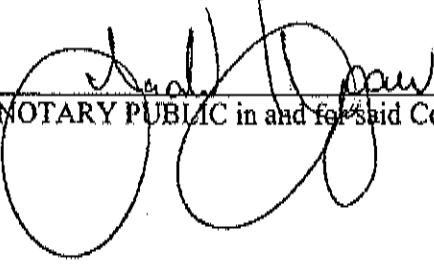
Adriana Ferrando being first duly sworn under penalties of perjury,
deposes and says:

I am the Defendant herein, and I have read the foregoing *Partial Parenting Agreement* and know the contents thereof; that the same is true and correct to the best of my knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.


ADRIANA FERRANDO

STATE OF CLARK)
) ss.
COUNTY OF CLARK)

SUBSCRIBED and SWORN to before me by
Adriana Ferrando this 28th day of May, 2017


NOTARY PUBLIC in and for said County and State



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1 If a parent of the child lives in a foreign country or has significant
2 commitments in a foreign country:

3 The parties may agree, and the court shall include in the order for
4 custody of the child, that the United States is the country of habitual
5 residence of the child for the purposes of applying the terms of the Hague
6 Convention as set forth in subsection 7.

7 Upon motion of one of the parties, the court may order the parent to
8 post a bond if the court determines that the parent poses an imminent risk
9 of wrongfully removing or concealing the child outside the country of
10 habitual residence. The bond must be in an amount determined by the
11 court and may be used only to pay for the cost of locating the child and
12 returning him to his habitual residence if the child is wrongfully removed
13 from or concealed outside the country of habitual residence. The fact that
14 a parent has significant commitments in a foreign country does not create
15 a presumption that the parent poses an imminent risk of wrongfully
16 removing or concealing the child.

17 **IT IS FURTHER ORDERED** that all parties shall be bound by the
18 provisions of NRS 125C.006, which states:

- 19 1. If primary physical custody has been established pursuant to an
20 order, judgment or decree of a court and the custodial parent intends
to relocate his or her residence to a place outside of this State or to
a place within this State that is at such a distance that would
substantially impair the ability of the other parent to maintain a
meaningful relationship with the child, and the custodial parent
desires to take the child with him or her, the custodial parent shall,
before relocating:
- (a) Attempt to obtain the written consent of the noncustodial
parent to relocate with the child; and
 - (b) If the noncustodial parent refuses to give that consent, petition
the court for permission to relocate with the child.

1 2. The court may award reasonable attorney's fees and costs to the
2 custodial parent if the court finds that the noncustodial parent
 refused to consent to the custodial parent's relocation with the child:

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

4 (b) For the purpose of harassing the custodial parent.

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

7 **IT IS FURTHER ORDERED** that all parties shall be bound by the
8 provisions of NRS 125C.0065, which states:

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

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

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

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

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

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

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Child Custody Complaint

COURT MINUTES

June 21, 2017

D-16-539340-C William Eugene DiMonaco, Plaintiff.
vs.
Adriana Davina Ferrando, Defendant.

June 21, 2017 1:30 PM Non-Jury Trial

HEARD BY: Duckworth, Bryce C.

COURTROOM: Courtroom 01

COURT CLERK: Michael A. Padilla

PARTIES:

Adriana Ferrando, Defendant, Counter Claimant, present	Steven Altig, Attorney, present
Grayson DiMonaco-Ferrando, Subject Minor, not present	
William DiMonaco, Plaintiff, Counter Defendant, present	F James, Attorney, present

JOURNAL ENTRIES

- Discussion regarding the unresolved issues. Plaintiff and Defendant sworn and testified. Based upon the COURT'S FINDINGS as set forth on the record, COURT ORDERED, as follows:

1. Per STIPULATION, the parties shall have JOINT PHYSICAL CUSTODY of the minor child.
2. Defendant's PARENTAL TIMESHARE shall be every Monday at 8:00 AM to Wednesday at 8:00 AM.
3. Plaintiff's PARENTAL TIMESHARE shall be every Wednesday at 8:00 AM to Friday at 8:00 AM. In the event Plaintiff is working on Wednesday, then the minor child shall remain with Defendant until Plaintiff gets out of work. This provision is for Wednesday only.

PRINT DATE:	06/23/2017	Page 1 of 2	Minutes Date:	June 21, 2017
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

RA0113

4. The parties shall alternate the weekends, which shall be defined as beginning Friday at 8:00 AM and concluding Monday at 8:00 AM. Defendant shall have this weekend, 6/23/17.
5. Parties shall abide by the Court's default holiday schedule, absent an agreement. The holiday schedule shall supersede the regular schedule and vacations. Vacation time shall only supersede the regular schedule.
6. Per STIPULATION, Plaintiff shall provide for the transportation. In the event Plaintiff is unable to provide the transportation, then the parties are to communicate in advance to designate an alternate individual.
7. Plaintiff's CHILD SUPPORT obligation is set at four hundred fifty dollars (\$450.00) per month effective May 2017.
8. The Plaintiff's CHILD SUPPORT obligation for the months of September, October and November 2016, shall be calculated at the rate of six hundred fifty dollars (\$650.00) per month. The ARREARS shall be payable at the rate of fifty dollars (\$50.00) per month until paid in full.
9. Both parties shall continue to provide medical/health insurance for the minor child.
10. The parties shall bear their own ATTORNEY'S FEES and COSTS.

Mr. James is to prepare the Order from today's hearing with Mr. Altig to countersign.

INTERIM CONDITIONS:

FUTURE HEARINGS: *Canceled: June 21, 2017 1:30 PM Motion to Compel*

July 19, 2017 2:00 PM Status Check
Bailey, Soonhee
Courtroom 17

PRINT DATE:	06/23/2017	Page 2 of 2	Minutes Date:	June 21, 2017
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

ORIGINAL

Electronically Filed
11/9/2017 10:11 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

1 DECC
2 LAW OFFICES OF F. PETER JAMES, ESQ.
3 F. Peter James, Esq.
4 Nevada Bar No. 10091
5 Peter@PeterJamesLaw.com
6 3821 West Charleston Boulevard, Suite 250
7 Las Vegas, Nevada 89102
8 702-256-0087
9 702-256-0145 (fax)
10 Counsel for Plaintiff

DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

11 WILLIAM DIMONACO,
12
13 Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

14 vs.

DECREE OF CUSTODY

15 ADRIANA DAVINA FERRANDO,
16
17 Defendant.

Hearing Date: June 21, 2017
Hearing Time: 1:30 p.m.

18 This matter came before the Court on the 21st day of June, 2017 for a Non-
19 Jury Trial. F. Peter James, Esq. appeared with Plaintiff, William DiMonaco
20 (hereinafter "Dad"). Steven M. Altig, Esq. appeared with Defendant, Adriana
Ferrando (hereinafter "Mom"). The Honorable Bryce C. Duckworth presided
over the matter.

The parties had numerous stipulations, but requested that the Court decide
several matters.

☐ Other
☐ Dismissed - Want of Prosecution
☐ Involuntary (Statutory) Dismissal
☐ Default Judgment
☐ Transferred
☐ Disposed After Trial Start

Non-Trial Dispositions:
☐ Settled/Withdrawn:
☐ Without Judicial Conf/Hrg
☐ With Judicial Conf/Hrg
☐ By ADR

Trial Dispositions:
☒ Judgment Reached by Trial

1 of 13

RECEIVED

OCT 12 2017

FAMILY COURT
DEPARTMENT Q

Case Number: D-16-539340-C

RA0115

1 The Court, having read the papers and pleadings on file herein, having
2 heard argument, having heard from the parties, having heard from third parties in
3 the courtroom, having heard the stipulations of the parties, being well advised in
4 the premises, and for sufficient cause shown, hereby finds and orders as follows:

5 **THE COURT HEREBY FINDS** that Dad is now and has been an actual
6 bona fide resident of the State of Nevada and has actually been domiciled in the
7 State of Nevada for more than six weeks prior to the commencement of this
8 action.

9 **THE COURT FURTHER FINDS** that it has complete jurisdiction in the
10 premises, both as to the subject matter thereof as well as the parties hereto.

11 **THE COURT FURTHER FINDS** that Dad and Mom were never married
12 to each other.

13 **THE COURT FURTHER FINDS** that Dad and Mom have one child
14 together, to wit: Grayson Ashton DiMonaco-Ferrando (born August 12, 2014
15 (hereinafter "the child"); the parties have no other minor children together, no
16 adopted children together, and, Mom is not currently pregnant with Dad's child.

17 **THE COURT FURTHER FINDS** that Dad is the child's natural father.
18 Mom and Dad signed an affidavit of paternity as to the child, which has not been
19 revoked. Dad is listed as the child's natural father on the child's birth certificate.

1 The child bears Dad's surname. Dad has held the child out to the world as his
2 natural child. Mom does not contest that Dad is the child's natural father.

3 **THE COURT FURTHER FINDS** that the child has resided in the State
4 of Nevada for at least six months prior to the filing of the Complaint. As such,
5 this Court has the necessary UCCJEA jurisdiction to enter orders as to child
6 custody and visitation. Nevada is the child's home state and state of habitual
7 residence.

8 **THE COURT FURTHER FINDS** that the parties have stipulated to
9 having joint legal custody and joint physical custody of the child. This
10 arrangement is in the child's best interest.

11 **THE COURT FURTHER FINDS** that the visitation schedule delineated
12 is in the child's best interest. Mom proposed a visitation schedule that spits
13 weekends. Setting a visitation schedule that splits the weekends is not in the
14 child's best interest. While it may be feasible due to the child not yet being in
15 school, from a planning standpoint, it does not work as the parents would not
16 have full weekends. (Video Record at 14:12:00).

17 **THE COURT FURTHER FINDS** that, under the case law (*Lewis v.*
18 *Hicks and Rodgers v. Rodgers*), a spouse has a community property interest in
19 the other spouses income, which may be used to offset a child support award.
20 (Video Record at 14:15:00, 14:25:00). Dad offered that Mom's husband makes

1 approximately \$120,000.00 per year (\$79,029.00 regular pay + \$20,843.14 in
2 overtime pay + \$20,897.75 in other pay = \$120,769.89 or \$10,064.16 gross
3 monthly income—benefits are not included in this calculation). (See Exhibits
4 filed June 19, 2017 at W DIMONACO 000039; see also Video Record at
5 14:23:15, 14:29:20). The Court inquired as to what Dad's girlfriend earns. Dad's
6 counsel stated that his girlfriend contributes \$500 per month to his household and
7 that her actual income is not relevant as they are not married. The Court stated
8 "what is good for the goose is good for the gander." (Video Record at 14:24:50).
9 Dad's girlfriend stated that she makes \$47,000.00 per year salary (which is a
10 gross monthly income of \$3,916.67). (Video Record at 14:30:20). Using a
11 *Wright v. Osburn* calculation to determine child support only imputing Mom's
12 prior income upon her, the child support obligation from Dad to Mom is \$550.00.
13 (Video Record at 14:27:10). Another deviation factor the Court may consider is
14 the relative income of the parties (NRS 125B.080(9)). (Video Record at
15 14:27:20). The total household income of each side is germane to the Court's
16 calculation of child support. (Video Record at 14:28:15). The Court
17 acknowledged that Dad wants further discovery into Mom's household income,
18 but the Court stated it could attempt to determine that issue today and resolve the
19 need for further discovery into this issue. (Video Record at 14:28:35). The
20 household incomes appear to be \$109,400 on Dad's side (Dad and his girlfriend)

1 and \$120,769 on Defendant's side without imputing income on Mom—with an
2 approximate \$11,000 higher income in Mom's household. (Video Record at
3 14:31:25). The Court accepts the offers of proof as to Dad's girlfriend's income
4 and as to Mom's husband's income. (Video Record at 14:32:55). The Court
5 inquired if any party needed further discovery into the household income issue,
6 but the parties stated that they did not need further discovery. (Video Record at
7 14:33:25). The Court inquired of the parties and confirmed that both parties are
8 providing health insurance for the child, which shall continue. (Video Record at
9 14:35:20). The Court is utilizing the deviation factor of relative income of the
10 parties to look at the additional income the parties receive from their significant
11 others. (Video Record at 14:35:35). The Court is imputing \$2,143.72 in gross
12 monthly income upon Mom, which is essentially her 2014 income recomputed to
13 a full yearly figure. This is her earning capacity. (Video Record at 14:35:50).
14 Dad's gross monthly income is \$5,200.00, which makes his obligation \$936.00;
15 whereas, Mom's obligation is \$386.00, which results in a *Wright v. Osburn*
16 calculation of \$550.00. (Video Record at 14:36:30). Based on the relative
17 income of the parties and given the \$10,000 difference in incomes (between
18 Mom's husband by himself and Dad and his girlfriend combined), the Court is
19 going to give a downward deviation in the sum of \$100.00, thus making Dad's
20 child support obligation \$450.00 per month. (Video Record at 14:36:42).

1 **THE COURT FURTHER FINDS** that, as to constructive child support
2 arrears, the law is discretionary as to a reasonable amount—and not that the
3 statutory formula be applied retroactively. Mom alleges that Dad did not pay for
4 September, October, and November 2016 and that Dad did make payments prior
5 to then, albeit not at the amount eventually ordered by the Court. As payments
6 were made up through August 2016, the Court is not going to revisit that issue.
7 The Court will apply the December 2016 child support amount (\$650.00) to
8 September, October, and November 2016. The parties shall work out any
9 overpayments and give credit for the same. (Video Record at 15:01:00 –
10 15:04:45).

11 Therefor,

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that,
13 pursuant to stipulation of the parties, Mom and Dad shall have joint legal custody
14 and joint physical custody of the child.

15 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the
16 parties shall have the following regular visitation with the child:

- 17 • Mom shall have regular visitation with the child from Monday at 8:00 am
18 or drop off at school if school is in session until Wednesday at 8:00 am or
19 drop off at school if school is in session;

20

- 1 • Dad shall have regular visitation with the child from Wednesday at 8:00
2 am or drop off at school if school is in session until Friday at 8:00 am or
3 drop off at school if school is in session; however, if Dad is working on
4 Wednesday, the child shall remain with Mom until Dad gets out of work---
5 this provision is only for Wednesdays; Wednesdays are still days
6 designated to Dad (Video Record at 14:51:20);
- 7 • The parties shall alternate the weekends, which shall be defined as
8 beginning Friday at 8:00 am or drop off at school if school is in session
9 and concluding Monday at 8:00 am or drop off at school if school is in
10 session; For clarity, Mom has the weekend of June 23, 2017.

11 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the
12 Court's standard holiday and visitation schedule shall control. A copy of the
13 same is attached hereto as Ex. 1. The parties may agree to deviate from the
14 schedule, as they are free to agree to deviate as to any visitation schedule. (Video
15 Record at 14:57:25). Holiday visitation time shall take precedence over all other
16 visitation time, and vacation visitation time shall take precedence only over
17 regular visitation time. (Video Record at 15:00:12).

18 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
19 either party may designate other parties to drop off / collect the child. The Court
20

1 expects that when a party designates another to collect the child, that parent
2 would notify the other in advance. (Video Record at 14:56:40).

3 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,
4 pursuant to stipulation of the parties, Dad shall provide the transportation of the
5 child for child exchanges. Currently, Dad drives nearby Mom's house on the
6 way to and from his work. (Video Record at 14:55:00). In the event that Dad is
7 unable to provide the transportation, then the parties shall communicate in
8 advance to designate an alternate individual to do the transporting.

9 **NOTICE IS HEREBY GIVEN** of the following provision of NRS
10 125C.0045(6):

11 Penalty for violation of order: The abduction, concealment or
12 detention of a child in violation of this order is punishable as a category D
13 felony as provided in NRS 193.130. NRS 200.359 provides that every
14 person having a limited right of custody to a child or any parent having no
15 right of custody to the child who willfully detains, conceals or removes the
16 child from a parent, guardian or other person having lawful custody or a
17 right of visitation of the child in violation of an order of this court, or
18 removes the child from the jurisdiction of the court without the consent of
19 either the court or all persons who have the right to custody or visitation is
20 subject to being punished for a category D felony as provided in NRS
193.130.

17 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention
18 of October 25, 1980, adopted by the 14th Session of the Hague Conference on
19 Private International Law apply if a parent abducts or wrongfully retains a child
20

1 in a foreign country. The parties are also put on notice of the following provisions
2 of NRS 125C.0045(8):

3 If a parent of the child lives in a foreign country or has significant
4 commitments in a foreign country:

5 The parties may agree, and the court shall include in the order for
6 custody of the child, that the United States is the country of habitual
7 residence of the child for the purposes of applying the terms of the Hague
8 Convention as set forth in subsection 7.

9 Upon motion of one of the parties, the court may order the parent to
10 post a bond if the court determines that the parent poses an imminent risk
11 of wrongfully removing or concealing the child outside the country of
12 habitual residence. The bond must be in an amount determined by the
13 court and may be used only to pay for the cost of locating the child and
14 returning him to his habitual residence if the child is wrongfully removed
15 from or concealed outside the country of habitual residence. The fact that
16 a parent has significant commitments in a foreign country does not create
17 a presumption that the parent poses an imminent risk of wrongfully
18 removing or concealing the child.

19 **IT IS FURTHER ORDERED** that all parties shall be bound by the
20 provisions of NRS 125C.006, which states:

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

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

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

3 2. The court may award reasonable attorney's fees and costs to the
4 custodial parent if the court finds that the noncustodial parent
5 refused to consent to the custodial parent's relocation with the child:

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

7 (b) For the purpose of harassing the custodial parent.

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

11 **IT IS FURTHER ORDERED** that all parties shall be bound by the
12 provisions of NRS 125C.0065, which states:

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

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

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

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

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

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

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

7 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,
8 based upon the findings herein, Dad shall pay Mom monthly child support in the
9 amount of \$450.00 effective May 1, 2017.

10 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
11 Dad's child support obligation for the months of September, October, and
12 November 2016 shall be calculated at the rate of \$650.00 per month. The arrears
13 of \$1,950.00 shall be payable at the rate of \$50.00 per month until paid in full.
14 The parties shall work out any overpayments. (Video Record at 15:04:10).

15 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
16 both parties shall continue to provide the medical / health insurance for the child.

17 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that any
18 of the child's unreimbursed medical, dental, optical, orthodontic, surgical, and
19 other health-related expenses shall be equally divided by the parties pursuant to
20 the 30/30 rule. The 30/30 rule provides that the party paying any unreimbursed
medical expenses has thirty (30) days from the date the expense is paid to forward

1 proof of payment to the opposing party. If that party does not timely forward the
2 proof of payment, then the Court may construe that the party waived the right to
3 be reimbursed for that expense. Upon receipt of a timely-forwarded proof of
4 payment of an unreimbursed medical expense, the receiving party has thirty (30)
5 days to reimburse the paying party one-half of the expense or to object to the
6 expense. If the receiving party does not either object to the expense or reimburse
7 the paying party for half of the expense, then that party is subject to sanctions for
8 contempt of court. (*Compare* Complaint for Custody at ¶ 13 with Answer at
9 1:23).

10 **NOTICE IS HEREBY GIVEN** that the provisions of NRS 31A and
11 125.007 apply regarding the collection of delinquent child support payments.

12 **NOTICE IS HEREBY GIVEN** that either party may request a review of
13 child support pursuant to NRS 125B.145.

14 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
15 each side shall bear his / her own attorney's fees and costs.

16 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
17 each party shall provide their social security numbers on a separate form to the
18 Court and to the Welfare Division of the Department of Health and Human
19 Services pursuant to NRS 125B.055, NRS 125.130, and/or NRS 125.230. Such
20 information shall be maintained by the Clerk in a confidential manner and shall



1 not be part of the public record. The parties shall update the information filed
2 with the Court and the Welfare Division of the Department of Human Resources
3 within ten (10) days should any of that information become inaccurate.

4 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Mr.
5 James shall prepare the Order with Mr. Altig to countersign.

6 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

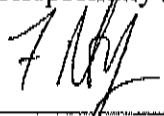
7 Dated this ____ day of October, 2017

8 **NOV 06 2017**

9 
DISTRICT COURT JUDGE  mp

10 Respectfully submitted by:

Approved as to form and content by:

11 
12 **LAW OFFICES OF F. PETER JAMES**
F. Peter James, Esq.
13 Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
14 Las Vegas, Nevada 89102
702-256-0087
15 Counsel for Plaintiff

ADRAS & ALTIG
Steven M. Altig, Esq.
Nevada Bar No. 6879
601 South 7th Street
Las Vegas, Nevada 89101
702-385-7227
Counsel for Defendant

EXHIBIT 1

HOLIDAY AND VACATION PLAN

Department Q

The Court encourages parents to communicate regarding holiday and vacation time with their children. The following Holiday and Vacation Plan is a "default" schedule where parents are unable to otherwise agree. Any deviation therefrom should be memorialized in writing with both parents' signatures. Holidays/Special Occasions take precedence over residential time and Vacation time. Unless otherwise ordered, reference to a "school" schedule for the purpose of defining a Holiday or Special Occasion shall be defined by the Clark County, Nevada School District Schedule. (See www.ccsd.net)

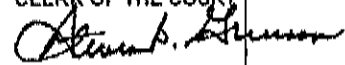
THREE DAY HOLIDAYS (Holiday visitation begins when school gets out on the day preceding the holiday weekend (or 3:00 p.m. if the children are not in school) and continues until 9:00 a.m. on the day following the holiday weekend or when the children are scheduled to resume school.)	ODD YEAR	EVEN YEAR
Martin Luther King Day	Mom	Dad
Presidents' Day	Dad	Mom
Memorial Day	Mom	Dad
Labor Day	Dad	Mom
Nevada Admission Day	Mom	Dad

EXTENDED HOLIDAYS	ODD YEAR	EVEN YEAR
Thanksgiving: The holiday visitation shall begin when school gets out on the Wednesday preceding Thanksgiving (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Mom	Dad
Christmas/Winter Break: Winter break shall be divided equally between the parents, with the first half commencing when the children get out of school to begin the Winter Break (or 3:00 p.m. if the children are not in school), and continue until December 26 at 10:00 a.m. The second half shall commence on December 26 at 10:00 a.m. and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school).		
First Half	Dad	Mom
Second Half	Mom	Dad

EXTENDED HOLIDAYS, cont'd.	ODD YEAR	EVEN YEAR
Easter/Spring Break: The holiday visitation shall begin when school gets out on the last day of school (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Dad	Mom

SPECIAL OCCASIONS (Special Occasions begin at 9:00 a.m. on the individual day and continue until 9:00 p.m. on the same day)	ODD YEAR	EVEN YEAR
Mother's Day	Mom	Mom
Father's Day	Dad	Dad
Children's Birthdays	Dad	Mom

Summer/Track Break Vacations
Each parent shall be entitled to one (1) vacation each year with the children for a period not to exceed two (2) consecutive weeks (unless otherwise agreed to in writing). Each parent shall designate his/her respective vacation plans by May 1 st of each year. The dates shall be conveyed to the other party in writing by way of certified mail. If there is a conflict in dates, the parent who designates the vacation first (as verified by the certified mail stamp) will prevail as to the vacation time. Neither party shall schedule vacation time during the other party's holiday time or during time the children are scheduled to be in school.



1 **NED**
LAW OFFICES OF F. PETER JAMES, ESQ.
2 F. Peter James, Esq.
Nevada Bar No. 10091
3 Peter@PeterJamesLaw.com
3821 West Charleston Boulevard, Suite 250
4 Las Vegas, Nevada 89102
702-256-0087
5 702-256-0145 (fax)
Counsel for Plaintiff

6
7 **DISTRICT COURT, FAMILY DIVISION**
CLARK COUNTY, NEVADA

8 **WILLIAM DIMONACO,**

9 Plaintiff,

10 vs.

11 **ADRIANA DAVINA FERRANDO,**

12 Defendant.

CASE NO. : D-16-539340-C
DEPT. NO. : Q

**NOTICE OF ENTRY OF DECREE
OF CUSTODY**

14 ///

15 ///

16 ///

17 ///


18 ///

19 ///

20 ///

1 Please take notice that the attached Decree of Custody was entered on
2 November 9, 2017.

3 Dated this 9 day of November, 2017

4 

5 LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

6 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

7 Las Vegas, Nevada 89102

702-256-0087

8 Counsel for Plaintiff

9

10

11

12

13

14

15

16

17

18

19

20

1 **CERTIFICATE OF SERVICE**

2 I certify that on this 9 day of November, 2017, I caused the above and
3 foregoing document entitled **NOTICE OF ENTRY OF DECREE OF**
4 **CUSTODY** to be served as follows:

5 ☒ pursuant to EDCR 8.05(A), EDCR 8.05(F), NRCP 5(b)(2)(D)
6 and Administrative Order 14-2 captioned "In the Administrative
7 Matter of Mandatory Electronic Service in the Eighth Judicial
8 District Court," by mandatory electronic service through the
9 Eighth Judicial District Court's electronic filing system;

10 ☐ pursuant to EDCR 7.26 / NEFCR 9, to be sent via facsimile /
11 email;

12 to the attorney(s) / party(ies) listed below at the address(es), email address(es),
13 and/or facsimile number(s) indicated below:

14 Steven M. Altig, Esq.
15 601 South 7th Street
16 Las Vegas, Nevada 89101
17 702-385-7227
702-385-5351 (fax)
steven@adraslaw.com
Counsel for Defendant

18
19 By:



20 An employee of the Law Offices of F. Peter James, Esq., PLLC

ORIGINAL

Electronically Filed
11/9/2017 10:11 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

1 DECC
LAW OFFICES OF F. PETER JAMES, ESQ.
2 F. Peter James, Esq.
Nevada Bar No. 10091
3 Peter@PeterJamesLaw.com
3821 West Charleston Boulevard, Suite 250
4 Las Vegas, Nevada 89102
702-256-0087
5 702-256-0145 (fax)
Counsel for Plaintiff

6
7 DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

8 WILLIAM DIMONACO,
9 Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

10 vs.

DECREE OF CUSTODY

11 ADRIANA DAVINA FERRANDO,
12 Defendant.

Hearing Date: June 21, 2017
Hearing Time: 1:30 p.m.

14 This matter came before the Court on the 21st day of June, 2017 for a Non-
15 Jury Trial. F. Peter James, Esq. appeared with Plaintiff, William DiMonaco
16 (hereinafter "Dad"). Steven M. Altig, Esq. appeared with Defendant, Adriana
17 Ferrando (hereinafter "Mom"). The Honorable Bryce C. Duckworth presided
18 over the matter.

19 The parties had numerous stipulations, but requested that the Court decide
20 several matters.

☐ Other
☐ Dismissed - Want of Prosecution
☐ Involuntary (Statutory) Dismissal
☐ Default Judgment
☐ Transferred
☐ Disposed After Trial Starts
☐ Trial Dispositions:
☒ Judgment Reached by Trial

Non-Trial Dispositions:

Settled/Withdrawn:
☐ Without Judicial Conf/Hrg
☐ With Judicial Conf/Hrg
☐ By ADR

1 of 13

RECEIVED

OCT 12 2017

FAMILY COURT
DEPARTMENT Q

Case Number: D-16-539340-C

RA0134

1 The Court, having read the papers and pleadings on file herein, having
2 heard argument, having heard from the parties, having heard from third parties in
3 the courtroom, having heard the stipulations of the parties, being well advised in
4 the premises, and for sufficient cause shown, hereby finds and orders as follows:

5 **THE COURT HEREBY FINDS** that Dad is now and has been an actual
6 bona fide resident of the State of Nevada and has actually been domiciled in the
7 State of Nevada for more than six weeks prior to the commencement of this
8 action.

9 **THE COURT FURTHER FINDS** that it has complete jurisdiction in the
10 premises, both as to the subject matter thereof as well as the parties hereto.

11 **THE COURT FURTHER FINDS** that Dad and Mom were never married
12 to each other.

13 **THE COURT FURTHER FINDS** that Dad and Mom have one child
14 together, to wit: Grayson Ashton DiMonaco-Ferrando (born August 12, 2014
15 (hereinafter "the child"); the parties have no other minor children together, no
16 adopted children together, and, Mom is not currently pregnant with Dad's child.

17 **THE COURT FURTHER FINDS** that Dad is the child's natural father.
18 Mom and Dad signed an affidavit of paternity as to the child, which has not been
19 revoked. Dad is listed as the child's natural father on the child's birth certificate.

1 The child bears Dad's surname. Dad has held the child out to the world as his
2 natural child. Mom does not contest that Dad is the child's natural father.

3 **THE COURT FURTHER FINDS** that the child has resided in the State
4 of Nevada for at least six months prior to the filing of the Complaint. As such,
5 this Court has the necessary UCCJEA jurisdiction to enter orders as to child
6 custody and visitation. Nevada is the child's home state and state of habitual
7 residence.

8 **THE COURT FURTHER FINDS** that the parties have stipulated to
9 having joint legal custody and joint physical custody of the child. This
10 arrangement is in the child's best interest.

11 **THE COURT FURTHER FINDS** that the visitation schedule delineated
12 is in the child's best interest. Mom proposed a visitation schedule that splits
13 weekends. Setting a visitation schedule that splits the weekends is not in the
14 child's best interest. While it may be feasible due to the child not yet being in
15 school, from a planning standpoint, it does not work as the parents would not
16 have full weekends. (Video Record at 14:12:00).

17 **THE COURT FURTHER FINDS** that, under the case law (*Lewis v.*
18 *Hicks and Rodgers v. Rodgers*), a spouse has a community property interest in
19 the other spouses income, which may be used to offset a child support award.
20 (Video Record at 14:15:00, 14:25:00). Dad offered that Mom's husband makes

1 approximately \$120,000.00 per year (\$79,029.00 regular pay + \$20,843.14 in
2 overtime pay + \$20,897.75 in other pay = \$120,769.89 or \$10,064.16 gross
3 monthly income—benefits are not included in this calculation). (See Exhibits
4 filed June 19, 2017 at W DIMONACO 000039; see also Video Record at
5 14:23:15, 14:29:20). The Court inquired as to what Dad's girlfriend earns. Dad's
6 counsel stated that his girlfriend contributes \$500 per month to his household and
7 that her actual income is not relevant as they are not married. The Court stated
8 "what is good for the goose is good for the gander." (Video Record at 14:24:50).
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10 gross monthly income of \$3,916.67). (Video Record at 14:30:20). Using a
11 *Wright v. Osburn* calculation to determine child support only imputing Mom's
12 prior income upon her, the child support obligation from Dad to Mom is \$550.00.
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14 the relative income of the parties (NRS 125B.080(9)). (Video Record at
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18 but the Court stated it could attempt to determine that issue today and resolve the
19 need for further discovery into this issue. (Video Record at 14:28:35). The
20 household incomes appear to be \$109,400 on Dad's side (Dad and his girlfriend)

1 and \$120,769 on Defendant's side without imputing income on Mom—with an
2 approximate \$11,000 higher income in Mom's household. (Video Record at
3 14:31:25). The Court accepts the offers of proof as to Dad's girlfriend's income
4 and as to Mom's husband's income. (Video Record at 14:32:55). The Court
5 inquired if any party needed further discovery into the household income issue,
6 but the parties stated that they did not need further discovery. (Video Record at
7 14:33:25). The Court inquired of the parties and confirmed that both parties are
8 providing health insurance for the child, which shall continue. (Video Record at
9 14:35:20). The Court is utilizing the deviation factor of relative income of the
10 parties to look at the additional income the parties receive from their significant
11 others. (Video Record at 14:35:35). The Court is imputing \$2,143.72 in gross
12 monthly income upon Mom, which is essentially her 2014 income recomputed to
13 a full yearly figure. This is her earning capacity. (Video Record at 14:35:50).
14 Dad's gross monthly income is \$5,200.00, which makes his obligation \$936.00;
15 whereas, Mom's obligation is \$386.00, which results in a *Wright v. Osburn*
16 calculation of \$550.00. (Video Record at 14:36:30). Based on the relative
17 income of the parties and given the \$10,000 difference in incomes (between
18 Mom's husband by himself and Dad and his girlfriend combined), the Court is
19 going to give a downward deviation in the sum of \$100.00, thus making Dad's
20 child support obligation \$450.00 per month. (Video Record at 14:36:42).

1 **THE COURT FURTHER FINDS** that, as to constructive child support
2 arrears, the law is discretionary as to a reasonable amount—and not that the
3 statutory formula be applied retroactively. Mom alleges that Dad did not pay for
4 September, October, and November 2016 and that Dad did make payments prior
5 to then, albeit not at the amount eventually ordered by the Court. As payments
6 were made up through August 2016, the Court is not going to revisit that issue.
7 The Court will apply the December 2016 child support amount (\$650.00) to
8 September, October, and November 2016. The parties shall work out any
9 overpayments and give credit for the same. (Video Record at 15:01:00 –
10 15:04:45).

11 Therefor,

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that,
13 pursuant to stipulation of the parties, Mom and Dad shall have joint legal custody
14 and joint physical custody of the child.

15 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the
16 parties shall have the following regular visitation with the child:

- 17 • Mom shall have regular visitation with the child from Monday at 8:00 am
18 or drop off at school if school is in session until Wednesday at 8:00 am or
19 drop off at school if school is in session;

20

- 1 • Dad shall have regular visitation with the child from Wednesday at 8:00
2 am or drop off at school if school is in session until Friday at 8:00 am or
3 drop off at school if school is in session; however, if Dad is working on
4 Wednesday, the child shall remain with Mom until Dad gets out of work—
5 this provision is only for Wednesdays; Wednesdays are still days
6 designated to Dad (Video Record at 14:51:20);
- 7 • The parties shall alternate the weekends, which shall be defined as
8 beginning Friday at 8:00 am or drop off at school if school is in session
9 and concluding Monday at 8:00 am or drop off at school if school is in
10 session; For clarity, Mom has the weekend of June 23, 2017.

11 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the
12 Court's standard holiday and visitation schedule shall control. A copy of the
13 same is attached hereto as Ex. 1. The parties may agree to deviate from the
14 schedule, as they are free to agree to deviate as to any visitation schedule. (Video
15 Record at 14:57:25). Holiday visitation time shall take precedence over all other
16 visitation time, and vacation visitation time shall take precedence only over
17 regular visitation time. (Video Record at 15:00:12).

18 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
19 either party may designate other parties to drop off / collect the child. The Court
20

1 expects that when a party designates another to collect the child, that parent
2 would notify the other in advance. (Video Record at 14:56:40).

3 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,
4 pursuant to stipulation of the parties, Dad shall provide the transportation of the
5 child for child exchanges. Currently, Dad drives nearby Mom's house on the
6 way to and from his work. (Video Record at 14:55:00). In the event that Dad is
7 unable to provide the transportation, then the parties shall communicate in
8 advance to designate an alternate individual to do the transporting.

9 **NOTICE IS HEREBY GIVEN** of the following provision of NRS
10 125C.0045(6):

11 Penalty for violation of order: The abduction, concealment or
12 detention of a child in violation of this order is punishable as a category D
13 felony as provided in NRS 193.130. NRS 200.359 provides that every
14 person having a limited right of custody to a child or any parent having no
15 right of custody to the child who willfully detains, conceals or removes the
16 child from a parent, guardian or other person having lawful custody or a
17 right of visitation of the child in violation of an order of this court, or
18 removes the child from the jurisdiction of the court without the consent of
19 either the court or all persons who have the right to custody or visitation is
20 subject to being punished for a category D felony as provided in NRS
193.130.

17 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention
18 of October 25, 1980, adopted by the 14th Session of the Hague Conference on
19 Private International Law apply if a parent abducts or wrongfully retains a child

1 in a foreign country. The parties are also put on notice of the following provisions
2 of NRS 125C.0045(8):

3 If a parent of the child lives in a foreign country or has significant
4 commitments in a foreign country:

5 The parties may agree, and the court shall include in the order for
6 custody of the child, that the United States is the country of habitual
7 residence of the child for the purposes of applying the terms of the Hague
8 Convention as set forth in subsection 7.

9 Upon motion of one of the parties, the court may order the parent to
10 post a bond if the court determines that the parent poses an imminent risk
11 of wrongfully removing or concealing the child outside the country of
12 habitual residence. The bond must be in an amount determined by the
13 court and may be used only to pay for the cost of locating the child and
14 returning him to his habitual residence if the child is wrongfully removed
15 from or concealed outside the country of habitual residence. The fact that
16 a parent has significant commitments in a foreign country does not create
17 a presumption that the parent poses an imminent risk of wrongfully
18 removing or concealing the child.

19 **IT IS FURTHER ORDERED** that all parties shall be bound by the
20 provisions of NRS 125C.006, which states:

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

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

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

3 2. The court may award reasonable attorney's fees and costs to the
4 custodial parent if the court finds that the noncustodial parent
5 refused to consent to the custodial parent's relocation with the child:

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

7 (b) For the purpose of harassing the custodial parent.

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

11 **IT IS FURTHER ORDERED** that all parties shall be bound by the
12 provisions of NRS 125C.0065, which states:

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

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

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

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

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

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

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

7 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,
8 based upon the findings herein, Dad shall pay Mom monthly child support in the
9 amount of \$450.00 effective May 1, 2017.

10 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
11 Dad's child support obligation for the months of September, October, and
12 November 2016 shall be calculated at the rate of \$650.00 per month. The arrears
13 of \$1,950.00 shall be payable at the rate of \$50.00 per month until paid in full.
14 The parties shall work out any overpayments. (Video Record at 15:04:10).

15 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
16 both parties shall continue to provide the medical / health insurance for the child.

17 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that any
18 of the child's unreimbursed medical, dental, optical, orthodontic, surgical, and
19 other health-related expenses shall be equally divided by the parties pursuant to
20 the 30/30 rule. The 30/30 rule provides that the party paying any unreimbursed
medical expenses has thirty (30) days from the date the expense is paid to forward

1 proof of payment to the opposing party. If that party does not timely forward the
2 proof of payment, then the Court may construe that the party waived the right to
3 be reimbursed for that expense. Upon receipt of a timely-forwarded proof of
4 payment of an unreimbursed medical expense, the receiving party has thirty (30)
5 days to reimburse the paying party one-half of the expense or to object to the
6 expense. If the receiving party does not either object to the expense or reimburse
7 the paying party for half of the expense, then that party is subject to sanctions for
8 contempt of court. (*Compare* Complaint for Custody at ¶ 13 with Answer at
9 1:23).

10 **NOTICE IS HEREBY GIVEN** that the provisions of NRS 31A and
11 125.007 apply regarding the collection of delinquent child support payments.

12 **NOTICE IS HEREBY GIVEN** that either party may request a review of
13 child support pursuant to NRS 125B.145.

14 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
15 each side shall bear his / her own attorney's fees and costs.

16 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
17 each party shall provide their social security numbers on a separate form to the
18 Court and to the Welfare Division of the Department of Health and Human
19 Services pursuant to NRS 125B.055, NRS 125.130, and/or NRS 125.230. Such
20 information shall be maintained by the Clerk in a confidential manner and shall


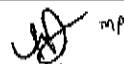
1 not be part of the public record. The parties shall update the information filed
2 with the Court and the Welfare Division of the Department of Human Resources
3 within ten (10) days should any of that information become inaccurate.

4 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Mr.
5 James shall prepare the Order with Mr. Altig to countersign.

6 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

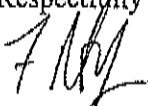
7 Dated this ____ day of October, 2017

8 NOV 06 2017

9 
DISTRICT COURT JUDGE 

10 Respectfully submitted by:

Approved as to form and content by:

11 
12 LAW OFFICES OF F. PETER JAMES
13 F. Peter James, Esq.
14 Nevada Bar No. 10091
15 3821 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89102
702-256-0087
Counsel for Plaintiff

ADRAS & ALTIG
Steven M. Altig, Esq.
Nevada Bar No. 6879
601 South 7th Street
Las Vegas, Nevada 89101
702-385-7227
Counsel for Defendant

EXHIBIT 1

HOLIDAY AND VACATION PLAN

Department Q

The Court encourages parents to communicate regarding holiday and vacation time with their children. The following Holiday and Vacation Plan is a "default" schedule where parents are unable to otherwise agree. Any deviation therefrom should be memorialized in writing with both parents' signatures. Holidays/Special Occasions take precedence over residential time and Vacation time. Unless otherwise ordered, reference to a "school" schedule for the purpose of defining a Holiday or Special Occasion shall be defined by the Clark County, Nevada School District Schedule. (See www.ccsd.net)

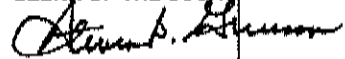
THREE DAY HOLIDAYS (Holiday visitation begins when school gets out on the day preceding the holiday weekend (or 3:00 p.m. if the children are not in school) and continues until 9:00 a.m. on the day following the holiday weekend or when the children are scheduled to resume school.)	ODD YEAR	EVEN YEAR
Martin Luther King Day	Mom	Dad
Presidents' Day	Dad	Mom
Memorial Day	Mom	Dad
Labor Day	Dad	Mom
Nevada Admission Day	Mom	Dad

EXTENDED HOLIDAYS	ODD YEAR	EVEN YEAR
Thanksgiving: The holiday visitation shall begin when school gets out on the Wednesday preceding Thanksgiving (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Mom	Dad
Christmas/Winter Break: Winter break shall be divided equally between the parents, with the first half commencing when the children get out of school to begin the Winter Break (or 3:00 p.m. if the children are not in school), and continue until December 26 at 10:00 a.m. The second half shall commence on December 26 at 10:00 a.m. and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school).		
First Half	Dad	Mom
Second Half	Mom	Dad

EXTENDED HOLIDAYS, cont'd.	ODD YEAR	EVEN YEAR
Easter/Spring Break: The holiday visitation shall begin when school gets out on the last day of school (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Dad	Mom

SPECIAL OCCASIONS (Special Occasions begin at 9:00 a.m. on the individual day and continue until 9:00 p.m. on the same day)	ODD YEAR	EVEN YEAR
Mother's Day	Mom	Mom
Father's Day	Dad	Dad
Children's Birthdays	Dad	Mom

Summer/Track Break Vacations
Each parent shall be entitled to one (1) vacation each year with the children for a period not to exceed two (2) consecutive weeks (unless otherwise agreed to in writing). Each parent shall designate his/her respective vacation plans by May 1 st of each year. The dates shall be conveyed to the other party in writing by way of certified mail. If there is a conflict in dates, the parent who designates the vacation first (as verified by the certified mail stamp) will prevail as to the vacation time. Neither party shall schedule vacation time during the other party's holiday time or during time the children are scheduled to be in school.



1 **NOAS**
2 **LAW OFFICES OF F. PETER JAMES, ESQ.**
3 **F. Peter James, Esq.**
4 **Nevada Bar No. 10091**
5 **Peter@PeterJamesLaw.com**
6 **3821 West Charleston Boulevard, Suite 250**
7 **Las Vegas, Nevada 89102**
8 **702-256-0087**
9 **702-256-0145 (fax)**
10 **Counsel for Plaintiff**

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

13 **WILLIAM DIMONACO,**
14 **Plaintiff,**

15 **CASE NO. : D-16-539340-C**
16 **DEPT. NO. : Q**

17 **vs.**

18 **NOTICE OF APPEAL**

19 **ADRIANA DAVINA FERRANDO,**
20 **Defendant.**

Notice is hereby given that Plaintiff, William DiMonaco, hereby appeals

///

///

///

///

///

///

1 to the Supreme Court of Nevada from the Decree of Custody entered November
2 9, 2017.

3 Dated this 6 day of December, 2017

4 
5 LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

6 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

7 Las Vegas, Nevada 89102

702-256-0087

8 Counsel for Plaintiff

1 CERTIFICATE OF SERVICE

2 I certify that on this 6 day of December, 2017, I caused the above and
3 foregoing document entitled **NOTICE OF APPEAL** to be served as follows:

4 ☒ pursuant to EDCR 8.05(A), EDCR 8.05(F), NRCR 5(b)(2)(D)
5 and Administrative Order 14-2 captioned "In the Administrative
6 Matter of Mandatory Electronic Service in the Eighth Judicial
7 District Court," by mandatory electronic service through the
8 Eighth Judicial District Court's electronic filing system;

9 ☐ pursuant to EDCR 7.26 / NEFCR 9, to be sent via facsimile /
10 email;

11 to the attorney(s) / party(ies) listed below at the address(es), email address(es),
12 and/or facsimile number(s) indicated below:

13 Steven M. Altig, Esq.
14 601 South 7th Street
15 Las Vegas, Nevada 89101
16 702-385-7227
17 702-385-5351 (fax)
18 steven@adraslaw.com
19 Counsel for Defendant
20

By: 

An employee of the Law Offices of F. Peter James, Esq., PLLC

ORIGINAL

Electronically Filed
7/18/2018 4:23 PM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

1 SAO
2 LAW OFFICES OF F. PETER JAMES, ESQ.
3 F. Peter James, Esq.
4 Nevada Bar No. 10091
5 Peter@PeterJamesLaw.com
6 3821 West Charleston Boulevard, Suite 250
7 Las Vegas, Nevada 89102
8 702-256-0087
9 702-256-0145 (fax)
10 Counsel for Plaintiff

DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

11 WILLIAM DIMONACO,
12
13 Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : E

STIPULATION AND ORDER

14 vs.

15 ADRIANA DAVINA FERRANDO,
16
17 Defendant.

STIPULATION

18 COMES NOW Plaintiff, William DiMonaco ("Dad"), by and through his
19 counsel, F. Peter James, Esq., and Defendant, Adriana Ferrando ("Mom"), by and
20 through her counsel, Michael P. Carman, Esq., who hereby stipulate and request
entry of an order as follows:

✓ 19 IT IS HEREBY STIPULATED that the parties shall claim any and all
20 tax benefits / child tax dependent benefits for their minor child (Grayson Ashton

1 of 5

RECEIVED

JUL 16 2018

DEPARTMENT E

Case Number: D-16-539340-C

RA0153

1 DiMonaco-Ferrando born August 12, 2014) as follows:

- 2 • 2017 tax year: Dad
- 3 • 2018 tax year: Mom
- 4 • 2019 tax year: Mom
- 5 • Every even tax year thereafter: Dad
- 6 • Every odd tax year thereafter: Mom

7 **IT IS FURTHER STIPULATED** that the parties shall execute upon
8 demand any and all forms, releases, or other documents to effectuate the terms of
9 this Stipulation and Order.

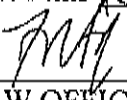
10 **IT IS FURTHER STIPULATED** that the terms herein supplant any prior
11 orders and agreements as to the issues contained herein.

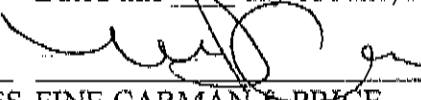
12 **IT IS FURTHER STIPULATED** that no party shall be deemed the
13 drafter of this Stipulation and Order.

14 **IT IS SO STIPULATED.**

15 Dated this 12 day of ^{July}~~June~~, 2018

Dated this 14th day of June, 2018

16 
17 LAW OFFICES OF F. PETER JAMES
18 F. Peter James, Esq.
19 Nevada Bar No. 10091
20 3821 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89102
702-256-0087
Counsel for Plaintiff

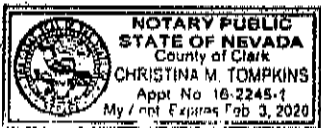

FINE CARMAN & PRICE
Michael P. Carman, Esq.
Nevada Bar No. 7639
8965 S. Pecos Road, Suite 9
Henderson, Nevada 89074
702-384-8900
Counsel for Defendant

1
2
3
4
5
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0

I am the Plaintiff herein, and I have read the foregoing Stipulation and Order and know the contents thereof; that the same is true and correct to the best of my knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

[illegible]

Christine M. Higgins
NOTARY PUBLIC in and for said County and State



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I am the Defendant, and I have read the foregoing Stipulation and Order and know the contents thereof; that the same is true and correct to the best of my knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

STATE OF NEVADA)
)
COUNTY OF CLARK)

SUBSCRIBED and SWORN TO before me by Adriana Ferrando this 14th day of June, 2018

Samantha Willis f w




1 **ORDER**

2 The Court, having read the papers and pleadings on file herein, being well
3 advised in the premises, having considered the above Stipulation, and for
4 sufficient cause shown, hereby orders as follows:


5 **IT IS HEREBY ORDERED** that the above Stipulation shall be ratified,
6 incorporated as though fully set forth herein, merged, and adopted as an Order of
7 the Court.

8 **IT IS SO ORDERED.**

9 Dated this 17th day of July, 2018

10
11 
DISTRICT COURT JUDGE
12 CHARLES J. HOSKIN

12 Respectfully submitted by:

13 
14 LAW OFFICES OF F. PETER JAMES
F. Peter James, Esq.
15 Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
16 Las Vegas, Nevada 89102
702-256-0087
17 Counsel for Plaintiff
18
19
20

Steven D. Grlerson

FINE | CARMAN | PRICE
FAMILY LAW ATTORNEYS

1 MOT
FINE | CARMAN | PRICE
2 Michael P. Carman, Esq.
Nevada Bar No. 07639
3 8965 S. Pecos Road, Suite 9
Henderson, NV 89074
4 702.384.8900
mike@fcfamilylaw.com
5 Counsel for Adriana Ferrando

6 DISTRICT COURT
FAMILY DIVISION
7 CLARK COUNTY, NEVADA

8 WILLIAM DIMONACO,

9 Plaintiff,

10 vs.

11 ADRIANA DAVINA FERRANDO,

12 Defendant.

Case No.: D-16-539340-C
Dept. No.: E

Date and time of hearing:

Oral Argument Requested:

☐ YES / ☒ NO

13 MOTION TO CONFIRM SCHOOL ENROLLMENT AT SOMERSET
14 ACADEMY

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

18 COMES NOW, Defendant, Adriana Ferrando ("Adriana"), appearing
19 with her counsel, Michael P. Carman, Esq., of FINE | CARMAN | PRICE, and
20 hereby submits this Motion to Confirm School Enrollment at Somerset
21 Academy.

1 This motion is made and based upon the pleadings and papers on file
2 herein, the Points and Authorities submitted herewith, Adriana's declaration
3 attached hereto, and such other evidence and argument as may be brought
4 before the Court at the hearing of this matter.

5 As set forth below, Adriana hereby asks the Court grant to her the
6 following relief:

- 7 1. For an Order permitting Grayson's enrollment at Somerset
8 Academy – Sky Pointe;
- 9 2. For an award of attorney's fees and costs; and
- 10 3. For any and all other relief deemed warranted by the Court
11 at the time of the hearing of this matter.

12 DATED: July 23, 2019.

13 FINE | CARMAN | PRICE



14 Michael P. Carman, Esq.
15 Nevada Bar No. 07639
16 8965 S. Pecos Road, Suite 9
17 Henderson, NV 89074
18 702.384.8900
19 mike@fcpfamilylaw.com
20 Counsel for Adriana Ferrando
21

POINTS AND AUTHORITIES

I.

BACKGROUND

As this Court is aware, the parties to this action were never married and have one child together, to wit: Grayson Ashton DiMonaco-Ferrando ("Grayson") born August 12, 2014.

Relevant to this motion, Adriana has subsequently remarried and, as a result of such marriage, Grayson has gained a five (5) year old brother named Gage with whom he has become inseparable. Suffice it to say that Grayson and Gage are brothers in every sense of the word, and serve as a powerful support system for one another.

With Grayson approaching kindergarten age, and with Adriana wanting to ensure that Grayson and Gage would have an opportunity to attend school together, the parties began discussing the issue of school enrollment. From that discussion, Will agreed to apply to Somerset Academy – Sky Pointe and Adriana applied in accordance with Will's wishes. Ironically, Somerset was the only option that Will gave Adriana. As a result of such application, Grayson was offered a spot at Somerset Academy – Sky Pointe.

Upon learning of Grayson's acceptance, and with there being an extremely narrow window in which to enroll Grayson, Will suddenly began

1 to voice second thoughts in relation to the parties' selection of schools, and
2 implied to Adriana that he may block Grayson's enrollment as he began to
3 communicate with Adriana's husband's ex. With the intervention of counsel,
4 Will finally agreed to allow for Grayson's enrollment on March 6, 2019 "for
5 the express purpose of preserving the child's seat at that school."

6 With Will indicating that he was not agreeing that Grayson could
7 attend Somerset and hiring new counsel (who is also representing Adriana's
8 husband's ex in an effort to block Gage's enrollment at Somerset pursuant
9 to their Parenting Coordinator's recommendations), undersigned counsel
10 reached out to Will's counsel to determine Will's position regarding
11 enrollment. In response, undersigned counsel was advised that, unless the
12 parties came up with another option, Will would likely consent to enrollment
13 at Somerset.

14 With no clear resolution to the school enrollment issue, and with Will
15 not discussing any alternate enrollment with Adriana, undersigned counsel
16 followed up with Will's counsel on May 24th in an effort to determine what
17 his actual position was in relation to Grayson's enrollment at Somerset.
18 With no clear objection being voiced by Will, and with no clear agreement
19 regarding enrollment at Somerset, undersigned counsel attempted to
20 secure a clear resolution from Will's counsel throughout the month of June.
21 While a clear answer was promised by Will's counsel by July 12, 2019, no

1 follow-up has occurred weeks away from the start of school as Grayson's
2 enrollment remains unresolved. In following up directly with Will, Will has
3 refused to give Adriana a clear answer as well indicating that his attorney is
4 "handling the matter."

5 With school evaluations set for August 1st, and Meet Your Teacher set
6 for August 9th, Adriana files this motion to confirm Grayson's school
7 enrollment at Somerset Academy – Sky Pointe at this time.

8 II.

9 EDCR 5.501 CERTIFICATE

10 As set forth above, despite the efforts of counsel this matter remains
11 unresolved. With school fast approaching, and further EDCR 5.501 efforts
12 believed to be impractical at this time, the filing of this motion has become
13 necessary.

14 III.

15 ARGUMENT

16 A. Adriana Requests That Grayson's Enrollment at Somerset 17 Academy be Confirmed at This Time

18 While Will consented to Grayson's enrollment at Somerset Academy
19 – Sky Pointe, and has thus far not objected to his attending the school, Will
20 has kept the school enrollment issue in limbo by also not consenting to
21 Grayson's attendance at the school. Out of an abundance of caution,

1 Adriana files this motion to confirm Grayson's school enrollment at
2 Somerset.

3 As set forth in Arcella v. Arcella, 407 P.3d 341 (2017), when parents
4 in a joint custody situation disagree as to their child's upbringing, a court
5 must resolve the dispute by ordering what it determines to be in a child's
6 best interest. *Citing Rivero v. Rivero*, 125 Nev. at 421, 216 P.3d at 221-22.
7 In the context of a school selection dispute, the district court must determine
8 which school is best tailored to the needs of the child considering the
9 following non-exhaustive factors:

- 10 (1) The wishes of the child, to the extent that the child is of
11 sufficient age and capacity to form an intelligent
preference;
- 12 (2) The child's educational needs and each school's ability
13 to meet them;
- 14 (3) The curriculum, method of teaching, and quality of
instruction at each school;
- 15 (4) The child's past scholastic achievement and predicted
16 performance at each school;
- 17 (5) The child's medical needs and each school's ability to
meet them;
- 18 (6) The child's extracurricular interests and each school's
19 ability to satisfy them;
- 20 (7) Whether leaving the child's current school would disrupt
the child's academic progress;
- 21 (8) The child's ability to adapt to an unfamiliar environment;

(9) The length of commute to each school and other logistical concerns; and

(10) Whether enrolling the child at a school is likely to alienate the child from a parent.

With Will not proposing any alternative schools, Adriana can only apply such factors to Grayson's enrollment at Somerset at follows:

- The wishes of the child, to the extent that the child is of sufficient age and capacity to form an intelligent preference

While very young, Grayson would express a clear and steadfast desire to attend school with his brother. If advised that he will be attending a different school than Gage, it is believed that Grayson would be devastated.

- The child's educational needs and each school's ability to meet them

It is believed that Somerset will meet Grayson's educational needs.

- The curriculum, method of teaching, and quality of instruction at each school

Somerset has excellent standardized testing scores, and is known for having very high educational standards.

- The child's past scholastic achievement and predicted performance at each school

This factor is not applicable as Grayson is not currently enrolled at Somerset at this time.

- 1 • The child's medical needs and each school's ability to
2 meet them

3 Grayson does not have any special medical needs, and
4 this factor is not applicable.

- 5 • The child's extracurricular interests and each school's
6 ability to satisfy them

7 It is hopeful that attendance at Somerset will allow
8 Grayson to participate in extracurricular activities with
9 his stepbrother.

- 10 • Whether leaving the child's current school would disrupt
11 the child's academic progress

12 As Grayson is not currently enrolled at Somerset at this
13 time, this factor is not applicable.

- 14 • The child's ability to adapt to an unfamiliar environment

15 It is believed that attending school with his older brother
16 will assist Grayson in transitioning to Somerset.

- 17 • The length of commute to each school and other
18 logistical concerns

19 In the event that Grayson and Gage were to attend
20 different schools, Adriana would face insurmountable
21 daily logistical challenges with two children having to be
in two different places at the same time.

- Whether enrolling the child at a school is likely to
alienate the child from a parent

Adriana does not believe that enrollment at Somerset
would alienate Grayson from Will.

For the reasons set forth above, Adriana firmly believes that
Grayson's enrollment at Somerset would best serve his interests at this

1 time. Such an enrollment will allow Grayson to continue to attend school
2 with his brother, will ensure that Grayson is at an excellent school, will
3 ensure that Grayson can continue to participate in extracurricular activities
4 with his brother as he grows older, and will ensure that Grayson's transition
5 to a new school is eased by him having a sibling support system.

6 With Will having consented to Grayson's application to Somerset, and
7 having consented to Grayson's enrollment at Somerset, and with Will not
8 articulating any clear reason as to why Grayson's attending Somerset would
9 be detrimental, Adriana requests that the Court confirm his enrollment at
10 Somerset at this time.

11 **C. Adriana Requests that she be Awarded Attorney's Fees and Costs**

12 NRS 18.010 states as follows:

13 In addition to the cases where an allowance is authorized
14 by specific statute, the court may make an allowance of
attorney's fees to a prevailing party:

15 (a) When he has not recovered more than \$20,000;
16 or

17 (b) Without regard to the recovery sought, when the
18 court finds that the claim, counterclaim, cross-claim
19 or third-party complaint or defense of the opposing
20 party was brought or maintained without reasonable
21 ground or to harass the prevailing party. The court
shall liberally construe the provisions of this
paragraph in favor of awarding attorney's fees in all
appropriate situations. It is the intent of the
Legislature that the court award attorney's fees
pursuant to this paragraph and impose sanctions

1 pursuant to Rule 11 of the Nevada Rules of Civil
2 Procedure in all appropriate situations to punish for
3 and deter frivolous or vexatious claims and defenses
4 because such claims and defenses overburden
5 limited judicial resources, hinder the timely resolution
6 of meritorious claims and increase the costs of
7 engaging in business and providing professional
8 services to the public.

9 Furthermore, EDCR 7.60(b) states as follows:

10 The court may, after notice and an opportunity to be heard,
11 impose upon an attorney or a party any and all sanctions
12 which may, under the facts of the case, be reasonable,
13 including the imposition of fines, costs or attorney's fees
14 when an attorney or a party without just cause:

- 15 (1) Presents to the court a motion or an opposition
16 to a motion which is obviously frivolous, unnecessary
17 or unwarranted.
- 18 (2) Fails to prepare for a presentation.
- 19 (3) So multiplies the proceedings in a case as to
20 increase costs unreasonably and vexatiously.
- 21 (4) Fails or refuses to comply with these rules.
- (5) Fails or refuses to comply with any order of a
judge of the court.

With no basis for any objection to Grayson's enrollment at Somerset
having been articulated by Will, and with Will not suggesting any alternative
enrollment possibilities, Adriana does not believe that his refusal to confirm
Grayson's enrollment at Somerset has been made in good faith. To the
contrary, by refusing to consent to Grayson's attendance, Will has made

1 what should be a fun and exciting time for Grayson preparing for a new
2 school very difficult with the parties having not decided on a school. Under
3 such circumstances, Adriana requests that Will be deemed responsible for
4 the attorney's fees that he has incurred in this action.

5 In regard to the factors set forth in Brunzell v. Golden Gate National
6 Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), undersigned counsel's
7 hourly rate of \$400.00 and the total amount of time incurred in fees was
8 reasonable under the circumstances of this case. Specifically, undersigned
9 counsel is an A/V rated attorney who has practiced since 1997, has
10 practiced primarily in the field of family law for over fourteen (14) years, and
11 is currently serving on the State Bar of Nevada's Family Law Executive
12 Council. It is hopeful that the Court will deem counsel's work in this matter
13 as more than adequate, both factually and legally, and that the Court will
14 recognize that counsel has diligently reviewed the applicable law, explored
15 the relevant facts, and properly applied one to the other.

16 ///

17 ///

18 ///

19 ///

20 ///

21

CONCLUSION

As set forth above, Adriana hereby asks the Court grant to her the following relief:

1. For an Order permitting Grayson's enrollment at Somerset Academy – Sky Pointe;
2. For an award of attorney's fees and costs; and
3. For any and all other relief deemed warranted by the Court at the time of the hearing of this matter.

DATED: July 23, 2019.

FINE | CARMAN | PRICE



Michael P. Carman, Esq.
Nevada Bar No. 07639
8965 S. Pecos Road, Suite 9
Henderson, NV 89074
702.384.8900
mike@fcpfamilylaw.com
Counsel for Adriana Ferrando

DECLARATION OF ADRIANA FERRANDO

STATE OF NEVADA)
) ss:
CLARK COUNTY)

I, Adriana Ferrando, pursuant to EDCR 2.21, hereby declare under penalty of perjury that I am the Plaintiff in the above-entitled action and have read the above and foregoing Motion to Confirm School Enrollment at Somerset Academy, know the contents thereof, and that the same is true of my own knowledge, except for those matters therein stated on information and belief, and as for those matters, I believe them to be true.


Adriana Ferrando

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 23 day of July, 2019, I caused the above and foregoing document, Motion to Adopt Parenting Coordinator Recommendations, to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system to the following:
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.

To the following attorney listed below at the address, email address, and/or facsimile number indicated below:

To the following address:

Matthew H. Friedman, Esq.
mfriedman@fordfriedmanlaw.com

Tracey McAuliff
tracy@fordfriedmanlaw.com

Eddie Rueda
eddie@fordfriedmanlaw.com

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Gary Segal, Esq.
gsegal@fordfriedmanlaw.com



Employee of FINE | CARMAN | PRICE

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

William Dimonaco
Plaintiff/Petitioner

Case No. D-16-539340-C

Adriana Davina Ferrando
Defendant/Respondent

Dept. E

MOTION/OPPPOSITION
FEE INFORMATION SHEET

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

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

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

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

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

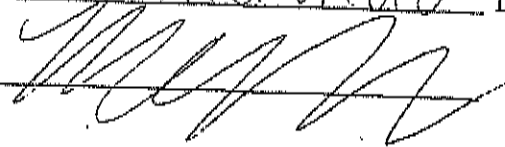
Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:
☐ \$0 ☒ \$25 ☐ \$57 ☐ \$82 ☐ \$129 ☐ \$154

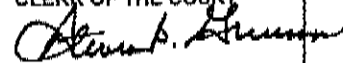
Party filing Motion/Opposition: Adriana Ferrando

Date 7/23/2019

Signature of Party or Preparer



RA0173



1 APPL
FINE|CARMAN|PRICE
2 Michael P. Carman, Esq.
Nevada Bar No. 07639
3 8965 S. Pecos Road, Suite 9
Henderson, NV 89074
4 702.384.8900
mike@fcpfamilylaw.com
5 Counsel for Adriana Ferrando

6 DISTRICT COURT
FAMILY DIVISION
7 CLARK COUNTY, NEVADA

8 WILLIAM DIMONACO,

9 Plaintiff,

10 vs.

11 ADRIANA DAVINA FERRANDO,

12 Defendant.

Case No.: D-16-539340-C
Dept. No.: E

13
14 EX PARTE APPLICATION TO TEMPORARILY PERMIT SCHOOL
ENROLLMENT, OR, IN THE ALTERNATIVE, FOR ORDER
15 SHORTENING TIME

16 COMES NOW, Defendant, Adriana Ferrando ("Adriana"), appearing
17 with her counsel, Michael P. Carman, Esq., of FINE|CARMAN|PRICE, and
18 hereby submits this Ex Parte Application to Temporarily Permit School
19 Enrollment, and for an Order Shortening Time.
20

1 This application is based upon the attached Points and Authorities, the
2 attached exhibits, any and all pleadings and papers on file in this matter,
3 and any oral representation to take place at the hearing of this Motion.

4 Adriana hereby requests that the Court grant to her the following relief:

- 5 1. For an Order temporarily permitting Grayson to attend
6 Somerset Academy;
- 7 2. For an Order Shortening Time; and
- 8 3. For such other and further relief this Court deems just and
9 proper in the premises.

10 DATED July 23, 2019.

FINE | CARMAN | PRICE



Michael P. Carman, Esq.
Nevada Bar No. 07639
8965 S. Pecos Road, Suite 9
Henderson, NV 89074
702.384.8900
mike@fcpfamilylaw.com
Attorney for Adriana Ferrando

POINTS AND AUTHORITIES

I.

ARGUMENT

A. Adriana Requests that the Court Temporarily Confirm Grayson's Enrollment at Somerset Academy

NRS 125C.0045(1)(a) states as follows:

During the pendency of the action, at the final hearing or at any time thereafter during the minority of the child, make such an order for the custody, care, education, maintenance and support of the minor child as appears in his or her best interest.

As set forth in Adriana's Motion to Confirm School Enrollment at Somerset Academy, the parties agreed to apply to Somerset Academy – Sky Pointe, and Somerset was the only option that was deemed acceptable to Will. As a result of such application, Grayson was offered a spot at Somerset Academy – Sky Pointe.

While Will consented to Grayson's enrollment at Somerset, Will indicated that such enrollment was "for the express purpose of preserving the child's seat at that school" and reserved the right to object to Grayson's attendance at the school.

While Will has – thus far - not objected to Gage's attendance at Somerset, he has been non-committal and has not confirmed that he is in agreement with Grayson's attendance at the school.

1 With no objection having been voiced by Will, and with school
2 evaluations set for August 1st, and meet your teacher set for August 9th,
3 Adriana requests that the Court temporarily confirm Grayson's enrollment at
4 Somerset – Sky Pointe, without prejudice, at this time.

5 **B. Adriana Further Requests That This Matter be Heard on an Order**
6 **Shortening Time**

7 EDCR 5.513 authorizes this Court to shorten time for a hearing upon
8 a showing of good cause as follows:

9 Orders shortening time for a hearing.

10 (a) Unless prohibited by other rule, statute, or court order,
11 a party may seek an order shortening time for a hearing.

12 (b) An ex parte motion to shorten time must explain the
13 need to shorten the time. Such a motion must be
14 supported by affidavit.

15 (c) Absent exigent circumstances, an order shortening
16 time will not be granted until after service of the underlying
17 motion on the nonmoving parties. Any motion for order
18 shortening time filed before service of the underlying
19 motion must provide a satisfactory explanation why it is
20 necessary to do so.

(d) An order shortening time must be served on all parties
promptly. An order that shortens the notice of a hearing to
less than 10 calendar days may not be served by mail. In
no event may a motion be heard less than 1 judicial day
after the order shortening time is filed and served.

(e) Should the court shorten the time for the hearing of a
motion, the court may direct that the subject matter of any
countermotion be addressed at the accelerated time, at
the original hearing time, or at some other time.

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With school evaluations set for August 1st, and meet your teacher set for August 9th, and with Grayson needing a firm decision regarding his school enrollment, Adriana requests that this matter be heard on an Order Shortening Time at the Court's next available hearing date.

DATED July 23, 2019.

FINE | CARMAN | PRICE



Michael P. Carman, Esq.
Nevada Bar No. 07639
8965 S. Pecos Road, Suite 9
Henderson, NV 89074
702.384.8900
mike@fcpfamilylaw.com
Attorney for Adriana Ferrando

**AFFIDAVIT OF COUNSEL IN SUPPORT OF REQUEST FOR ORDER
SHORTENING TIME**

I am counsel for Adriana Ferrando and hereby swear, under penalty of perjury, as follows:

As set forth in Adriana's underlying motion, the parties agreed to apply to Somerset Academy – Sky Pointe, and Somerset was the only option that was deemed acceptable to Will. As a result of such applications, Grayson was offered a spot at Somerset Academy – Sky Pointe.

While Will consented to Grayson's enrollment at Somerset, Will indicated that such enrollment was "for the express purpose of preserving the child's seat at that school" and reserved the right to object to Grayson's attendance at the school.

While Will has – thus far – not objected to Gage's attendance at Somerset, he has been non-committal and has not confirmed that he is in agreement with Grayson's attendance at the school.

With school evaluations fast approaching, and with Grayson having no final decision from Will as to whether he will be permitted to attend Somerset Academy – Sky Pointe, undersigned counsel believes that good cause exists to shorten the time for the hearing upon Adriana's motion.

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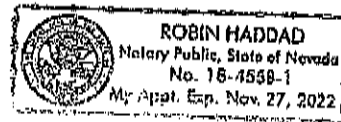
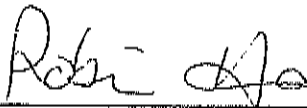
For the foregoing reasons, it is respectfully requested that this matter
be heard on an Order Shortening Time.

DATED this 23rd day of July, 2019.



Michael P. Carman, Esq.

SIGNED and SWORN to before me
this 23rd day of July, 2019.



NOTARY PUBLIC State of Nevada
Clark County

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that on this 22 day of July, 2019, I caused the above and foregoing document, Ex Parte Application to Temporarily Permit School Enrollment, Or, In the Alternative, For Order Shortening Time, to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system to the following:
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.

To the following attorney listed below at the address, email address, and/or facsimile number indicated below:

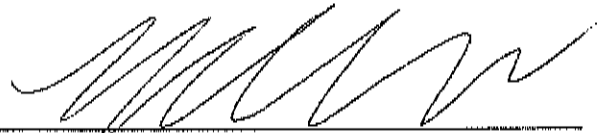
To the following address:

Matthew H. Friedman, Esq.
mfriedman@fordfriedmanlaw.com

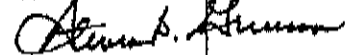
Tracey McAuliff
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Eddie Rueda
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Gary Segal, Esq.
gsegal@fordfriedmanlaw.com



Employee of FINE | CARMAN | PRICE



1 **DOCU**

2 **MATTHEW H. FRIEDMAN, ESQ.**

3 **Nevada Bar No. 11571**

4 **FORD & FRIEDMAN**

5 **2200 Paseo Verde Pkwy, Suite 350**

6 **Henderson, Nevada 89052**

7 **Telephone: (702) 476-2400**

8 **Facsimile: (702) 476-2333**

9 **mfriedman@fordfriedmanlaw.com**

10 **Attorney for Plaintiff**

11 **EIGHTH JUDICIAL DISTRICT COURT, FAMILY DIVISION**
12 **CLARK COUNTY, NEVADA**

13 **WILLIAM DIMONACO,**

Case No.: D-16-539340-C

14 **Plaintiff,**

Department: E

15 **vs.**

16 **ADRIANA FERRANDO,**

ORAL ARGUMENT REQUESTED: YES

17 **Defendant.**

18 **PLAINTIFF'S OBJECTION TO DEFENDANT'S EX-PARTE**
19 **APPLICATION TO TEMPORARILY PERMIT SCHOOL ENROLLMENT**
20 **and**
21 **JOINDER FOR HEARING MATTER ON AN ORDER SHORTENING**
22 **TIME.**

23 COMES NOW Plaintiff, WILLIAM DIMONACO, (hereinafter referred to
24 as "Will") by and through his counsel of record, Matthew H. Friedman, Esq. of
25 the law firm Ford & Friedman and respectfully states as follows:

26 1. Plaintiff objects to Defendant, ADRIANA FERRANDO's Ex-Parte
27 Application to Temporarily Permit School Enrollment;
28

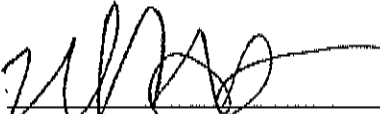
1 2. Plaintiff agrees to Hear Oral Arguments on Defendant's underlying
2 Motion to Confirm School Enrollment at Somerset Academy on an Order
3 Shortening Time; and
4

5 3. For an award of Plaintiff's attorney's fees and costs incurred in
6 having to respond herein.
7

8 This Objection and Joinder is made and based upon the Attached Points and
9 Authorities, all pleadings and papers on file herein and the arguments to be
10 adduced at the time of Hearing herein and is made in good faith and not to delay
11 justice.
12

13 Dated this 24 day of July, 2019.
14

15 **FORD & FRIEDMAN**

16
17 
18 _____
19 MATTHEW H. FRIEDMAN, ESQ.
20 Nevada Bar No.: 11571
21 2200 Paseo Verde Parkway, Suite 350
22 Henderson, Nevada 89052
23 (702) 476-2400
24 *Attorney for Plaintiff*
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POINTS AND AUTHORITIES

I.

STATEMENT OF RELEVANT FACTS

The parties herein were never married to each other, but do have one child together, such being Grayson Ashton DiMonaco—Ferrando, born August 12, 2014, (who will be referred to herein as Grayson.) Wholly absent from Defendant's underlying Motion and Ex Parte Application is mention of Grayson's half sibling—McKenna Rose DiMonaco (born May 24, 2011), with whom Grayson is equally attached to and who is planning to attend 3rd grade at Richard H. Bryan Elementary School this Fall, 2019. The parties herein and their minor children involve three (3) children and four (4) families:

- The parties herein having Grayson;
- Defendant, Ferrando and her current husband, Jon Collingwood, have a child together who is not of school age for some time and therefore not a factor in the current issues;
- Jon has a child, Gage (Grayson's step-brother), with his former girlfriend, Kristy McConnell; and
- WILL has McKenna (Grayson's half-sister) with his former wife, Courtney DiMonaco.

1 The parents of all three (3) children share joint legal and joint physical custody of
2 the respective minor children.

3 While Will did not dispute Defendant applying for enrollment at Somerset
4 Academy for Grayson, let it be known, that he never agreed that Grayson would in
5 fact matriculate there. Defendant acknowledges such fact at page 4, line 3 of her
6 underlying Motion wherein she admits Grayson's enrollment at Somerset is "for
7 the express purpose of preserving the child's seat at that school." Both Will and
8 Defendant have investigated possible schools for Grayson in anticipation of him
9 entering Kindergarten this Fall. Accordingly, in April, Will applied for a zone
10 variance in order to seek to obtain the option for Grayson to attend Richard H.
11 Bryan Elementary alongside his half-sister, McKenna. Although Will has
12 diligently communicated with the staff at Richard H. Bryan Elementary concerning
13 the status of such variance, to date, the Principal has not confirmed her decision
14 concerning Grayson attending Kindergarten there this Fall. Will expects to receive
15 the decision concerning the zone variance early next week.¹

22 II.

23 PROCEDURAL POSTURE PERTINENT TO THE PRESENT ISSUES.

26 ¹ While it is true that WILL's and Jon's former girlfriend Kristy McConnell (in case number D-
27 15-517451-C, pending in Department R), now share the same counsel, it should be noted that
28 Defendant and her current husband, Jon Collingwood, have shared counsel throughout the
pendency of the instant litigation. Furthermore, it should be noted that in case D-15-517451-C,
Shelley Cooley, Esq. has been appointed as the Parenting Coordinator.

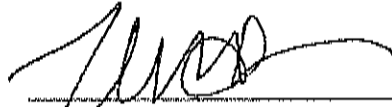
1 On July 23, 2019, Defendant filed her underlying "Motion to Confirm
2 School Enrollment at Somerset Academy" without requesting "Oral Argument"
3 concerning the same. Accordingly, such matter is now set for consideration by this
4 Honorable Court on the "Chambers Calendar" on August 23, 2019. Concurrently,
5 Defendant filed her "Ex Parte Application to Temporarily Permit School
6 Enrollment, Or, In the Alternative, For Order Shortening Time". While the title of
7 Defendant's Ex Parte Application notes the alternative of setting the matter on an
8 Order Shortening Time, the prayer contained in the Ex Parte Application does not
9 provide the same alternative – in essence asking this Court to decide enrollment
10 (without a Hearing) AND setting a Hearing on an Order Shortening Time.
11

12 Given the factual disputes at issue herein, Will believes it important that this
13 Court hear oral argument prior to rendering any decision in this matter, and
14 therefore, wholeheartedly objects to a decision concerning the child's school
15 enrollment without holding a Hearing herein. Moreover, while Will has no
16 objection to setting this matter for Hearing on an Order Shortening Time, *he would*
17 *only ask that any such setting occur after the expiration of his ten (10) day*
18 *deadline within which to file his responsive pleading, to wit: on or after August 5,*
19 *2019.* Will's requested relief will not prejudice Grayson's schooling as, Grayson's
20 spot would be preserved at both schools currently in dispute. Upon this matter
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1 being set for Hearing on an Order Shortening Time, Will shall file his appropriate
2 response to Defendant's underlying Motion.

3 Dated this 24 day of July, 2019.

4
5 **FORD & FRIEDMAN**

6 

7 **MATTHEW H. FRIEDMAN, ESQ.**

8 Nevada Bar No.: 11571

9 2200 Paseo Verde Pkwy, Suite 350

10 Henderson, Nevada 89052

11 Telephone: (702) 476-2400

12 *Attorneys to Plaintiff*

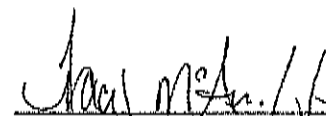
CERTIFICATE OF SERVICE

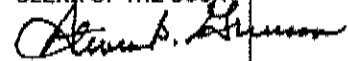
Pursuant to NRCP 5(b), I certify that I am an employee of Ford & Friedman and that on this 24th day of July, 2019, I caused the above and foregoing "Plaintiff's Objection To Defendant's Ex-Parte Application To Temporarily Permit School Enrollment And Joinder For Hearing Matter On An Order Shortening Time", to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f) and NRCP 5(b)(2)(d) and Administrative Order 14-2 captioned, "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☐ By placing the same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Henderson, Nevada;
- ☐ Pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ By hand delivery with signed Receipt of Copy.

To the person listed below at the address indicated below:

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An Employee of Ford & Friedman



OPPC

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Attorney for Plaintiff

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

WILLIAM DIMONACO,

Plaintiff,

vs.

ADRIANA FERRANDO,

Defendant.

Case No.: D-16-539340-C

Department: E

Oral Argument Requested: YES

Date of Hearing: August 1, 2019

Time of Hearing: 10:00 a.m.

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR
ENROLLMENT AT SOMERSET ACADEMY AND FOR ATTORNEY'S
FEES AND COSTS; AND COUNTERMOTION FOR THE CHILD TO
BE ENROLLED AT RICHARD H. BRYAN ELEMENTARY SCHOOL,
AND FOR ATTORNEY'S FEES AND COSTS**

COMES NOW Plaintiff, William DiMonaco (hereinafter referred to as
"Will"), by and through his counsel of record, Matthew H. Friedman, Esq., of
the law firm Ford & Friedman who hereby files this Opposition To Defendant's
Motion For Enrollment At Somerset Academy And For Attorney's Fees And
Costs; And Countermotion or the Child to be Enrolled at Richard H. Bryan

1 Elementary School, And For Attorney's Fees And Costs, and requests that this
2 Honorable Court enter the following orders:

- 3 1. That Defendant's motion be denied in its entirety;
- 4
- 5 2. That the minor child be enrolled at Richard H. Bryan Elementary;
- 6
- 7 3. That Will be awarded his attorney's fees and costs for having to
8 oppose the instant motion; and
- 9 4. For any other relief this Court may deem necessary and proper.
- 10

11 This Opposition is based upon the following memorandum of points and
12 authorities, the papers and pleadings on file in this matter, and any oral argument
13 the Court may wish to hear.
14

15 DATED this 31st day of July, 2019.

16
17 **FORD & FRIEDMAN**

18 */s/ Matthew H. Friedman, Esq.*

19
20 **MATTHEW H. FRIEDMAN, ESQ.**
21 Nevada Bar No.: 11571
22 **FORD & FRIEDMAN**
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24 Henderson, Nevada 89052
25 T: 702-476-2400 / F: 702-476-2333
26 *Attorney for Plaintiff*
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4
5 Plaintiff William DiMonaco (hereinafter referred to as "Will") and
6 Defendant, Adriana Ferrando (hereinafter referred to as "Defendant") were
7 never married, however, the parties have one minor child born the issue of their
8 relationship, to wit: Grayson Ashton DiMonaco-Ferrando (hereinafter referred
9 to as "Grayson"), born August 12, 2014, age 4 years. It must be noted at the
10 outset that Will shares custody of another child from his previous marriage, to
11 wit: McKenna Rose DiMonaco, born May 24, 2011, age eight (8) years with
12 whom Grayson has grown inseparable.
13

14 The instant action was initiated by Will on or about September 8, 2016 as
15 a result of Defendant's unilateral decision to sever Will's access to Grayson.
16 Indeed, from approximately August 2016 until the Court's entry of temporary
17 Orders on November 29, 2016, Defendant did not permit Will any contact with
18 Grayson at all. His interaction with Grayson was limited to text message
19 updates and sporadic pictures begrudgingly provided by Defendant at Will's
20 insistence. Prior to the initiation of litigation, Defendant sought to dictate Will's
21 interactions with Grayson and indeed mandated that all of Will's "custodial
22 time" was to be spent in her presence, at a time and location of her choosing.
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1 While Will did not agree to this arrangement, it was his hope that he would
2 eventually be able to share a co-parenting relationship with Defendant, similar
3 to that which he shares with his McKenna's mother. Indeed, despite their
4 divorce Will and McKenna's mother (Courtney Janson) enjoy a health and
5 productive co-parenting relationship, and have successfully raise McKenna as
6 divorced parents for more than six (6) years, without ever requiring Court
7 intervention.
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10 Despite Will's best efforts, Defendant's need to control and manipulate
11 coupled with her outright refusal to co-parent in a manner consistent with
12 Grayson's best interests has proved a substantial impediment. Indeed, it is
13 precisely these sorts of behaviors which bring the parties before the Court in the
14 instant matter.
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17 Starting on December 17, 2018 (following Defendant's unilateral
18 decision to submit an application to Coral Academy -- Centennial Hills
19 Campus) the parties herein began discussing Grayson's Kindergarten
20 enrollment (*see Exhibit "1" at PLF 0001*). It was only *after* Defendant
21 submitted an application¹ for Grayson (wherein she lists Jonathan Collingwood
22 -- Grayson's step-father as Grayson's guardian -- *see Exhibit "2" at PLF 0024*),
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27 ¹ Of note, the application was started November 8, 2018. Long before Defendant broached the subject with
28 Will.

1 that Defendant thought to offer Will the "consideration" of adding McKenna to
2 her application as well. Will politely responded that Defendant refrain from
3 submitting applications to any school for any of the children until all of the
4 respective parents have had the opportunity to discuss this matter. It was
5 apparent to Will that this was a major decision that required discussion and
6 careful consideration prior to any action being taken. (see Exhibit "1" at PLF
7 0001). Defendant agreed to not move forward with enrolling the children
8 without prior discussion, however, she made it clear that she would continue to
9 apply to other schools without notice or consent from Will. She made it
10 abundantly clear that she placed primary the relationship of Grayson and his
11 step-brother over that of Grayson and his half-sister. A position she stated
12 repeatedly advising that Grayson would not be attending school with McKenna
13 unless or until Will conceded to sending her to Defendant's desired school
14 without regard for Will, his family, or the logistical concerns which could
15 plague Grayson (see Exhibit "1" at PLF 0002 - 0003).

22 Will further requested that the application submitted to Coral Academy
23 (without his knowledge or consent), be corrected to properly list him as
24 Grayson's legal guardian and that the amended application would include
25 Will's contact information alongside Defendant's (something Defendant failed
26 to do). Despite Defendant's protestations to the contrary, the application
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1 provided to him by the school failed to list his name or information at all. After
2 continued inquiry by Will, Defendant advised that she had created a "family
3 profile" and alleged that this profile listed Will, along with Defendant and her
4 current spouse (Jonathan Collingwood). Still skeptical, but endeavoring to give
5 the Defendant the benefit of the doubt, Will requested the login information to
6 allow him to access the account. Defendant refused to provide Will with this
7 information insisting she would limit him to the information she deemed
8 him privy to. Again, Defendant demonstrated her belief that she alone may
9 determine what information Will is privy to – despite his status as joint legal
10 and physical custodian of Grayson. (*see Exhibit "1" at PLF 0009 - 0014*).

15 On January 7 2019, Defendant submitted multiple applications, to wit:
16 she applied to Somerset – Sky Pointe, Somerset – Sky Canyon, Doral Academy
17 – Red Rock, Saddle, and West Pebble. It must be noted that on each and every
18 application, Defendant once again only provided contact information for herself
19 and her husband (who at the time was merely her boyfriend and had no
20 guardianship/custodial rights to Grayson). As such, it seems clear that
21 Defendant was determined to remove Will from the school selection process all
22 together (*see Exhibit "3"*). Such actions are in direct violation of this Court's
23 Orders for joint legal custody and fly in the face of meaningful cooperative
24 parenting. Upon receipt of the applications, by way of a forwarded email from
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1 Defendant, Will immediately requested that Defendant update these
2 applications to include his name and contact information in lieu of Defendant's
3 current spouse/then boyfriend. Unable to obtain Defendant's cooperation, Will
4 was left to contact the schools and ultimately the applications for Grayson were
5 updated to include only Will and Defendant as parents/guardians.
6

7
8 On March 1, 2019, Grayson was offered enrollment at the Somerset
9 Academy (subject to his successfully passing the admissions evaluation) and
10 was waitlisted for all other charter schools. At this time Defendant initiated
11 conversation with Will and inquired if Will's daughter McKenna (Grayson's
12 hlf-sister) had been accepted to Somerset Sky Pointe (*see Exhibit "4" at Bates*
13 *No. PLF 0034*). Upon being informed that an application was not submitted for
14 McKenna as the logistics of the school were not feasible, Defendant
15 conclusively remarked "So she isn't going to be going to school with
16 Gray[son]?" Will sought to explain that this was an improper characterization
17 as he had not consented to Grayson's attendance at Somerset Academy either.
18 Over the next few days, the parties continued discussions regarding Grayson's
19 school enrollment and Will consistently expressed his logistical concerns with
20 getting the children to school while fulfilling his other commitments as well as
21 his ongoing preference that McKenna and Grayson attend school together, as
22 siblings.
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1 Defendant in turn offered no consideration to Will's concerns regarding
2 Grayson's sister and instead dictatorially stated that Grayson would be
3 attending Somerset Sky Pointe, with his step-brother (Gage). It seems apparent
4 that Defendant feels she is entitled to unilaterally dictate the course of
5 Grayson's life irrespective of McKenna and Grayson's relationship or logistical
6 realities of Will's life. Stated plainly, if Grayson attends a different school than
7 McKenna, Will will be forced to navigate the logistical minefield of
8 transporting his two (2) children to two different schools at essentially the same
9 time. Ironically, Defendant is a stay-at-home mother, free from employment
10 obligations, or any other responsibilities hindering her ability to transport
11 Grayson to school. As such, Will believes that a school choice that
12 accommodates, or at least contemplates his logistical constraints is patently
13 more equitable.
14

15
16 Accordingly, on or about the 11th day of Mar, 2019 Will submitted a zone
17 variance request for both McKenna and Grayson for Richard H. Bryan
18 Elementary School. While the final decision concerning the children's
19 attendance at the school has yet to be decided, Will has been informed by the
20 school that the questions surrounding acceptance revolve around the capacity
21 for third grade students (McKenna will be entering third grade next month). In
22 the alternative, should this variance not be granted, Will proposes that Grayson
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1 attend John Tartan Elementary, the school McKenna has attended the past
2 several years. Either school (Bryan Elementary or Tartan Elementary) would
3 allow the children to attend school together (giving Grayson the support and
4 guidance of an older sister who has adjusted to elementary school), as well as
5 allow for a singular drop-off/pick-up point for Will, while equitably dividing
6 the burdens of transportation upon both Defendant and Will.
7

8
9 It is expected that Defendant will allege that Grayson's step-brother
10 (Gage), will be attending Somerset in support of her request. However, it must
11 be noted that Gage's enrollment at Somerset is being vehemently contested by
12 Gage's mother and is the subject of a pending evidentiary hearing. Will would
13 ask that this Court form a decision that is solely in the best interest of Grayson
14 given that the outcome of the decision on Gage's school selection is wholly
15 uncertain.
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19 II.

20 OPPOSITION

21 1. THE CHILD SHOULD NOT ATTEND SOMERSET ACADEMY

22 As was discussed supra, Defendant continues to be a "my child" mother
23 who fails to recognize Wil's essential role in Grayson's life or as her co-parent.
24 As is made clear by the ongoing discussions, Defendant has emphatically
25 proclaimed that Grayson WILL attend school with his step-brother. She has
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1 advised that unless McKenna goes to the school Defendant selects, Grayson
2 WILL NOT attend school with McKenna. Thankfully this Court recognizes
3 what Defendant refuses to – that school selection is a joint decision to be made
4 by both parents. Unfortunately, Defendant seeks to dictate the school Grayson
5 will attend, having previously dictated the schools to which he could apply², all
6 the while refusing to even acknowledge Will as Grayson's father on
7 applications.
8

9
10 Defendant distorts Will's involvement in Grayson's application to
11 Somerset. Will did agree that Defendant could apply to Somerset Academy³,
12 but contrary to Defendant assertions in her underlying motion, he did not
13 consent to Grayson's attendance at the same. Moreover, Will did agree that he
14 would try to keep the Grayson and Gage (step-brothers) together but not at the
15 expense of Grayson's opportunity to attend school with his biological sister,
16 McKenna.
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22 ² Notably, Defendant submitted applications for Grayson to attend Doral West Pebble Campus and Doral
23 Saddle Campus, schools that are neither between nor near that parties homes but instead are between
24 Defendant's home and Henderson. These were submitted in furtherance of Defendant unilateral decision that
25 Grayson would only attend a school which his step-brother would attend.

26 ³ Of specific importance, the only schools ever discussed between the parties, prior to applications being
27 submitted, were Somerset Academy, Doral Academy Red Rock, McKenna's current school (Tartan
28 Elementary) and Will's zoned school.

1 Defendant falsely claims that Will "has thus far not objected to
2 [Grayson's] attending [Somerset]". In fact, will has repeatedly stated that the
3 logistics do not work for him. Will is the biological father of both McKenna
4 and Grayson. He has joint physical custody of both children and the custodial
5 schedules mirror each other. To have Grayson attend Somerset Academy,
6 would not only deprive Grayson of the opportunity to attend school with his
7 sister, but also require Will to have two children in two separate locations at
8 the same time resulting in both children suffering. Either one (or both) children
9 will be forced to attend before and after school care.
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13 While Will intends to set forth his complete analysis within the
14 Countermotion of the instant pleading, he vehemently disputes portions of
15 Defendant's analysis and addresses those as follows:
16

- 17 • **The wishes of the child to the extent that the child is of sufficient age**
18 **and capacity to form an intelligent preference:** While Defendant
19 contends Grayson has expressed a "clear and steadfast desire" to attend
20 school with his brother, he has expressed an equally clear desire to
21 attend school with his sister McKenna with whom he has become very
22 attached. Additionally, upon information and belief, Grayson has been
23 "programmed" by Defendant since December that he would be attending
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1 school with Gage. As such, this "steadfast" desire is not unexpected and
2 is indeed grounded on false representations as it is still unknown where
3 Gage will ultimately attend school. Such tactics are indicative of
4 Defendant's ongoing attempts to alienate and diminish Will and his
5 family from Grayson's life.
6

- 7
8 • **Whether enrolling the child at a school is likely to alienate the child**
9 **from a parent:** Despite Defendant's claims that enrollment at Somerset
10 would not alienate Will, this is plainly not true. Will has been alienated
11 by Defendant throughout the school application process. As explained
12 supra, Defendant refused to include Will on any of the applications and
13 instead included her husband's email for the secondary email.
14 Additionally, Defendant created a "family profile" for the Somerset
15 School that she continues to refuse Will access to thereby rendering him
16 wholly unable to schedule or change appointments, obtain information
17 concerning Grayson's enrollment, etc. Instead, Defendant unilaterally
18 decides appointment dates and times that best suite her schedule (despite
19 being a stay-at-home-mother with no responsibilities outside of her
20 home). Often this results in Defendant setting appointments during
21 Will's custodial time, without his consent and thereafter notifies Will
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1 matter-of-factly of the need for the child's attendance (*see Exhibit "5"*).
2 Finally, perhaps the greatest indication of the potential for alienation can
3 be found in the contents of the enrollment packet submitted by
4 Defendant without Will's consent (*see Exhibit "6"*). This Court should
5 note that Will's name and information appears only once and Will's
6 telephone number is not listed as a preferred method of contact for all
7 school communications. This, despite there being a clear option to
8 include a "Phone #2." When inputting the order of phone numbers to be
9 called by the school, Will's number is not listed as the second number.
10 Instead, Defendant has inserted her husband's number in his place.
11 Further, Will notes that no member of his family or household is listed
12 as an emergency contact – only Defendant's husband and mother are.
13 Neither Will nor any member of his family or household is listed as
14 approved parties to collect Grayson from school. It is demonstrably clear
15 that Grayson's attendance at Somerset not only will, but is intended to
16 further alienate Will and his family.
17

18 Accordingly, Will requests that this Court decline to confirm Grayson's
19 enrollment at Somerset Academy.
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1 **2. DEFENDANT FAILED TO FILE A FINANCIAL DISCLOSURE**
2 **FORM WITH THE COURT, AND THEREFORE HER MOTION**
3 **SHOULD BE DENIED**

4 EDCR 5.506 provides as follows:

5 “(a) Any motion for fees and allowances, temporary spousal support,
6 child support, exclusive possession of a community residence, or any
7 other matter involving the issue of money to be paid by a party must be
8 accompanied by an affidavit of financial condition describing the
9 financial condition and needs of the movant. The affidavit of financial
10 condition must be prepared on a form approved by the court. An
11 incomplete affidavit or the absence of the affidavit of financial condition
12 may be construed as an admission that the motion is not meritorious and
13 as cause for its denial. Attorney’s fees and other sanctions may be
14 awarded for an untimely, fraudulent, or incomplete filing.”

15 EDCR 5.506 requires all parties to file a financial disclosure form with
16 the Court *prior* to requesting any financial orders, including a request for
17 attorney’s fees or modification of child support. Where a party has failed to
18 comply with this requirement, the entirety of the Motion may be deemed
19 meritless. Defendant’s Motion indeed contains a request for financial relief, yet
20 as of the date of this filing of this opposition, Defendant has failed to file her
21 financial disclosure form. As such, any financial relief requested in her Motion
22 summarily must be denied. Although Will believes Defendant’s Motion is
23 utterly lacking in merit in a number of other ways, Defendant’s Motion can
24 and should be denied on this basis alone.

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III.

COUNTERMOTION

1. THIS COURT HAS THE AUTHORITY TO ENTER ORDERS REGARDING SELECTION OF THE MINOR CHILD'S SCHOOL, AND SHOULD ORDER THE MINOR CHILD'S ATTENDANCE AT RICHARD H. BRYAN ELEMENTARY SCHOOL, OR IN THE ALTERNATIVE, JOHN TARTAN ELEMENTARY SCHOOL

Pursuant to the terms of Joint Legal Custody, the parties are to select any school jointly. As is evident from the numerous "Talking Parents" communications and underlying motion, they were unable to reach a decision jointly and in the best interest of the minor child.

As this Court is likely aware, when joint custodians are unable to reach an agreement regarding major decisions involving educational, religious, or health issues, this Court retains jurisdiction to decide such matters. Specifically, when making determinations regarding a child's school selection, the Court is instructed to look to *Acrella v. Acrella*, 133 Nev. Adv. Op. 104, 407 P.3d 341 (2017). Pursuant to *Acrella*, the Court must consider the following best interest factors when making a determination as to which school is in the best interest of the minor children:

- (1) The wishes of the child, to the extent that the child is of sufficient age and capacity to form an intelligent preference.
- (2) The child's educational needs and each school's ability to meet them.

1 (3)The curriculum, method of teaching, and quality of
instruction at the school.

2 (4)The child's past scholastic achievement and predicted
3 performance at each school.

4 (5)The child's extracurricular interests and each school's
5 ability to satisfy them.

6 (6)Whether leaving the child's current school would disrupt
the child's academic performance.

7 (7)The child's ability to adapt to an unfamiliar environment.
8 Again, previous schooling should not be considered.

9 (8)The length of commute to each school and other
10 logistical concerns.

11 (9)Whether enrolling the child at a school is likely to
12 alienate the child from a parent.

13 An analysis of the *Arcella* factors as applied to this case
14 follows.

15
16 (1)The wishes of the child, to the extent that the child is of
17 sufficient age and capacity to form an intelligent preference.

18
19 At five (5) years old, Grayson is likely too young for this Court to give
20 much consideration to allegations concerning his preferences regarding many
21 matters. Here it is alleged that Grayson desires to attend school with his step-
22 brother. Conversely, Grayson has expressed a desire to attend school alongside
23 his older sister with whom he has grown extremely close.
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1 **(2) The child's educational needs and the schools ability to meet them.**

2 Grayson is a healthy child and upon information and belief does not
3 require special education or a custom tailored program to meet his needs.
4
5 However, despite Will's attempts to prepare Grayson for Kindergarten by way
6 of preschool through Creative Kids, and requests for Defendant to work with
7 him, to that end, Grayson appears unable to meet some of the basic standards
8 required of a child entering Kindergarten. He is unable to count to twenty (20),
9 write his first name, distinguish between numbers and letters, and lacks a grasp
10 of the alphabet. While Will does not attribute Grayson's educational delays
11 solely to Defendant, his requests for Defendant to engage with Grayson have
12 been met with resistance (*see Exhibit "7"*). Conversely, Grayson's sister
13 McKenna, with full-time family support (in both Will's and her mother's
14 home), has become a G.A.T.E. student. McKenna has also taken it upon herself
15 to create flash cards for Grayson and enjoys working with Grayson to improve
16 his school readiness as well. It is Will's belief that should Grayson attend
17 school with his sister, she (as well as Will) would have the opportunity to
18 continue assisting Grayson in his academics and help him achieve a position to
19 be academically successful.
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1 **(3) The curriculum, method of teaching, and quality of**
2 **instruction at the school.**

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4 It is Will's belief that as Grayson is entering Kindergarten, the
5 curriculum and method of teaching at both schools will be similar. However,
6 the considerably lower student to teacher ratio offered by Bryan Elementary
7 will likely provide Grayson with the individual attention to maximize the
8 educational process and further his ability to obtain optimal instruction.
9

10
11 **(4) The child's past scholastic achievement and predicted performance**
12 **at each school.**

13
14 Grayson is set to enter Kindergarten and as such has no past scholastic
15 achievement to analyze. However, as previously stated, he appears to be
16 somewhat behind the average Kindergarten student. Accordingly, Will believes
17 Bryan Elementary (or in the alternative Tartan Elementary) will offer Grayson a
18 smaller, more intimate classroom setting; similar to what he has become
19 accustomed in his preschool. Given that this year will mark his transition into
20 Kindergarten, the smaller classroom setting offered at Bryan Elementary (or in
21 the alternative Tartan Elementary) will clearly allow for a less stressful
22 transition for Grayson. By contrast – Somerset with its 6,400 students – many
23 of them much older and much bigger than Grayson, will likely prove
24 overwhelming for him.
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1 **(5) The child's extracurricular interests and each school's**
2 **ability to satisfy them.**

3 Grayson is not currently enrolled in any extracurricular activities; however,
4 McKenna plays soccer on Wednesdays. Given Grayson's close age in proximity
5 to the other player's McKenna's coach allows Grayson to participate in the
6 practices with the other children which Grayson thoroughly enjoys.
7 Additionally, Grayson and McKenna enjoy playing soccer together at home and
8 at the park. Given the opportunity to attend school together McKenna and
9 Grayson will undoubtedly continue to enrich their lifelong familial bond.
10

11 **(6) Whether leaving the child's current school would disrupt the**
12 **child's academic performance.**

13 Grayson's current school concludes at the Pre-K level, so the option to
14 remain is not a possibility. However, Grayson does well with the smaller class
15 setting which he is accustomed to, which would remain consistent should he
16 attend Bryan Elementary (or in the alternative Tartan Elementary).
17

18 **(7) The child's ability to adapt to an unfamiliar environment.**
19 **Again, previous schooling should not be considered.**

20 Grayson is a well-behaved and friendly child and will likely adapt well to
21 any new environment, however, given that he is entering Kindergarten his
22 acclimation will be aided by enrollment in a less overwhelming setting limited
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1 to elementary aged students. Additionally, attending school with his older sister,
2 who has already successfully navigated the transition to school will offer
3 Grayson further support and security.
4

5 **(8) The length of commute to each school and other logistical**
6 **concerns.**
7

8 While the distance itself is not exceedingly troublesome, the simple
9 logistics of having to transport two (2) children, to two schools nearly fifteen
10 miles apart at essentially the same time will prove nearly impossible. As stated
11 previously, Will is the biological father of both McKenna and Grayson. He has
12 joint physical custody of both children and the custodial schedules mirror each
13 other. On each of his custodial days, Will would be left to engineer a means by
14 which to transport both children to different schools all the while meeting his
15 obligations of full-time employment. Conversely, Defendant is a stay-at-home
16 mother with no responsibilities outside of her household and the flexibility to
17 share in the transportation of Grayson. Instead, Defendant requests this Court
18 enter orders which would have Grayson attend a school located 0.3 miles from
19 her home (and even shorter walk as there is a walkway with direct access to the
20 school campus), while having Will drive nearly fifteen (15) miles to Somerset,
21 then and additional fifteen (15) miles to Bryan Elementary (or in the alternative
22 Tartan Elementary).
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1 While the undersigned anticipates that Defendant will assert that Will's
2 significant other should share in the responsibilities of school transportation,
3 this Court cannot lay that burden at her feet. Indeed, Defendant herself
4 proclaimed (when Will stated that he wanted to seek the input of his significant
5 other, Tracy, concerning the logistics), that "Tracy has no say so in where Gray
6 goes to school or anything when decisions are made in regards to Gray." Given
7 her position she can hardly seek to rely on Tracy to absorb the transportation
8 burden now that it suits her agenda.
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12 **2. WILL SHOULD RECEIVE A COMPREHENSIVE AWARD OF**
13 **FEES RELATED TO WORK REQUIRED TO OPPOSE THE**
14 **INSTANT MOTION**

15 NRS 18.010 allows for an award of attorney's fees where:

16 2. In addition to the cases where an allowance is authorized by
17 specific statute, the court may make an allowance of attorney's
18 fees to a prevailing party:

19 (a) When the prevailing party has not recovered more than
20 \$20,000; or

21 (b) Without regard to the recovery sought, when the court
22 finds that the claim, counterclaim, cross-claim or third-party
23 complaint or defense of the opposing party was brought or
24 maintained without reasonable ground or to harass the
25 prevailing party. The court shall liberally construe the provisions
26 of this paragraph in favor of awarding attorney's fees in all
27 appropriate situations. It is the intent of the Legislature that the
28 court award attorney's fees pursuant to this paragraph and impose
sanctions pursuant to Rule 11 of the Nevada Rules of Civil
Procedure in all appropriate situations to punish for and deter
frivolous or vexatious claims and defenses because such claims
and defenses overburden limited judicial resources, hinder the

1 timely resolution of meritorious claims and increase the costs of
2 engaging in business and providing professional services to the
3 public.

4 And EDCR 7.60 provides that:

5 b) The court may, after notice and an opportunity to be heard, impose
6 upon an attorney or a party any and all sanctions which may, under
7 the facts of the case, be reasonable, including the imposition of fines,
8 costs or attorney's fees when an attorney or a party without just
9 cause:

- 10 1) **Presents to the court a motion or an opposition to a motion,**
11 **which is obviously frivolous, unnecessary or unwarranted.**
- 12 2) Fails to prepare for a presentation.
- 13 3) **So multiplies the proceedings in a case as to increase costs**
14 **unreasonably and vexatiously.**
- 15 4) Fails or refuses to comply with these rules.
- 16 5) Fails or refuses to comply with any order of a judge of the
17 court.

18 Defendant has filed a motion with this Court rife with lies and
19 misrepresentations of facts concerning the parties' discussions. Specifically, she
20 has falsely alleged Will failed to provide any reasonable objection to Grayson's
21 attendance at Somerset Academy. The instant motion is rife with false and
22 otherwise misleading arguments aimed toward manipulating this Court into
23 rendering a ruling inconsistent with Grayson's best interests. Defendant's
24 actions have forced Will to incur additional attorney's fees and this Court to
25 needlessly squander precious judicial resources. Accordingly, Will should be
26 fully reimbursed for the attorney's fees and costs she has been forced to expend
27 regarding the same. Will requests leave of the Court to file a memorandum of
28

1 fees and costs pursuant to *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 349
2 (1969) and *Miller v. Wilfong*, 119 P.3d 727 (2005) for consideration by the
3 Court. Will further requests the ability to submit a proposed order awarding
4 fees related to this motion including an empty delimiter within which the Court
5 may enter a dollar amount for the award of any fees it deems necessary upon
6 review of his memorandum of fees and costs.
7
8

9 DATED this 31st day of July, 2019.
10

11 **FORD & FRIEDMAN**
12

13 */s/ Matthew H. Friedman, Esq.*
14

15 MATTHEW H. FRIEDMAN, ESQ.
16

17 Nevada Bar No.: 11571
18

19 FORD & FRIEDMAN
20

21 2200 Paseo Verde Parkway, Suite 350
22

23 Henderson, Nevada 89052
24

25 *Attorney for Plaintiff*
26
27
28

[illegible]

I, WILLIAM DIMONACO, being first duly sworn, deposes and says:

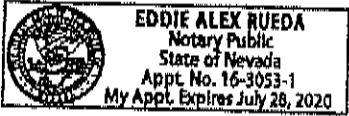
That I am the Plaintiff in the instant action; that I have read the foregoing Opposition and Counter-motion and know the contents thereof; that the same is true of my own knowledge, except for those matters therein contained stated upon information and belief and, as to those matters, I believe them to be true.

DATED this 31 day of July, 2019.


WILLIAM DIMONACO

SUBSCRIBED and SWORN TO before me
this 31st day of July, 2019 by William DiMonaco.

NOTARY PUBLIC IN AND FOR SAID
COUNTY AND STATE



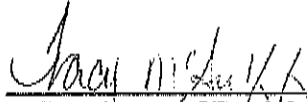
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Ford & Friedman and that on this 31 day of July, 2019, I caused the above and foregoing document entitled, "Plaintiff's Opposition To Defendant's Motion For Enrollment At Somerset Academy And For Attorney's Fees And Costs; And Countermotion or the Child to be Enrolled at Richard H. Bryan Elementary School, And For Attorney's Fees And Costs" to be served as follows:

[X] Pursuant to EDCR 8.05(a), EDCR 8.05(f) and NRCP 5(b)(2)(d) and Administrative Order 14-2 captioned, "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;

To the person listed below at the address indicated below:

Michael P. Carman	Mike@FCPfamilylaw.com
File Clerk	fileclerk@fcpfamilylaw.com
Robin Haddad	Reception@FCPfamilylaw.com
Dominique Hoskins	Paralegal@FCPfamilylaw.com
Missy Weber	Missy@FCPfamilylaw.com
<i>Attorney for Defendant</i>	


An Employee of Ford & Friedman

DISTRICT COURT
CLARK COUNTY, NEVADA

Child Custody Complaint

COURT MINUTES

August 01, 2019

D-16-539340-C William Eugene DiMonaco, Plaintiff.
vs.
Adriana Davina Ferrando, Defendant.

August 01, 2019 10:00 AM All Pending Motions

HEARD BY: Hoskin, Charles J. COURTROOM: Courtroom 02

COURT CLERK: Estes, Sherri

PARTIES PRESENT:

William Eugene DiMonaco, Counter Defendant, Matthew H. Friedman, Attorney, Present
Plaintiff, Present

Adriana Davina Ferrando, Counter Claimant, Michael P. Carman, Attorney, Present
Defendant, Present

Grayson Ashton DiMonaco-Ferrando, Subject
Minor, Not Present

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO CONFIRM SCHOOL ENROLLMENT AT SOMERSET ACADEMY...PLAINTIFF'S OPPOSITION TO MOTION TO CONFIRM ENROLLMENT AT SOMERSET ACADEMY; AND COUNTERMOTION FOR THE CHILD TO BE ENROLLED INTO RICHARD H. BRYAN ELEMENTARY SCHOOL, AND FOR ATTORNEY'S FEES AND COST

Discussion regarding the parties communication regarding the school issue, applications being accepted, and in March the dispute occurred. Further discussion regarding Mr. Carman's efforts to communicate with Mr. Friedman and Mr. Friedman's failure to do so. Discussion regarding the ratings of the multiple schools, where the child should attend, Dad wanting the siblings to attend the same school the possible zone variance pending according to Dad, Mom's willingness to care for the child both before and after school to avoid the child going to safekey and Mr. Carman's request for the Court to make a decision today. Further arguments by Mr. Friedman regarding the zone variance being in limbo.

COURT NOTES Dad has left this Court no choice, the discussion began in March it is now August and Dad has no viable choice. There is no dispute currently the option is Somerset, and based on that understanding and being consistent with the findings pursuant to Arcella the Court does not feel it needs to go through individually. The Court cannot set an evidentiary hearing today based on the facts before it as of today. It is Dad's burden to prove the school the child is enrolled in is not in the child's best interest and it would be to make a change midstream.

COURT ORDERED the following:

1. When the objection was filed it created a new hearing date, therefore the Plaintiff's objection set to be heard on 8/27/19 is hereby VACATED and addressed today (8/1/19).
2. The minor child shall begin attending Somerset. If Dad does obtain a zone variance the Court shall require Mr. Friedman to contact bot Mr. Carman and chambers and provide information on Brian Elementary as compared to Somerset so this Court can make Arcella findings. If Mr. Friedman does not feel that is sufficient the Court directed Mr. Friedman to contact both Mr. Carman and chambers and the Court will determine whether it is appropriate to set an evidentiary hearing on that basis. The Court will not be setting a return hearing and shall issue either a minute order to either resolve it or set it for an evidentiary hearing.

Printed Date: 8/6/2019

Page 1 of 2

Minutes Date:

August 01, 2019

Notice: Journal Entries are prepared by the courtroom clerk and are not the official record of the Court.

RA0215

Mr. Carman shall prepare the order, Mr. Friedman to review and sign off.

CASE CLOSED

INTERIM CONDITIONS:

FUTURE HEARINGS: