IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Nov 17 2021 11:28 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Desmon Brandes,

Appellant,

vs.

Lacey Pictum, n/k/a Lacey Krynzel,

Respondent.

Supreme Ct Case No. **83399**

District Ct Case No. **D-10-440022-D**

APPELLANT'S APPENDIX

VOLUME I

Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
Jack W. Fleeman, Esq.
Nevada Bar No. 010584
PECOS LAW GROUP
South Pecos Road, Suite 14A
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(702) 388-1851
Attorneys for Appellant

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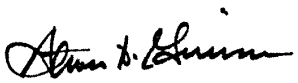

CLERK OF THE COURT

NEOJ
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807 South Seventh Street
Las Vegas, Nevada 89101
Telephone (702) 384-7494
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kelleherjt@aol.com

Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, v. LACEY PICTUM, Defendant.	CASE NO. D-10-440022-C DEPT. NO. E

NOTICE OF ENTRY OF ORDER

TO: Desmon Brandes, Plaintiff, and to Brandon W. McCoy, Esq., his attorney:

PLEASE TAKE NOTICE that an Order from the February 16, 2011 hearing was entered in the above-entitled matter on the 17th day of March, 2011, a copy of which is attached hereto.

DATED this 21 day of March, 2011.

KELLEHER & KELLEHER, LLC

By: _____
JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
807 South Seventh Street
Las Vegas, Nevada 89101
Attorney for Defendant

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LAW OFFICES
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807 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89101
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CERTIFICATE OF MAILING

I hereby certify that on the 21st day of March, 2011, I deposited a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER in the United States Mail, postage prepaid and addressed as follows:

Brandon W. McCoy, Esq.
625 S. Eighth St., 2nd Floor
Las Vegas, Nevada 89101
Attorney for Plaintiff

M. Lickey
An employee of KELLEHER & KELLEHER, LLC

LAW OFFICES
KELLEHER & KELLEHER LLC
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CLERK OF THE COURT

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Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, v. LACEY PICTUM, Defendant.	CASE NO. D-10-440022-C DEPT. NO. E

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ORDER FROM THE FEBRUARY 16, 2011 HEARING

THIS MATTER having come on for hearing on the 16th day of February, 2011, on Plaintiff's Motion for Custody, Specified Visitation with Safeguards as Set Forth Herein, Child Support; Fees and Costs, and Defendant's Countermotion; Plaintiff, Desmon Brandes, present and represented by unbundled counsel Brandon W. McCoy, Esq., of the McCoy Law Group; Defendant, Lacey Pictum, present and represented by counsel John T. Kelleher, Esq., of the law firm Kelleher & Kelleher, LLC.

The Court having reviewed the papers and pleadings on file herein, having heard the argument of counsel and the testimony of the parties, and having been fully apprised as to the facts and matters herein:

COURT ADVISED, the Case Management Conference will be heard today and an evidentiary hearing will be set.

The parties have agreed that Defendant was the primary physical custodian of the child for the first few years of his life.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED the Defendant referred to ATI for a drug test today.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that TEMPORARILY, Plaintiff awarded PRIMARY PHYSICAL CUSTODY.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant's TEMPORARY VISITATION will be Tuesday and Thursday evenings from 5:00 PM until 8:00 PM with Maternal Grandparents supervising. Defendant will also have every other weekend beginning February 18, 2011 from Friday at 5:30 PM until Sunday at 8:00 PM. The evening time will be supervised by Maternal Grandparents with Defendant having unsupervised contact during the daytime. Receiving party will pick up for the exchanges, except for Tuesday and Thursdays, it will be Defendant's responsibility to transport. The child is to be returned to Plaintiff today at 8:00 PM.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the request for child support and attorney's fees is DEFERRED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a Return Hearing on the Drug Test Results is set for March 8, 2011 at 10:00 AM. The Calendar Call is set for June 21, 2011 at 11:00 AM CALENDAR CALL. The Evidentiary Hearing is set for July 5, 2011 at 1:30 P.M. on Stack #2.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the State of Nevada is the habitual residence of the minor child. Both parties shall be bound by the provisions of NRS 125C.200, which states:

> If custody has been established and the custodial parent intends to move his residence to a place outside of this state and to take the child with him, he must, as soon as possible and before the planned move, attempt to obtain the written consent of the noncustodial parent to move the child from this state. If the noncustodial parent refuses to give that consent, the custodial parent shall, before he leaves this state with the child, petition the court for permission to move the child. The failure of a parent to comply with the provisions of this section may be considered as a factor if a change of custody is requested by the noncustodial parent.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are subject to the provisions set forth in NRS 125.510(6), which provides as follows:

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PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detain, conceal or remove the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this Court, or remove the children from the jurisdiction of the Court without the consent of either the Court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.139.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to NRS 125.510 (7) and (8), the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, are applicable to the parties as follows:

Section 8: If a parent of the child lives in a foreign country or has significant commitments in a foreign country:
(a) The parties may agree, and the Court shall include in the Order for Custody of the child, that the United States is a country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in Subsection 7.
(b) Upon motion of the parties, the Court may order the parent to post a bond if the Court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the Court and may be used only to pay for the cost of locating 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 children.

Dated this 14th day of March, 2011.

DISTRICT COURT JUDGE

CHARLES J. HOSKIN

Submitted by:

KELLEHER & KELLEHER, LLC

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
807 South Seventh Street
Las Vegas, Nevada 89101
Attorneys for Defendant

Approved as to form and content:

MCCOY LAW GROUP

BRANDON W. MCCOY, ESQ.
Nevada Bar No. 10402
625 South 8th Street, 2nd Floor
Las Vegas, Nevada 89101
Attorney for Plaintiff

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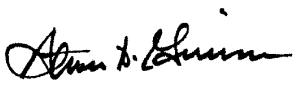

CLERK OF THE COURT

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kelleherjt@aol.com

Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, v. LACEY PICTUM, Defendant.	CASE NO. D-10-440022-C DEPT. NO. E

NOTICE OF ENTRY OF ORDER

TO: Desmon Brandes, Plaintiff, and to Brandon W. McCoy, Esq., his attorney:

PLEASE TAKE NOTICE that an Order from the March 8, 2011 hearing was entered in the above-entitled matter on the 20th day of April, 2011, a copy of which is attached hereto.

DATED this 22 day of April, 2011.

KELLEHER & KELLEHER, LLC

By: _____
JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
807 South Seventh Street
Las Vegas, Nevada 89101
Attorney for Defendant

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CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of April, 2011, I deposited a true and correct copy of the above and foregoing NOTICE OF ENTRY OF ORDER in the United States Mail, postage prepaid and addressed as follows:

Brandon W. McCoy, Esq.
625 S. Eighth St., 2nd Floor
Las Vegas, Nevada 89101
Attorney for Plaintiff

M. Leckey
An employee of KELLEHER & KELLEHER, LLC

LAW OFFICES
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CLERK OF THE COURT

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Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, v. LACEY PICTUM, Defendant.	CASE NO. D-10-440022-C DEPT. NO. E

ORDER FROM THE MARCH 8, 2011 HEARING

THIS MATTER having come on for hearing on the 8th day of March, 2011, on a Return Hearing; Plaintiff, Desmon Brandes, present and represented by unbundled counsel Brandon W. McCoy, Esq., of the McCoy Law Group; Defendant, Lacey Pictum, present and represented by counsel John T. Kelleher, Esq., of the law firm Kelleher & Kelleher, LLC.

The Court having reviewed the papers and pleadings on file herein, having heard the argument of counsel and the testimony of the parties, and having been fully apprised as to the facts and matters herein:

COURT NOTED, the drug test results were negative. Mr. Kelleher stated he sent Defendant for another drug test and those results were clean also. Argument by counsel regarding Defendant's request for enhanced visitation time.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that pending the evidentiary hearing set for July 5, 2011, Plaintiff may call Mr. Kelleher's office four (4) times for Defendant

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to undergo a random drug test. Defendant is to report for the drug test within one hour of the call to Mr. Kelleher's office. Defendant was provided with two (2) ATI referral forms in open Court. If more referral forms are necessary, they can be obtained from the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that TEMPORARILY, the parties are awarded JOINT PHYSICAL CUSTODY of the minor child, with Defendant's TIMESHARE being from Sunday at 8:00 PM until Thursday at 5:00 PM and Plaintiff's timeshare being from Thursday at 5:00 PM until Sunday at 8:00 PM.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the calendar call and evidentiary hearing dates STAND.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Mr. Kelleher is to prepare the order and Mr. McCoy is to sign off.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the State of Nevada is the habitual residence of the minor child. Both parties shall be bound by the provisions of NRS 125C.200, which states:

> If custody has been established and the custodial parent intends to move his residence to a place outside of this state and to take the child with him, he must, as soon as possible and before the planned move, attempt to obtain the written consent of the noncustodial parent to move the child from this state. If the noncustodial parent refuses to give that consent, the custodial parent shall, before he leaves this state with the child, petition the court for permission to move the child. The failure of a parent to comply with the provisions of this section may be considered as a factor if a change of custody is requested by the noncustodial parent.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are subject to the provisions set forth in NRS 125.510(6), which provides as follows:

> PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detain, conceal or remove the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this Court, or remove the children from the jurisdiction of the Court without the consent of either the Court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.139.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to NRS 125.510 (7) and (8), the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, are applicable to the parties as follows:

> Section 8: If a parent of the child lives in a foreign country or has significant commitments in a foreign country:
> (a) The parties may agree, and the Court shall include in the Order for Custody of the child, that the United States is a country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in Subsection 7.
> (b) Upon motion of the parties, the Court may order the parent to post a bond if the Court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the Court and may be used only to pay for the cost of locating 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 children.

Dated this 19 day of April, 2011.

DISTRICT COURT JUDGE
CHARLES J. HOSKIN

Submitted by:

KELLEHER & KELLEHER, LLC

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
807 South Seventh Street
Las Vegas, Nevada 89101
Attorneys for Defendant

Approved as to form and content:

MCCOY LAW GROUP

BRANDON W. MCCOY, ESQ.
Nevada Bar No. 10402
625 South 8th Street, 2nd Floor
Las Vegas, Nevada 89101
Attorney for Plaintiff

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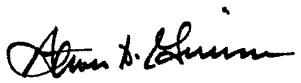

CLERK OF THE COURT

NTSO
JOHN T. KELLEHER, ESQ.
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Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, v. LACEY PICTUM, Defendant.	CASE NO. D-10-440022-C DEPT. NO. E

NOTICE OF ENTRY OF STIPULATION AND ORDER

TO: Desmon Brandes, Plaintiff in proper person:

PLEASE TAKE NOTICE that a Stipulation and Order was entered in the above-entitled matter on the 5th day of July, 2011, a copy of which is attached hereto.

DATED this 6 day of July, 2011.

KELLEHER & KELLEHER, LLC

By: _____
JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
807 South Seventh Street
Las Vegas, Nevada 89101
Attorney for Defendant

///

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CERTIFICATE OF MAILING

I hereby certify that on the 6th day of July, 2011, I deposited a true and correct copy of the above and foregoing NOTICE OF ENTRY OF STIPULATION AND ORDER in the United States Mail, postage prepaid and addressed as follows:

Desmon Brandes
5220 White Coyote Place
Las Vegas, NV 89130

M. Leckey
An employee of KELLEHER & KELLEHER, LLC

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CLERK OF THE COURT

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Attorney for Defendant

DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, v. LACEY PICTUM, Defendant.	CASE NO. D-10-440022-C DEPT. NO. E

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the parties, John T. Kelleher, Esq., attorney for Defendant, Lacey Pictum, and Desmon Brandes, Plaintiff in proper person, that Plaintiff Desmon Brandes is the biological father of Paige Jolie Brandes, born April 5, 2007.

IT IS FURTHER STIPULATED AND AGREED that the parties shall share JOINT LEGAL CUSTODY of the minor child. Joint legal custody shall be defined as follows:

> The parents shall confer with each other on all important matters pertaining to the children's health, welfare, education, religious training and upbringing to arrive at a harmonious policy to promote the children's best interests, and not to promote the personal desires of either party.
>
> The parents shall confer with each other on all matters regarding the children's health care, including but not limited to, medical, dental, orthodontic, surgical, optical, or psychological, and shall immediately inform the other parent of any health condition of the children except in emergency situations when prior consultations are not possible.

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The parents shall confer with each other on all matters pertaining to the religious training and upbringing of the children.

The parents shall confer with each other regarding decisions pertaining to the education and school curriculum of the children.

Each parent shall share with the other parent information concerning the well-being of the children, including, but not limited to, copies of report cards; school meeting notices; vacation schedules; class programs; requests for conferences; results of standardized or diagnostic tests; notices of activities involving the children; samples of school work; order forms for school pictures; and all communications from health care providers, childcare providers, and educators.

The parents shall confer with each other regarding the extracurricular activities which are available to or contemplated for the children either through the regular school curriculum or outside of the school curriculum, and shall inform the other parent of the times and places of athletic events and extracurricular events of the children so that the other parent shall also have the opportunity to participate in such activities.

Both parents shall be allowed free access to any and all records pertaining to their children. Both parents shall be allowed to confer independently with any and all professionals involved with their children.

Each parent shall keep the other parent informed of his or her respective address, home and work telephone numbers, and shall notify the other parent of any change thereto within twenty-four (24) hours of any change.

Each parent shall be entitled to reasonable telephone communication with the children Each parent is restrained from unreasonably interfering with the children's right to privacy during such telephone conversations with the other parent.

In the event that either parent shall take the child(ren) out of state on vacation, that parent shall specifically notify the other parent of the plans in advance and provide a telephone number and itinerary to the other parent.

IT IS FURTHER STIPULATED AND AGREED that Defendant Lacey Pictum will have PRIMARY PHYSICAL CUSTODY of the minor child.

IT IS FURTHER STIPULATED AND AGREED that the visitation schedule shall be as follows: Plaintiff shall have the minor child every two (2) days on weekdays and every other weekend. Exchanges shall occur no later than 8:30 P.M. However, the parties will accommodate one another's work schedules when they interfere with exchange times.

IT IS FURTHER STIPULATED AND AGREED that the receiving parent shall provide transportation for the exchanges.

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IT IS FURTHER STIPULATED AND AGREED that in the event the parties agree to additional visitation time outside of the regular visitation schedule, the parent receiving additional visitation time shall be responsible for providing transportation for both the pick up and drop off of the minor child.

IT IS FURTHER STIPULATED AND AGREED that the Holiday Visitation Schedule shall take precedence over the regular visitation schedule. The Holiday Visitation Schedule shall be defined as follows:

THREE-DAY HOLIDAYS

The holiday will begin on the day observed for the holiday at 9:00 AM and conclude at 9:00 AM the day following the three-day holiday weekend, or the day following the holiday where not attached to a three-day holiday weekend.

	ODD	EVEN
MEMORIAL DAY	MOM	DAD
INDEPENDENCE DAY	MOM	DAD
LABOR DAY	MOM	DAD
NEVADA DAY	MOM	DAD

INDIVIDUAL DAYS

The holiday visitation shall begin at 9:00 AM on the individual holiday (or after school on school days) and end at 9:00 PM the same day.

	ODD	EVEN
MOTHER'S DAY	MOM	MOM
FATHER'S DAY	DAD	DAD
MOTHER'S BIRTHDAY	MOM	MOM
FATHER'S BIRTHDAY	DAD	DAD
CHILD'S BIRTHDAY	DAD	MOM

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EASTER

The holiday visitation shall begin at 8:00 PM the Saturday preceding Easter and conclude at 2:00 PM on Easter Sunday.

	ODD	EVEN
EASTER	MOM	DAD

THANKSGIVING

The holiday visitation shall begin the Wednesday preceding Thanksgiving at 8:00 PM, and conclude at 9:00 AM the Friday following Thanksgiving.

	ODD	EVEN
THANKSGIVING	MOM	DAD

CHRISTMAS

The holiday visitation shall be divided into two (2) segments: Christmas Eve and Christmas Day. Christmas Eve shall begin on December 24th at 9:00 AM and conclude at 9:00 PM on December 24th. Christmas Day shall begin on December 24th at 9:00 PM and conclude at 2:00 PM on December 25th.

	ODD	EVEN
CHRISTMAS EVE	MOM	DAD
CHRISTMAS DAY	DAD	MOM

IT IS FURTHER STIPULATED AND AGREED that the parties shall each be entitled to up to fourteen (14) vacation days with the minor child each year. Each party shall be required to provide at advanced notice in writing at least one (1) week prior to using any vacation days. Vacation days shall take precedence over the regular visitation schedule but not the holiday visitation schedule.

IT IS FURTHER STIPULATED AND AGREED that if either parent plans to take the minor child out of state for any reason, the parent must provide notification to the other parent regarding when and why they will be leaving the state.

IT IS FURTHER STIPULATED AND AGREED that in the event either party is required to be admitted to the hospital for any reason, the other parent must be notified as soon as possible.

IT IS FURTHER STIPULATED AND AGREED that Plaintiff shall pay CHILD SUPPORT in the amount of $350.00 per month, from June 2011 until August 2011. Child Support shall be due on the 1st day of each month. Defendant shall provide Plaintiff with receipts of the minor child's expenses.

IT IS FURTHER STIPULATED AND AGREED that beginning September 2011, Plaintiff shall pay CHILD SUPPORT in the amount of $400.00 per month, with $200.00 being due when Plaintiff receives the first paycheck of the month and $200.00 being due when Plaintiff receives the second paycheck of the month.

IT IS FURTHER STIPULATED AND AGREED that the parties are put on notice that NRS 125B.145 allows the court to review a child support order every three years or upon a change in circumstances to determine whether child support can be modified to align with the statutory formula set out in NRS 125B.070; the parties must request a review, it is not an automatic function of the court.

IT IS FURTHER STIPULATED AND AGREED that the parties are put on notice that pursuant to NRS 125.450, a parent responsible for paying child support is subject to NRS 31A.010 through NRS 31A.340, inclusive, and Sections 2 and 3 of Chapter 31A of the Nevada Revised statutes, regarding the withholding of wages and commissions for the delinquent payment of support, that these statutes and provisions require that, if a parent responsible for paying child support is delinquent in paying the support of a child that such person has been ordered to pay, then that person's wages or commissions shall immediately be subject to wage assignment and garnishment, pursuant of the provisions of the above-referenced statutes.

IT IS FURTHER STIPULATED AND AGREED that Plaintiff shall continue to provide medical insurance for the minor child as long as it is available to him. As Plaintiff currently incurs no out of pocket costs to insure the minor child through NV Energy, Plaintiff shall continue beings solely responsible for maintaining the insurance. In the event that Plaintiff begins incurring an out of pocket expense for insuring the minor child, the parties shall equally divide the cost of insuring the minor child.

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IT IS FURTHER STIPULATED AND AGREED that the parties shall equally share the costs of any unreimbursed medical expenses pursuant to the 30/30 rule, which is defined as follows:

> Any of the minor children's medical expenses, including dental, vision, and, orthodontic, beyond the insurance coverage will be divided equally between the parties. The paying party will have thirty (30) days to provide a receipt for medical services rendered, and the reimbursing party will have thirty (30) days in which to reimburse his or her half of the bill. If the paying party does not provide the receipt within thirty days, the expense is considered waived. If the reimbursing party does not remit payment within thirty days, he or she may be held in contempt.

IT IS FURTHER STIPULATED AND AGREED that the parties shall alternate claiming the minor child as their dependent for tax purposes each year, with Plaintiff receiving the deduction every even year and Defendant receiving the deduction every odd year.

IT IS FURTHER STIPULATED AND AGREED that the parties are to mutually agree on extracurricular or recreational activities for the minor child and equally divide the costs associated therewith.

IT IS FURTHER STIPULATED AND AGREED that until the minor child begins attending school full-time, the parties shall equally divide daycare costs for the minor child during the regular school year. The parties shall provide one another with written documentation to verify the costs paid to their chosen daycare providers. This is being done to ensure that the parties are equally dividing daycare costs.

IT IS FURTHER STIPULATED AND AGREED that during the summer months (defined as June 13, 2011 until August 19, 2011), Defendant's mother will be available to watch the minor child during the day at no charge. Therefore, Defendant shall not be required to pay any daycare costs during that time period.

IT IS FURTHER STIPULATED AND AGREED that Plaintiff has opted not to use Defendant's mother to watch the minor child during the summer months (defined as June 13, 2011 until August 19, 2011), and shall be solely responsible for any daycare costs he incurs during that time period.

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IT IS FURTHER STIPULATED AND AGREED that the parties will mutually agree on which school to enroll the minor child no later than April 30, 2012. The parties will not discuss the minor child's elementary school enrollment any earlier than April 2012.

IT IS FURTHER STIPULATED AND AGREED that for the remainder of the year 2011, Plaintiff shall have the right, up to three (3) times each month, to request Defendant to submit to random urinalysis in his home when Defendant is there for exchanges with the minor child. Plaintiff shall supervise the drug tests. Defendant shall receive a copy of the test results, and shall sign and retain a copy of the actual drug screen to prevent tampering. Any costs associated with the random urinalysis at Plaintiff's home shall be borne by Defendant. Beginning in the year 2012, and for each subsequent year, Defendant shall not be required to submit to urinalysis in Plaintiff's home absent further Court Order.

IT IS FURTHER STIPULATED AND AGREED that during the year 2011, Plaintiff shall have the right to request Defendant to submit to one (1) hair and urine test at the American Toxicology Institute. The parties shall equally share the costs of the hair analysis and urine test at the American Toxicology Institute. Plaintiff shall accompany Defendant to the American Toxicology Institute to ensure that the parties equally share the expense.

IT IS FURTHER STIPULATED AND AGREED that during the year 2012, Plaintiff shall have the right to request Defendant to submit to one (1) hair and urine tests at the American Toxicology Institute. The parties shall equally share the costs of the hair analysis and urine test at the American Toxicology Institute. Plaintiff shall accompany Defendant to the American Toxicology Institute to ensure that the parties equally share the expense.

IT IS FURTHER STIPULATED AND AGREED that in the event Defendant has a positive drug test result, Plaintiff shall immediately take primary physical custody of the minor child. The parties shall then consult legal counsel regarding how to proceed.

IT IS FURTHER STIPULATED AND AGREED that beginning the year 2013 and each year thereafter, Defendant shall no longer be required to submit to hair and/or urine tests absent further Court Order.

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IT IS FURTHER STIPULATED AND AGREED that the parties shall equally divide Defendant's attorney's fees for drafting and executing this Stipulation and Order. The parties shall each be responsible for any other attorney's fees and costs they have incurred.

IT IS FURTHER STIPULATED AND AGREED that the State of Nevada is the habitual residence of the minor child. Both parties shall be bound by the provisions of NRS 125C.200, which states:

> If custody has been established and the custodial parent intends to move his residence to a place outside of this state and to take the child with him, he must, as soon as possible and before the planned move, attempt to obtain the written consent of the noncustodial parent to move the child from this state. If the noncustodial parent refuses to give that consent, the custodial parent shall, before he leaves this state with the child, petition the court for permission to move the child. The failure of a parent to comply with the provisions of this section may be considered as a factor if a change of custody is requested by the noncustodial parent.

IT IS FURTHER STIPULATED AND AGREED that the parties are subject to the provisions set forth in NRS 125.510(6), which provides as follows:

> PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detain, conceal or remove the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this Court, or remove the children from the jurisdiction of the Court without the consent of either the Court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.139.

IT IS FURTHER STIPULATED AND AGREED that pursuant to NRS 125.510 (7) and (8), the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, are applicable to the parties as follows:

> Section 8: If a parent of the child lives in a foreign country or has significant commitments in a foreign country:
> (a) The parties may agree, and the Court shall include in the Order for Custody of the child, that the United States is a country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in Subsection 7.
> (b) Upon motion of the parties, the Court may order the parent to post a bond if the Court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the Court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed

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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 children.

DATED this 23 day of June, 2011.

KELLEHER & KELLEHER, LLC

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
807 South Seventh Street
Las Vegas, Nevada 89101
Attorneys for Defendant

DATED this 23 day of June, 2011.

LACEY PICTUM,
Defendant

DATED this 23 day of June, 2011.

DESMON BRANDES
5220 White Coyote Place
Las Vegas, Nevada 89130
Defendant in Proper Person

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ORDER

Based upon the Stipulation of the parties, and good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff Desmon Brandes is the biological father of Paige Jolie Brandes, born April 5, 2007.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall share JOINT LEGAL CUSTODY of the minor child. Joint legal custody shall be defined as follows:

> The parents shall confer with each other on all important matters pertaining to the children's health, welfare, education, religious training and upbringing to arrive at a harmonious policy to promote the children's best interests, and not to promote the personal desires of either party.
> The parents shall confer with each other on all matters regarding the children's health care, including but not limited to, medical, dental, orthodontic, surgical, optical, or psychological, and shall immediately inform the other parent of any health condition of the children except in emergency situations when prior consultations are not possible.
>
> The parents shall confer with each other on all matters pertaining to the religious training and upbringing of the children.
>
> The parents shall confer with each other regarding decisions pertaining to the education and school curriculum of the children.

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Each parent shall share with the other parent information concerning the well-being of the children, including, but not limited to, copies of report cards; school meeting notices; vacation schedules; class programs; requests for conferences; results of standardized or diagnostic tests; notices of activities involving the children; samples of school work; order forms for school pictures; and all communications from health care providers, childcare providers, and educators.

The parents shall confer with each other regarding the extracurricular activities which are available to or contemplated for the children either through the regular school curriculum or outside of the school curriculum, and shall inform the other parent of the times and places of athletic events and extracurricular events of the children so that the other parent shall also have the opportunity to participate in such activities.

Both parents shall be allowed free access to any and all records pertaining to their children. Both parents shall be allowed to confer independently with any and all professionals involved with their children.

Each parent shall keep the other parent informed of his or her respective address, home and work telephone numbers, and shall notify the other parent of any change thereto within twenty-four (24) hours of any change.

Each parent shall be entitled to reasonable telephone communication with the children Each parent is restrained from unreasonably interfering with the children's right to privacy during such telephone conversations with the other parent.

In the event that either parent shall take the child(ren) out of state on vacation, that parent shall specifically notify the other parent of the plans in advance and provide a telephone number and itinerary to the other parent.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Lacey Pictum will have PRIMARY PHYSICAL CUSTODY of the minor child.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the visitation schedule shall be as follows: Plaintiff shall have the minor child every two (2) days on weekdays and every other weekend. Exchanges shall occur no later than 8:30 P.M. However, the parties will accommodate one another's work schedules when they interfere with exchange times.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the receiving parent shall provide transportation for the exchanges.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event the parties agree to additional visitation time outside of the regular visitation schedule, the parent receiving additional visitation time shall be responsible for providing transportation for both the pick up and drop off of the minor child.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Holiday Visitation Schedule shall take precedence over the regular visitation schedule. The Holiday Visitation Schedule shall be defined as follows:

THREE-DAY HOLIDAYS

The holiday will begin on the day observed for the holiday at 9:00 AM and conclude at 9:00 AM the day following the three-day holiday weekend, or the day following the holiday where not attached to a three-day holiday weekend.

	ODD	EVEN
MEMORIAL DAY	MOM	DAD
INDEPENDENCE DAY	MOM	DAD
LABOR DAY	MOM	DAD
NEVADA DAY	MOM	DAD

INDIVIDUAL DAYS

The holiday visitation shall begin at 9:00 AM on the individual holiday (or after school on school days) and end at 9:00 PM the same day.

	ODD	EVEN
MOTHER'S DAY	MOM	MOM
FATHER'S DAY	DAD	DAD
MOTHER'S BIRTHDAY	MOM	MOM
FATHER'S BIRTHDAY	DAD	DAD
CHILD'S BIRTHDAY	DAD	MOM

EASTER

The holiday visitation shall begin at 8:00 PM the Saturday preceding Easter and conclude at 2:00 PM on Easter Sunday.

	ODD	EVEN
EASTER	MOM	DAD

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THANKSGIVING

The holiday visitation shall begin the Wednesday preceding Thanksgiving at 8:00 PM, and conclude at 9:00 AM the Friday following Thanksgiving.

	ODD	EVEN
THANKSGIVING	MOM	DAD

CHRISTMAS

The holiday visitation shall be divided into two (2) segments: Christmas Eve and Christmas Day. Christmas Eve shall begin on December 24th at 9:00 AM and conclude at 9:00 PM on December 24th. Christmas Day shall begin on December 24th at 9:00 PM and conclude at 2:00 PM on December 25th.

	ODD	EVEN
CHRISTMAS EVE	MOM	DAD
CHRISTMAS DAY	DAD	MOM

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall each be entitled to up to fourteen (14) vacation days with the minor child each year. Each party shall be required to provide at advanced notice in writing at least one (1) week prior to using any vacation days. Vacation days shall take precedence over the regular visitation schedule but not the holiday visitation schedule.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if either parent plans to take the minor child out of state for any reason, the parent must provide notification to the other parent regarding when and why they will be leaving the state.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event either party is required to be admitted to the hospital for any reason, the other parent must be notified as soon as possible.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff shall pay CHILD SUPPORT in the amount of $350.00 per month, from June 2011 until August 2011. Child Support shall be due on the 1st day of each month. Defendant shall provide Plaintiff with receipts of the minor child's expenses.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that beginning September 2011, Plaintiff shall pay CHILD SUPPORT in the amount of $400.00 per month, with $200.00 being due when Plaintiff receives the first paycheck of the month and $200.00 being due when Plaintiff receives the second paycheck of the month.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are put on notice that NRS 125B.145 allows the court to review a child support order every three years or upon a change in circumstances to determine whether child support can be modified to align with the statutory formula set out in NRS 125B.070; the parties must request a review, it is not an automatic function of the court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are put on notice that pursuant to NRS 125.450, a parent responsible for paying child support is subject to NRS 31A.010 through NRS 31A.340, inclusive, and Sections 2 and 3 of Chapter 31A of the Nevada Revised statutes, regarding the withholding of wages and commissions for the delinquent payment of support, that these statutes and provisions require that, if a parent responsible for paying child support is delinquent in paying the support of a child that such person has been ordered to pay, then that person's wages or commissions shall immediately be subject to wage assignment and garnishment, pursuant of the provisions of the above-referenced statutes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff shall continue to provide medical insurance for the minor child as long as it is available to him. As Plaintiff currently incurs no out of pocket costs to insure the minor child through NV Energy, Plaintiff shall continue beings solely responsible for maintaining the insurance. In the event that Plaintiff begins incurring an out of pocket expense for insuring the minor child, the parties shall equally divide the cost of insuring the minor child.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall equally share the costs of any unreimbursed medical expenses pursuant to the 30/30 rule, which is defined as follows:

> Any of the minor children's medical expenses, including dental, vision, and, orthodontic, beyond the insurance coverage will be divided equally between the parties. The paying party will have thirty (30) days to provide a receipt for medical services rendered, and the reimbursing party will have thirty (30) days in which to reimburse his or her half of the bill. If the paying party does not provide the receipt within thirty days, the expense is considered waived. If the reimbursing party does not remit payment within thirty days, he or she may be held in contempt.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall alternate claiming the minor child as their dependent for tax purposes each year, with Plaintiff receiving the deduction every even year and Defendant receiving the deduction every odd year.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are to mutually agree on extracurricular or recreational activities for the minor child and equally divide the costs associated therewith.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that until the minor child begins attending school full-time, the parties shall equally divide daycare costs for the minor child during the regular school year. The parties shall provide one another with written documentation to verify the costs paid to their chosen daycare providers. This is being done to ensure that the parties are equally dividing daycare costs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that during the summer months (defined as June 13, 2011 until August 19, 2011), Defendant's mother will be available to watch the minor child during the day at no charge. Therefore, Defendant shall not be required to pay any daycare costs during that time period.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff has opted not to use Defendant's mother to watch the minor child during the summer months (defined as June 13, 2011 until August 19, 2011), and shall be solely responsible for any daycare costs he incurs during that time period.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties will mutually agree on which school to enroll the minor child no later than April 30, 2012. The parties will not discuss the minor child's elementary school enrollment any earlier than April 2012.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that for the remainder of the year 2011, Plaintiff shall have the right, up to three (3) times each month, to request Defendant to submit to random urinalysis in his home when Defendant is there for exchanges with the minor child. Plaintiff shall supervise the drug tests. Defendant shall receive a copy of the test results, and shall sign and retain a copy of the actual drug screen to prevent tampering. Any costs associated with the random urinalysis at Plaintiff's home shall be borne by Defendant. Beginning in the year 2012, and for each subsequent year, Defendant shall not be required to submit to urinalysis in Plaintiff's home absent further Court Order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that during the year 2011, Plaintiff shall have the right to request Defendant to submit to one (1) hair and urine test at the American Toxicology Institute. The parties shall equally share the costs of the hair analysis and urine test at the American Toxicology Institute. Plaintiff shall accompany Defendant to the American Toxicology Institute to ensure that the parties equally share the expense.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that during the year 2012, Plaintiff shall have the right to request Defendant to submit to one (1) hair and urine tests at the American Toxicology Institute. The parties shall equally share the costs of the hair analysis and urine test at the American Toxicology Institute. Plaintiff shall accompany Defendant to the American Toxicology Institute to ensure that the parties equally share the expense.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event Defendant has a positive drug test result, Plaintiff shall immediately take primary physical custody of the minor child. The parties shall then consult legal counsel regarding how to proceed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that beginning the year 2013 and each year thereafter, Defendant shall no longer be required to submit to hair and/or urine tests absent further Court Order.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall equally divide Defendant's attorney's fees for drafting and executing this Stipulation and Order. The parties shall each be responsible for any other attorney's fees and costs they have incurred.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the State of Nevada is the habitual residence of the minor child. Both parties shall be bound by the provisions of NRS 125C.200, which states:

> If custody has been established and the custodial parent intends to move his residence to a place outside of this state and to take the child with him, he must, as soon as possible and before the planned move, attempt to obtain the written consent of the noncustodial parent to move the child from this state. If the noncustodial parent refuses to give that consent, the custodial parent shall, before he leaves this state with the child, petition the court for permission to move the child. The failure of a parent to comply with the provisions of this section may be considered as a factor if a change of custody is requested by the noncustodial parent.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are subject to the provisions set forth in NRS 125.510(6), which provides as follows:

> PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detain, conceal or remove the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this Court, or remove the children from the jurisdiction of the Court without the consent of either the Court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.139.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to NRS 125.510 (7) and (8), the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, are applicable to the parties as follows:

> Section 8: If a parent of the child lives in a foreign country or has significant commitments in a foreign country:
> (a) The parties may agree, and the Court shall include in the Order for Custody of the child, that the United States is a country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in Subsection 7.
> (b) Upon motion of the parties, the Court may order the parent to post a bond if the Court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the Court and may be used only to pay for the cost of locating 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 children.

DATED this 29 day of June, 2011.

DISTRICT COURT JUDGE
CHARLES J. HOSKIN

Submitted By:

KELLEHER & KELLEHER, LLC

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
807 South Seventh Street
Las Vegas, Nevada 89101
Attorneys for Defendant

LACEY PICTUM
Defendant

DESMON BRANDES
5220 White Coyote Place
Las Vegas, Nevada 89130
Defendant in Proper Person

LAW OFFICES
KELLEHER & KELLEHER LLC
807 SOUTH SEVENTH STREET
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Facsimile (702) 384-7545

VERIFICATION TO STIPULATION AND ORDER

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

DESMON BRANDES, being first duly sworn, deposes and says:

That he is the Plaintiff in the above entitled action; that he has read the foregoing Stipulation and Order and knows the contents thereof; that the same is true of his own knowledge except as to those matters therein stated on information and belief, he believes to be true. He also verifies that he has signed the aforesaid document of his own free will, without duress, coercion or while under the influence of a substance that would impair his ability to understand the document he signed. He acknowledges his full and complete understanding of the Stipulation and Order and its legal consequences, and has freely and voluntarily executed the Stipulation and Order.

DESMON BRANDES

SUBSCRIBED and SWORN to before me this 23rd day of June, 2011.

NOTARY PUBLIC

NOTARY PUBLIC
MARY LECKEY
STATE OF NEVADA - COUNTY OF CLARK
MY APPOINTMENT EXP. MAR. 3, 2013
No: 01-67851-1

LAW OFFICES
KELLEHER & KELLEHER LLC
807 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89101
(702) 384-7494
Facsimile (702) 384-7545

VERIFICATION TO STIPULATION AND ORDER

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

LACEY PICTUM, being first duly sworn, deposes and says:

That she is the Defendant in the above entitled action; that she has read the foregoing Stipulation and Order and knows the contents thereof; that the same is true of her own knowledge except as to those matters therein stated on information and belief, she believes to be true. She also verifies that she has signed the aforesaid document of her own free will, without duress, coercion or while under the influence of a substance that would impair her ability to understand the document she signed. She acknowledges her full and complete understanding of the Stipulation and Order and its legal consequences, and has freely and voluntarily executed the Stipulation and Order.

LACEY PICTUM

SUBSCRIBED and SWORN to before me this 23rd day of June, 2011.

NOTARY PUBLIC

NOTARY PUBLIC
MARY LECKEY
STATE OF NEVADA - COUNTY OF CLARK
MY APPOINTMENT EXP. MAR. 3, 2013
No: 01-67851-1

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11/18/2020 1:01 PM
Steven D. Grierson
CLERK OF THE COURT

MOT
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
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Attorney for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum, n/k/a** **Lacey Krynzel ,** Defendant.	Case No.: **D-10-440022-C** Dept. No.: **E** Case No. **R-20-215032-R** Date of Hearing: Time of Hearing: **ORAL ARGUMENT REQUESTED**

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

MOTION TO MODIFY CUSTODY TO JOINT PHYSICAL CUSTODY; TO SET CHILD SUPPORT; FOR FINDING OF NO CHILD SUPPORT ARREARS; FOR ATTORNEY'S FEES; AND FOR RELATED RELIEF

Plaintiff, **Desmon Brandes**, by and through his attorney, **Bruce I. Shapiro, Esq.**, of PECOS LAW GROUP, respectfully requests that this Court enter Orders granting him the following relief:

1. For an order awarding the parties joint physical custody of their minor child;

2. For an order setting child support;

3. For a finding of no child support arrears;

4. For an order awarding Plaintiff attorney's fees; and

5. For an order awarding Plaintiff such other and further relief as this Court deems just and proper in the premises.

This Motion is made and based on all the papers and pleadings on file herein, the Points and Authorities submitted herewith, the argument as may be adduced at the hearing of this matter.

DATED this 18th day of November 2020.

PECOS LAW GROUP

/s/ Bruce I. Shapiro

Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

INITIAL STATEMENT PURSUANT TO EDCR 5.501

There is a hearing set in child support court for November 23, 2020 in Case No. R-20-215032-R. For efficiency and for the sake of judicial economy, this court should hear both matters. Desmon is hopeful the parties will be able to reach an agreement before the hearing, but there is insufficient time to attempt to negotiate an agreement before the November 23, 2020 hearing. Desmon, however, will try to resolve the issues immediately after filing this motion and before the scheduled hearing.

POINTS AND AUTHORITIES

I. STATEMENT OF FACTS

Plaintiff **Desmon Brandes** ("Desmon") and Defendant **Lacey Krynzel** were never married but share one minor child, *Paige Jolie Brandes* born April 5, 2007.

Lacey had a history of an addiction and emotional issues. Desmon filed a complaint for custody on December 29, 2010 and a motion for primary custody and related matters on January 3, 2011. Desmon requested primary physical custody due to Lacey's ongoing issues. Desmon was awarded temporary primary physical custody pending an evidentiary hearing.

The parties subsequently entered into a stipulation and order on July 3, 2011, which they agreed to share joint legal custody with Lacey having primary physical custody. At that time, Lacey appeared to have resolved her issues. Desmon signed the stipulation and order in proper person although he did not fully understand the consequences of this stipulation. Desmon believed the parties had

"joint custody" because the stipulation and order said joint legal custody. At that time, he believed one of the parents needed to be designated as primary physical custodian, so he agreed for it to be Lacey. Child support was set at $400.00 per month.

Within a couple months after the stipulation and order was entered, Lacey's addiction and emotional problems returned. Within a couple months after the stipulation and order, Desmon had custody of Paige full time and Paige spent every other weekend with Lacey's parents. Lacey visited Paige at her parent's home under her parent's supervision.

In or around 2015, Lacey had another baby, Reese. Child Protective Services became involved and Desmon believes Reese was released from the hospital to Lacey's parents' custody.

In 2017, Lacey appeared to finally be sober. Paige began spending every other weekend with Lacey at Lacey's home. During her summer breaks from school, Paige spent her summer break with Lacey and every other weekend with Desmon. Due to COVID-19 and schools being closed, in 2020, they began their summer custodial schedule in March/April 2020.

Lacey had another baby in March 2020 and Paige enjoyed spending time with Lacey and her siblings at Lacey's home. When Lacey suggested to Desmon that they share joint physical custody of Paige, Desmon was hesitant, but agreed.[1] Desmon knows that with Paige being 13-years-old and having her own cell phone,

---

[1] Desmon was hesitant because Lacey, Lacey's husband, Lacey's three other children, her husband's son, and Paige, i.e., seven people, all live in a two-bedroom apartment. As long as there are no problems and as long as Lacey is doing her online school and keeping good grades, Desmon will not make issue of the living situation at Lacey's home.

she can call him if there are any problems. Since August 2020, the parties have shared joint physical custody of Paige. They each have Paige seven out of 14 days.

To be clear, notwithstanding the order, it is important to note that Desmon had primary physical custody of Paige from 2011 until summer 2020, and he has had joint physical custody of Paige since August 2020.

As it relates to child support, the July 5, 2011 stipulation and order states that Desmon was to pay child support to Lacey in the amount of $400.00 per month. Desmon paid child support for more than a year after the stipulation, even though he had Paige in his care full time. Eventually, however, Desmon stopped paying since he had de facto primary custody of Paige.

Since August 2020, the parties have followed the following custodial timeshare:

Week One: Desmon has Paige Thursday, Friday, Saturday and Sunday. Lacey has Paige Monday, Tuesday and Wednesday.

Week Two: Desmon has Paige Wednesday, Thursday and Friday. Lacey has Paige Saturday, Sunday, Monday and Tuesday.

In early 2020, although he had primary physical custody of Paige since 2011, Desmon's wages were garnished by the district attorney's office. Desmon learned that due to the custodial order stating that Lacey has primary physical custody, and due to the fact that Lacey is receiving welfare benefits, the district attorney opened a child support case.

. . .

. . .

II. ARGUMENT

A. The Court Should Order Joint Physical Custody

The court may set an evidentiary hearing on a modification of custody when a party has demonstrated "adequate cause" for such a request. *Rooney v. Rooney,* 109 Nev. 540, 542 (1993). In *Rooney,* adequate cause was found to exist when the moving party can show "(1) the fact alleged in the affidavits are relevant to the grounds for modification; and (2) the evidence is not merely cumulative or impeaching." *Id.* at 543 (citing *Roorda v. Roorda,* 25 Wash. App. 849, 611 P.2d 794, 796 (1980)).

In cases where parties share *de facto* joint physical custody despite the Court's order, the first prong of *Ellis* is satisfied because the Court is required to apply Nevada's definition of joint physical custody in determining which modification test to use. *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009). Under *Rivero*, a parent with at least 40 percent of the year (146 days) is a joint physical custodian, thus the test becomes whether a modification is in the child's best interests. *See* NRS 125.510(2); *Truax v. Truax*, 874 P.2d 10, 110 Nev. 437 (1994); *Bluestein v. Bluestein*, 131 Nev. Adv. Op. 14 (2015).

Here, the parties have shared 50/50 physical custody since August 2020. Thus, there is a *de facto* custody arrangement, and the Court should consider Desmon's request under a straight best interests standard.

Desmon does not believe that Lacey will oppose the court ordering joint physical custody. In the event there is an issue, however, Desmon will go through the custody factors pursuant to Nevada law.

When determining the best interest of a child, the court considers the factors contained in NRS 125C.0035(4), which are analyzed below.

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

Paige is 13-years-old and has expressed to Desmon that she would like to maintain the current 50/50 custody schedule.

2. *Any nomination of a guardian for the child by a parent.*

Not applicable.

3. *Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.*

Desmon has always supported Paige's relationship with Lacey and he will continue to do so. Desmon believes Lacey will be supportive of Desmon's relationship with Paige also.

4. *The level of conflict between the parents.*

To date, the parties have not had much conflict. For the past three years since Lacey appears to be sober, the parties have been able to effectively coparent.

5. *The ability of the parents to cooperate to meet the needs of the child.*

Desmon has always met Paige's needs and believes the parties will continue to cooperate to ensure Paige's needs are met.

6. *The mental and physical health of the parents.*

Desmon is in good mental and physical health. Lacey has had addiction and mental health issues, but she appears to be maintaining her sobriety for the past three years.

7. *The physical, developmental and emotional needs of the child.*

Paige has typical physical, developmental, and emotional needs for her age.

8. *The nature of the relationship of the child with each parent.*

The child has a close relationship with both parents. Desmon will ensure that Paige maintains a safe and healthy relationship with Lacey.

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

Desmon has a 16-year-old daughter, Jadyn, from a previous marriage who Desmon has joint physical custody. Paige has a close bond with her older sister. Lacey has three younger children from three different relationships and Paige has a close relationship with those younger siblings. With the parties sharing joint physical custody, Paige will be able to maintain relationships with her siblings.

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

Lacey has had addiction and mental health issues, but it appears to Desmon she is in recovery. Desmon has never been abusive or neglectful of Paige or anyone and has always ensured Paige is safe, healthy and well taken care of.

11. *Whether either parent or any other person seeking physical 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.*

This factor is not applicable.

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

This factor is not applicable.

Based upon the above-referenced factors, it is in the best interest of the child that the parties continue to share joint physical custody of Paige. Since August 2020, the parties have followed the following custodial timeshare:

Week One: Desmon has Paige Thursday, Friday, Saturday and Sunday. Lacey has Paige Monday, Tuesday and Wednesday.

Week Two: Desmon has Paige Wednesday, Thursday and Friday. Lacey has Paige Saturday, Sunday, Monday and Tuesday.

Desmon is a fit and proper person to be confirmed joint physical custodian of Paige. Desmon has worked for NV Energy for 23 years. Desmon's home is 3,400 square feet with five bedrooms. Desmon's older daughter, his girlfriend, and his girlfriend's son also live in Desmon's home.

B. The Court Should Review Child Support

NRS 125B.145:

> 1. An order for the support of a child must, upon the filing of a request for review by:
>
> (a) The Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative or the district attorney, if the Division of Welfare and Supportive Services or the district attorney has jurisdiction in the case; or
>
> (b) A parent or legal guardian of the child, be reviewed by the court at least every 3 years pursuant to this section to determine whether the order should be modified or adjusted. Each review conducted pursuant to this section must be in response to a separate request.
>
> 2. If the court:
>
> (a) Does not have jurisdiction to modify the order, the court may forward the request to any court with appropriate jurisdiction.

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

3. The court shall ensure that:

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

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

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

5. As used in this section:

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

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

The last child support order was entered on July 5, 2011. There is currently a child support review hearing set for November 23, 2020 in the child support case. Desmon anticipates that once this motion is filed that hearing will be continued and that court will confirm its order to what this court has ordered.

C. The Court Should Find There are No Child Support Arrears

Although the July 5, 2011 stipulation and order provided that Desmon pay child support of $400.00 per month, Desmon had full custody of Paige from 2011

to summer 2020. In February 2020, just before the parties started sharing joint physical custody the district attorney's office began garnishing the $400.00 per month court ordered child support from Desmon's paychecks, likely due to Lacey applying for welfare benefits for Paige. Therefore, based on the fact that Lacey never had primary physical custody of Paige, the court should make a finding that there are no child support arrears.

D. Desmon should be awarded attorney's fees.

NRS 18.010 states:

> **Award of attorney's fees.**
>
> 1. The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law.
>
> 2. In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party:
>
> (a) When he has not recovered more than $20,000; or
>
> (b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought without reasonable ground or to harass the prevailing party.
>
> 3. In awarding attorney's fees the court may pronounce its decision on the fees at the conclusion of the trial or special proceeding without written motion and with or without presentation of additional evidence.
>
> 4. No oral application or written motion for attorney's fees alters the effect of a final judgment entered in the action or the time permitted for an appeal therefrom.
>
> 5. Subsections 2, 3 and 4 do not apply to any action arising out of a written instrument or agreement which entitles the prevailing party to an award of reasonable attorney's fees.

NRS 125C.250 provides:

> **Attorney's fees and costs.**

> Except as otherwise provided in NRS 125C.0689, in an action to determine legal custody, physical custody or visitation with respect to a child, the court may order reasonable fees of counsel and experts and other costs of the proceeding to be paid in proportions and at times determined by the court.

Awards of attorney's fees are within the sound discretion of the district court. *Fletcher v. Fletcher,* 89 Nev. 540, 516 P.2d 103 (1973); *Levy v. Levy,* 96 Nev. 902, 620 P.2d 860 (1980); *Hybarger v. Hybarger,* 103 Nev. 255, 737 P.2d 889 (1987). When considering whether to award attorney's fees, the Court must evaluate the legal basis for such fees and also the factors outlined in *Brunzell v. Golden Gate National Bank,* 85 Nev. 345, 349, 455 P.2d 31, 33 (1969), which are as follows:

> (1) The qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived.

Each factor should be given consideration, and no one element should be given undue weight or predominate. *Miller v. Wilfong,* 121 Nev. 619, 119 P.3d 727 (2005). The Court should also consider any disparity in income between the parties when awarding fees. *Id.* at 623, 730 (citing *Wright v. Osburn,* 114 Nev. 1367, 970 P.2d 1071 (1998)).

Further, the Nevada Supreme Court has held that fees and costs may include non-attorney staff time. *LVMPD v. Yeghiazarian,* 129 Nev. 760, 312 P.3d 503 (2013).

When an attorney in a family law case requests fees, the Court must consider several factors in determining the reasonable value of the services provided. *Brunzell v. Golden Gate National Bank,* 85 Nev. 345, 455 P.2d 31 (1969). Those factors, referred to as the *Brunzell* factors, are: (1) *The Qualities of the Advocate:* to include ability, training, education, experience, professional standing and skill; (2) *The Character of the Work to Be Done:* to include the difficulty importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) *The Work Actually Performed by the Lawyer:* to include the actual skill, time and attention given to the work; and (4) *The Result Obtained:* whether the attorney was successful and what benefits were derived. *Id.* The court should give equal weight to each of the *Brunzell* factors. *Miller v. Wilfong,* 121 Nev. 119 (2005).

Further, the Nevada Supreme Court has held that fees and costs may include non-attorney staff time. *LVMPD v. Yeghiazarian,* 129 Nev. 760, 312 P.3d 503 (2013).

I. With regard to the *Qualities of the Advocate*:

a. **Bruce I. Shapiro, Esq.:** Mr. Shapiro is well-qualified and a member in good standing of the State Bar of Nevada. Mr. Shapiro has been practicing law for more than 30 years, primarily in the field of family law since 1990. He has served as a Domestic Violence Commissioner, pro tempore; URESA/Paternity Hearing Master, Alternate; Municipal Court Judge, Alternate; and Judicial Referee, Las Vegas Justice Court, Small

Claims. Mr. Shapiro has also written several articles in the area of family law and has served on the Nevada Children's Justice Task Force; Clark County Family Court Bench-Bar Committee; State Bar of Nevada, Child Support Review Committee; State Bar of Nevada Southern Nevada Disciplinary Board; State Bar of Nevada Standing Committee on Judicial Ethics and Election Practices; and the Continuing Legal Education Committee. Mr. Shapiro also served on the Board of Governors for the State Bar of Nevada from 2003-2005 and 2008-2010.

b. **Amy Robinson:** Ms. Robinson, a Certified Paralegal, joined Pecos Law Group in 2007. She has been a family law paralegal since 1999. Ms. Robinson attended Lansing Community College from 1990 to 1992. She completed the Certified Paralegal Studies Program at the University of Nevada Las Vegas in 1998 with special emphasis in Family Law, and she completed the Advanced Paralegal Studies Program at UNLV in 2000. Ms. Robinson is also a Certified Divorce Financial Analyst.

c. With regard to the *Character of the Work to Be Done,* this case involved highly contested issues that took skill particular to family law.

2. With regard to the *Work Actually Performed by the Attorney,* Desmon's attorney was well-prepared for the case. Through the course of this litigation, Counsel prepared procedurally proper pleadings and prepared for the hearing with skill, time, and attention.

3. With regard to the *Results Obtained,* through application of law to the facts as set forth in his pleadings and will be introduced at the time of the hearing,

Desmon believes he will prevail on all issues. NRS 18.010 provides for an award of attorney's fees to a prevailing party "when the court finds that the ... defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party."

Lacey's actions have caused Desmon to file this motion, and therefore, Desmon should be awarded attorney's fees.

III. CONCLUSION

WHEREFORE, based on the foregoing, Desmon requests that this Court enter orders granting him the following relief:

1. For an order awarding the parties joint physical custody of their minor child;

2. For an order setting child support;

3. For a finding of no child support arrears;

4. For an order awarding Plaintiff attorney's fees; and

5. For an order awarding Plaintiff such other and further relief as this Court deems just and proper in the premises.

DATED this 18th day of November, 2020.

PECOS LAW GROUP

/s/ Bruce I. Shapiro
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

DECLARATION OF DESMON BRANDES

Desmon Brandes states and declares:

1. I am over the age of 18 and a competent witness to testify to the matters contained in this declaration.

2. I have read the foregoing Motion, and the facts contained therein are stated upon my personal knowledge and are true, unless stated to be upon information and belief, and in that case, I believe them to be true.

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

DATED 11-18 - 2020.

Desmon Brandes

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes
Plaintiff/Petitioner

v.

Lacey Krynzel
Defendant/Respondent

Case No. D-10-440022-C

Dept. E

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: Plaintiff Date 11/18/2020

Signature of Party or Preparer [signature]

Electronically Filed
12/7/2020 10:10 AM
Steven D. Grierson
CLERK OF THE COURT

LACEY KRYNZEL
6530 Annie Oakley #814
Henderson, NV 89014
(702) 472-2955
Plaintiff in Proper Person

DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, LACEY KRYNZEL, Defendant.	Case No. D-10-440022-C Dept No. E ORAL ARGUMENT? YES

OPPOSITION TO MOTION TO MODIFY CUSTODY TO JOINT PHYSICAL CUSTODY; AND COUNTERMOTION TO HOLD PLAINTIFF IN CONTEMPT OF COURT; REFERRAL TO MEDIATION; FOR AWARD OF FEES AND COSTS; FOR SANCTIONS AND RELATED RELIEF

COMES NOW Defendant, in Proper Person, and respectfully responds to Plaintiff's motion as follows:

1. That the court acknowledge the controlling custody order in this matter is the parties **STIPULATION AND ORDER**, filed 7/5/11. See Ex "A."

2. That the Court refer the parties to mediation to address any modification of custody.

3. That the court hold Plaintiff in contempt of court, and sanction Plaintiff for failing to comply with EDCR 5.506; failing to provide his current FDF; and for claiming the minor child in his taxes during odd years, awarded to Defendant in the controlling Stipulation and Order.

4. That prior to any modification of child support, Plaintiff be required to provide his current and accurate FDF, and provide the same to Defendant.

5. That the court acknowledge child support cannot be retroactively modified, as cited herein.

6. That the court hold Plaintiff in contempt of court for claiming the child annually in odd years, which are the years that Defendant is to claim the child, pursuant to the Stipulation and Order.

7. That Plaintiff be awarded fees and costs, including attorney fees if he retains counsel.

This Opposition and Countermotion is based upon all the records and files in this action, Points and Authorities, Declaration of Defendant, and any argument that may be adduced at the time of hearing of this Motion.

Dated this 4th day of December, 2020.

/s/ Lacey Krynzel

LACEY KRYNZEL
Plaintiff in Proper Person

POINTS AND AUTHORITIES
HISTORY/FACTS

The parties in this matter were never married. There is one minor child the issue of the parties, to wit: PAIGE JOLIE BRANDES (DOB: 4/5/07), presently age 13 ½ years old.

The parties met while Plaintiff/Dad was married. He got Defendant/Mom hooked on pills. She had never previously used drugs prior to the relationship. Then she got pregnant, and Plaintiff cheated on her. Defendant's addiction and emotional issues were all caused by Plaintiff, and these issues no longer exist, as the problem (Plaintiff) is now longer in her life.

Defendant wholly denies Plaintiff's self serving and false allegations that "within a couple of months after the stipulation and order, Desmon had custody of

Paige full time..." Defendant maintained custody of the child. And just as inaccurate is Plaintiff's misrepresentation that "Desmon believes Reese was released from the hospital to Lacey's parents' custody." In fact, all three of her children with her husband, were released to Defendant and her husband. Where does Plaintiff get his inaccurate information?

Apparently, he simply MAKES IT UP, attempting to make Defendant look bad. She has three children with her husband, under 5 years old, and ZERO issues caring for these children.

Defendant might question why Plaintiff is making allegations from 2011 - 2017, when he never filed a motion timely alleging issues, and raises these false allegations only now, in an attempt to minimize his child support obligation - which he had failed to even pay, although it was ordered beginning September, 2011.

In fact, the controlling Stipulation and Order allows Plaintiff to request random drug and/or urine tests in 2011, 2012, and 2013. He has never done so.

Plaintiff has failed to file a single iota of evidence. There are ZERO exhibits supporting his allegations. There are no email or text communications of the parties to support Plaintiff's preposterous misrepresentation that he had primary physical custody of the child! Plaintiff wants this court to believe he had custody for 9 years and never filed a motion!

Since the pandemic began in March, 2020, through the start of the present school year, on or about August 24, 2020, Paige has been living with Defendant/ Mom Monday through Friday, and every other weekend.

However, Defendant has allowed Plaintiff to have the child in alternating weeks since August 24, 2020 - which has only been for the past three months, which is NOT a de facto change of custody.

Plaintiff filed this custody action, and made addressed drug allegations to this court previously, and thus, it is inappropriate to re-hash these matters at this time, pursuant to *McMonigle v. McMonigle*, 887 P.2d 742 (1994). Defendant has

been in sobriety since 2015, and the child was on her lease agreement in 2015, contrary to Plaintiff's further misrepresentations. Prior to that in 2012-2015, Defendant lived with her mother, so there was no lease.

The court provided Plaintiff the child until Defendant completed her program, and she has remained drug free since that time (2015).

Defendant has since married, and has three additional children, who are siblings of the minor child at issue, and has been raised with said minor child.

Plaintiff is trying to make it appear that he had "custody" of the child, which is completely false. The parties agreed to have the child in the kindergarten in Plaintiff's zone because it was one of two kindergartens that had a full day, and best accommodated both parties work schedules. The Stipulation and Order did suggest the parties cooperate, and they do have joint LEGAL custody.

Plaintiff failed to provide court ordered child support, and now says "Eventually, however, Desmon stopped paying since he had de facto primary custody of Paige." [Plaintiff's motion, page 3, lines 10-11]

Thereafter, his motion alleges, "Here, the parties have shared 50/50 physical custody since August 2020." [Plaintiff's motion, page 4, line 20.]

Not only did he NOT have 'de facto primary custody of Paige," but for the sake of argument, had he had 'de facto primary custody of Paige' the court order for custody and child support remain the same until there is an Order changing custody.

Interestingly, while Plaintiff alleges 'de facto primary physical custody of Paige,' he is asking for joint physical custody of the child. If he had 'de facto primary physical custody, why would he want to agree to joint physical custody instead?

Why did he not file a motion if there were any truth to his allegations? Why did he not comply with EDCR 5.501, and address another possible stipulation and order with Defendant? His motion ADMITS he failed to address this matter with Defendant, alleging "but there is insufficient time to attempt to negotiate an

agreement before the November 23, 2020 hearing." Said hearing was set before the child support division MONTHS AGO, and how long does it take to send Defendant an email?!

Further, Plaintiff has failed to comply with EDCR 5.506, as his FDF is not on file - and he has not provided Defendant with a copy of his FDF.

Defendant respectfully requests the court SANCTION Plaintiff for failing to comply with EDCR 5.501 and EDCR 5.506. There is no exemption for Plaintiff!

ARGUMENT

A. Child Custody

The existing custody and support order is attached as Exhibit "A." It is the Stipulation and Order filed 7/5/11.

Plaintiff has NOT had de facto custody of the minor child.

Defendant has had primary physical custody of the minor child - but has encouraged Plaintiff to have more time with the child.

After all of Plaintiff's prior (and now repeated exaggerated or outright inaccurate allegations), the parties signed a Stipulation and Order, filed July 5, 2011, which remains to this day, the controlling order of the court. See Ex. "A."

Plaintiff has primary physical custody of the minor child, and Defendant has specified visitation stated as follows:

"that the visitation schedule shall be as follows: Plaintiff shall have the minor child every two (2) days on weekdays and every other weekend. Exchanges shall occur no later than 8:30 p.m. However, the parties will accommodate one another's work schedules when they interfere with exchange times."

Defendant/Mom has been very liberal with Plaintiff's visitation. She has often agreed to modify or add time. There is no complaint in his motion that there has been any interference whatsoever by Defendant in this matter.

In entering orders for custody and support of minor children, the Court's paramount consideration should be the welfare of the minor children. Culbertson v. Culbertson , 91 Nev. 230, 533 P.2d 768 (1975). The guiding principle in the

court's exercise of its discretion in cases affecting the rights and welfare of the children, are the best interests and the welfare of the children whose rights are involved in the matter. Fenkell v. Fenkell, 86 Nev. 397, 469 P.2d 701 (1970).

N.R.S. 125.510 states in pertinent part as follows:

> In determining custody of a minor child in a action brought under this chapter, the court may:
> (a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest;

Best interest is determined pursuant to factors set forth in NRS 125C.0035(4):

(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 physical custody.

The child is 13 years old, and desires to please both parents.

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

N/A

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

Defendant has always encouraged the child's relationship with her father, as Plaintiff acknowledges. There is no issue with this factor.

(d) The level of conflict between the parents.

The level of conflict is low, and only incited by Plaintiff's wrongful allegations in his motion, in spite of his knowledge that Defendant has maintained sobriety for over five years.

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

The parties have cooperated, and thus, they have not returned to court for many years; and only return now for Plaintiff to seek to reduce his child support obligation.

(f) The mental and physical health of the parents.

There are no issues with Defendant. Plaintiff cannot speak to Defendant's mental health.

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

The child is not special needs, and has typical needs of a child her age.

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

The child has a good relationship with both parents, as she should.

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

Defendant has three additional children with her present husband. The child at issue has grown up with her siblings, and the children are very close.

The child has one other sibling on Plaintiff's side.

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

There are no such issues on the part of Defendant. Defendant is a loving mother of all four of her children.

(k) Whether either parent or any other person seeking physical 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.

N/A

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

N/A

B. Child Support

The genuine issue is, in addition to Plaintiff having primary physical custody of the minor child effective September, 2011, Plaintiff was awarded the sum of $400 per month as and for child support: An obligation which Plaintiff FAILED AND REFUSED TO PAY.

Due to non-payment and non-support of his child, Defendant was forced to receive financial assistance from the State, and Plaintiff's child support obligation was reviewed. In an act of desperation, Plaintiff filed this instant motion in both this court and the child support court, seeking to interfere with the review of his

child support obligation. It failed. Plaintiff's child support was increased to $1144 per month, plus $104 per month for arrears, and THIS is the reason for the desire to modify custody.

Plaintiff's sudden lack of understanding that 'legal' custody and 'physical' custody are not the same over 9 years ago is completely irrelevant.

Plaintiff's false allegation of having 'de facto primary' or even joint physical custody, is also irrelevant.

In *Bluestein v. Bluestein*. 131 Nev. Ad. Op. 14, the Nevada Supreme Court reiterates that public policy encourages parents to enter into provide custody agreements for co-parenting. See *St. Mary v. Damon*, 129 Nev. ___, ___, P.3d 1027, 1035-36 (2013) *Rennels v. Rennels*, 127 Nev. ___, __, 257 P.3d 396, 399 (2011). **The terms upon which the parties agree control until one or both parties move the court to modify the custodial agreement.** [Emphasis added.]

Once a party moves the court to modify the existing child custody agreement, the court must use the terms and definitions provided under Nevada law, and the parties' definitions no longer control. *Rivero v. Rivero*, at 429, 216 P.3d at 227.

Plaintiff is now moving the court to modify the existing child custody agreement.

Defendant is not adverse to mediation to address a modification of the custody that was established in 2011, when the child was not even in school. However, she IS adverse to "retroactively" changing the title - or the child support. Further, if there is an agreement for a joint physical custody arrangement, it must be complied with by Plaintiff, and not just at his whim.

As for the true heart of Plaintiff's desire, the issue of child support, that cannot be retroactively modified.

It has been well founded that, "A court may not retroactively modify a child support order." See NRS 125B.140(1)(a).

A child support order "may not be retroactively modified or adjusted...."

Khaldy v. Khaldy, 111 Nev. 374, 377, 892, P.2d 584, 586 (1995).

"Nevada case law clearly prohibits retroactive modification of a support order." *Id*.

A court may, however, modify a child support order effective with the date of a motion to modify the order. *Ramacciotti v. Ramacciotti*, 106 Nev. 529, 532, 795 P.2d 988, 990 (1990) (clarifying that modification effective with the date of the motion to modify is not "retroactive."

In this matter, however, the Child Support Division, has reviewed this matter, and established a current order for child support. Any child support issues should be directed to the child support division.

However, no modification of child support should be considered until Plaintiff complies with EDCR 5.506. He has failed to file his FDF within three days of the filing of his motion, as required by local rules.

Plaintiff has always used finances to manipulate and attempt to control Defendant. There are numerous threats and texts by Plaintiff demanding Defendant "fix this problem."

Defendant has had the child in competitive/travel/club softball now for four (4) years, with 'Lil Rebels.' Plaintiff previously paid the necessary club ball fees, but once his wages were garnished, Defendant was told that if she didn't make the payments from now on, that the child wouldn't be allowed to play softball anymore. Plaintiff alleged he would not pay her $400 per month child support on top of the softball dues. Then Plaintiff discussed this with the minor child - a violation of EDCR 5.300. The child asked Defendant is she was going to have to quit playing! This is heartbreaking that Plaintiff would hurt the child like that, and come before this court acting like he is a good parent!

Defendant shall provide her FDF, and show the court at that this time, she has only been receiving minimal unemployment income of approximately $200 per week.

TAX ISSUE

Plaintiff is, in a word, a bully. He has always rushed to claim the child for tax purposes - in spite of the clear language in the Stipulation and Order that directs that the parties to alternative the child for tax purposes.

Plaintiff was to have even years; and Defendant was to have odd years. However, since Plaintiff has taken Defendant's years in 2013, 2015, 2017 and 2019, Defendant requests the court order that Defendant is entitled to claim the minor child for the next 8 years - four of which would have been Plaintiff's years - which would take the parties until the child is 18 years old.

FEES AND COSTS

Defendant requests the court award her fees and costs for having to file in this matter pursuant to NRS 18.010, and NRS 125C.250, as Plaintiff's motion is filed in bad faith, with unclean hands.

CONCLUSION

Based on the forgoing, the Defendant requests the above prayed for relief be granted.

DATED and DONE this 4th day of December, 2020.

/s/ Lacey Krynzel

LACEY KRYNZEL
Defendant in Proper Person

DECLARATION OF LACEY KRYNZEL

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

I, LACEY KRYNZEL, declare as follows:

1. That I am the Defendant in this matter, and everything in my opposition and countermotion is true and correct.

2. That I request the court acknowledge the controlling order.

3. I request the court acknowledge Plaintiff fails to provide one piece of evidence in this matter as to any 'de facto' change of custody. There was none. Plaintiff did NOT have custody of the child, and from March, 2020 - August 24, 2020, the child was with me Monday through Friday AND every other weekend. He had only every other weekend.

4. This is not about what is best for the child: this is about minimizing his child support obligation, and expenses of the child! Plaintiff stopped paying for the child's sports because I did not "fix this issue" of child support. He complained and failed to pay the court ordered $400 per month - and the child support division increased it to $1144 plus $104 per month as and for child support arrears.

5. He should not have discussed the costs of softball with the child. He should not have filed his taxes immediately during my years, (odd years), and claim the child in spite of the clear language of the Stipulation and Order.

6. I request the court hold Plaintiff in contempt of court for failing to file his FDF, failing to comply with EDCR 5.501, and for filing taxes during my years.

7. I would prefer to appear with an attorney - as I did in 2011, however, I cannot afford one. That is why Plaintiff is bullying me so hard at this time. He and his attorney are writing and requested I reduce the court ordered child support.

I want for our child what the Nevada law says is appropriate. There is no reason to deviate from that.

8. I request Plaintiff be sanctioned, and that I be entitled to claim the child during HIS next four years. I request an award of fees and costs.

I declare under penalty of perjury, under the laws of the State of Nevada and the United States (NRS 53.045 and 28 USC § 1746), that the foregoing is true and correct.

/s/ Lacey Krynzel

LACEY KRYNZEL

ORIGINAL

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, v. LACEY PICTUM, Defendant.	CASE NO. D-10-440022-C DEPT. NO. E

STIPULATION AND ORDER

IT IS HEREBY STIPULATED AND AGREED by and between the parties, John T. Kelleher, Esq., attorney for Defendant, Lacey Pictum, and Desmon Brandes, Plaintiff in proper person, that Plaintiff Desmon Brandes is the biological father of Paige Jolie Brandes, born April 5, 2007.

IT IS FURTHER STIPULATED AND AGREED that the parties shall share JOINT LEGAL CUSTODY of the minor child. Joint legal custody shall be defined as follows:

> The parents shall confer with each other on all important matters pertaining to the children's health, welfare, education, religious training and upbringing to arrive at a harmonious policy to promote the children's best interests, and not to promote the personal desires of either party.
>
> The parents shall confer with each other on all matters regarding the children's health care, including but not limited to, medical, dental, orthodontic, surgical, optical, or psychological, and shall immediately inform the other parent of any health condition of the children except in emergency situations when prior consultations are not possible.

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Ex "A"

The parents shall confer with each other on all matters pertaining to the religious training and upbringing of the children.

The parents shall confer with each other regarding decisions pertaining to the education and school curriculum of the children.

Each parent shall share with the other parent information concerning the well-being of the children, including, but not limited to, copies of report cards; school meeting notices; vacation schedules; class programs; requests for conferences; results of standardized or diagnostic tests; notices of activities involving the children; samples of school work; order forms for school pictures; and all communications from health care providers, childcare providers, and educators.

The parents shall confer with each other regarding the extracurricular activities which are available to or contemplated for the children either through the regular school curriculum or outside of the school curriculum, and shall inform the other parent of the times and places of athletic events and extracurricular events of the children so that the other parent shall also have the opportunity to participate in such activities.

Both parents shall be allowed free access to any and all records pertaining to their children. Both parents shall be allowed to confer independently with any and all professionals involved with their children.

Each parent shall keep the other parent informed of his or her respective address, home and work telephone numbers, and shall notify the other parent of any change thereto within twenty-four (24) hours of any change.

Each parent shall be entitled to reasonable telephone communication with the children Each parent is restrained from unreasonably interfering with the children's right to privacy during such telephone conversations with the other parent.

In the event that either parent shall take the child(ren) out of state on vacation, that parent shall specifically notify the other parent of the plans in advance and provide a telephone number and itinerary to the other parent.

IT IS FURTHER STIPULATED AND AGREED that Defendant Lacey Pictum will have PRIMARY PHYSICAL CUSTODY of the minor child.

IT IS FURTHER STIPULATED AND AGREED that the visitation schedule shall be as follows: Plaintiff shall have the minor child every two (2) days on weekdays and every other weekend. Exchanges shall occur no later than 8:30 P.M. However, the parties will accommodate one another's work schedules when they interfere with exchange times.

IT IS FURTHER STIPULATED AND AGREED that the receiving parent shall provide transportation for the exchanges.

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IT IS FURTHER STIPULATED AND AGREED that in the event the parties agree to additional visitation time outside of the regular visitation schedule, the parent receiving additional visitation time shall be responsible for providing transportation for both the pick up and drop off of the minor child.

IT IS FURTHER STIPULATED AND AGREED that the Holiday Visitation Schedule shall take precedence over the regular visitation schedule. The Holiday Visitation Schedule shall be defined as follows:

THREE-DAY HOLIDAYS

The holiday will begin on the day observed for the holiday at 9:00 AM and conclude at 9:00 AM the day following the three-day holiday weekend, or the day following the holiday where not attached to a three-day holiday weekend.

	ODD	EVEN
MEMORIAL DAY	MOM	DAD
INDEPENDENCE DAY	MOM	DAD
LABOR DAY	MOM	DAD
NEVADA DAY	MOM	DAD

INDIVIDUAL DAYS

The holiday visitation shall begin at 9:00 AM on the individual holiday (or after school on school days) and end at 9:00 PM the same day.

	ODD	EVEN
MOTHER'S DAY	MOM	MOM
FATHER'S DAY	DAD	DAD
MOTHER'S BIRTHDAY	MOM	MOM
FATHER'S BIRTHDAY	DAD	DAD
CHILD'S BIRTHDAY	DAD	MOM

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EASTER

The holiday visitation shall begin at 8:00 PM the Saturday preceding Easter and conclude at 2:00 PM on Easter Sunday.

	ODD	EVEN
EASTER	MOM	DAD

THANKSGIVING

The holiday visitation shall begin the Wednesday preceding Thanksgiving at 8:00 PM, and conclude at 9:00 AM the Friday following Thanksgiving.

	ODD	EVEN
THANKSGIVING	MOM	DAD

CHRISTMAS

The holiday visitation shall be divided into two (2) segments: Christmas Eve and Christmas Day. Christmas Eve shall begin on December 24th at 9:00 AM and conclude at 9:00 PM on December 24th. Christmas Day shall begin on December 24th at 9:00 PM and conclude at 2:00 PM on December 25th.

	ODD	EVEN
CHRISTMAS EVE	MOM	DAD
CHRISTMAS DAY	DAD	MOM

IT IS FURTHER STIPULATED AND AGREED that the parties shall each be entitled to up to fourteen (14) vacation days with the minor child each year. Each party shall be required to provide at advanced notice in writing at least one (1) week prior to using any vacation days. Vacation days shall take precedence over the regular visitation schedule but not the holiday visitation schedule.

IT IS FURTHER STIPULATED AND AGREED that if either parent plans to take the minor child out of state for any reason, the parent must provide notification to the other parent regarding when and why they will be leaving the state.

IT IS FURTHER STIPULATED AND AGREED that in the event either party is required to be admitted to the hospital for any reason, the other parent must be notified as soon as possible.

IT IS FURTHER STIPULATED AND AGREED that Plaintiff shall pay CHILD SUPPORT in the amount of $350.00 per month, from June 2011 until August 2011. Child Support shall be due on the 1st day of each month. Defendant shall provide Plaintiff with receipts of the minor child's expenses.

IT IS FURTHER STIPULATED AND AGREED that beginning September 2011, Plaintiff shall pay CHILD SUPPORT in the amount of $400.00 per month, with $200.00 being due when Plaintiff receives the first paycheck of the month and $200.00 being due when Plaintiff receives the second paycheck of the month.

IT IS FURTHER STIPULATED AND AGREED that the parties are put on notice that NRS 125B.145 allows the court to review a child support order every three years or upon a change in circumstances to determine whether child support can be modified to align with the statutory formula set out in NRS 125B.070; the parties must request a review, it is not an automatic function of the court.

IT IS FURTHER STIPULATED AND AGREED that the parties are put on notice that pursuant to NRS 125.450, a parent responsible for paying child support is subject to NRS 31A.010 through NRS 31A.340, inclusive, and Sections 2 and 3 of Chapter 31A of the Nevada Revised statutes, regarding the withholding of wages and commissions for the delinquent payment of support, that these statutes and provisions require that, if a parent responsible for paying child support is delinquent in paying the support of a child that such person has been ordered to pay, then that person's wages or commissions shall immediately be subject to wage assignment and garnishment, pursuant of the provisions of the above-referenced statutes.

IT IS FURTHER STIPULATED AND AGREED that Plaintiff shall continue to provide medical insurance for the minor child as long as it is available to him. As Plaintiff currently incurs no out of pocket costs to insure the minor child through NV Energy, Plaintiff shall continue beings solely responsible for maintaining the insurance. In the event that Plaintiff begins incurring an out of pocket expense for insuring the minor child, the parties shall equally divide the cost of insuring the minor child.

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IT IS FURTHER STIPULATED AND AGREED that the parties shall equally share the costs of any unreimbursed medical expenses pursuant to the 30/30 rule, which is defined as follows:

> Any of the minor children's medical expenses, including dental, vision, and, orthodontic, beyond the insurance coverage will be divided equally between the parties. The paying party will have thirty (30) days to provide a receipt for medical services rendered, and the reimbursing party will have thirty (30) days in which to reimburse his or her half of the bill. If the paying party does not provide the receipt within thirty days, the expense is considered waived. If the reimbursing party does not remit payment within thirty days, he or she may be held in contempt.

IT IS FURTHER STIPULATED AND AGREED that the parties shall alternate claiming the minor child as their dependent for tax purposes each year, with Plaintiff receiving the deduction every even year and Defendant receiving the deduction every odd year.

IT IS FURTHER STIPULATED AND AGREED that the parties are to mutually agree on extracurricular or recreational activities for the minor child and equally divide the costs associated therewith.

IT IS FURTHER STIPULATED AND AGREED that until the minor child begins attending school full-time, the parties shall equally divide daycare costs for the minor child during the regular school year. The parties shall provide one another with written documentation to verify the costs paid to their chosen daycare providers. This is being done to ensure that the parties are equally dividing daycare costs.

IT IS FURTHER STIPULATED AND AGREED that during the summer months (defined as June 13, 2011 until August 19, 2011), Defendant's mother will be available to watch the minor child during the day at no charge. Therefore, Defendant shall not be required to pay any daycare costs during that time period.

IT IS FURTHER STIPULATED AND AGREED that Plaintiff has opted not to use Defendant's mother to watch the minor child during the summer months (defined as June 13, 2011 until August 19, 2011), and shall be solely responsible for any daycare costs he incurs during that time period.

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IT IS FURTHER STIPULATED AND AGREED that the parties will mutually agree on which school to enroll the minor child no later than April 30, 2012. The parties will not discuss the minor child's elementary school enrollment any earlier than April 2012.

IT IS FURTHER STIPULATED AND AGREED that for the remainder of the year 2011, Plaintiff shall have the right, up to three (3) times each month, to request Defendant to submit to random urinalysis in his home when Defendant is there for exchanges with the minor child. Plaintiff shall supervise the drug tests. Defendant shall receive a copy of the test results, and shall sign and retain a copy of the actual drug screen to prevent tampering. Any costs associated with the random urinalysis at Plaintiff's home shall be borne by Defendant. Beginning in the year 2012, and for each subsequent year, Defendant shall not be required to submit to urinalysis in Plaintiff's home absent further Court Order.

IT IS FURTHER STIPULATED AND AGREED that during the year 2011, Plaintiff shall have the right to request Defendant to submit to one (1) hair and urine test at the American Toxicology Institute. The parties shall equally share the costs of the hair analysis and urine test at the American Toxicology Institute. Plaintiff shall accompany Defendant to the American Toxicology Institute to ensure that the parties equally share the expense.

IT IS FURTHER STIPULATED AND AGREED that during the year 2012, Plaintiff shall have the right to request Defendant to submit to one (1) hair and urine tests at the American Toxicology Institute. The parties shall equally share the costs of the hair analysis and urine test at the American Toxicology Institute. Plaintiff shall accompany Defendant to the American Toxicology Institute to ensure that the parties equally share the expense.

IT IS FURTHER STIPULATED AND AGREED that in the event Defendant has a positive drug test result, Plaintiff shall immediately take primary physical custody of the minor child. The parties shall then consult legal counsel regarding how to proceed.

IT IS FURTHER STIPULATED AND AGREED that beginning the year 2013 and each year thereafter, Defendant shall no longer be required to submit to hair and/or urine tests absent further Court Order.

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IT IS FURTHER STIPULATED AND AGREED that the parties shall equally divide Defendant's attorney's fees for drafting and executing this Stipulation and Order. The parties shall each be responsible for any other attorney's fees and costs they have incurred.

IT IS FURTHER STIPULATED AND AGREED that the State of Nevada is the habitual residence of the minor child. Both parties shall be bound by the provisions of NRS 125C.200, which states:

> If custody has been established and the custodial parent intends to move his residence to a place outside of this state and to take the child with him, he must, as soon as possible and before the planned move, attempt to obtain the written consent of the noncustodial parent to move the child from this state. If the noncustodial parent refuses to give that consent, the custodial parent shall, before he leaves this state with the child, petition the court for permission to move the child. The failure of a parent to comply with the provisions of this section may be considered as a factor if a change of custody is requested by the noncustodial parent.

IT IS FURTHER STIPULATED AND AGREED that the parties are subject to the provisions set forth in NRS 125.510(6), which provides as follows:

> PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detain, conceal or remove the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this Court, or remove the children from the jurisdiction of the Court without the consent of either the Court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.139.

IT IS FURTHER STIPULATED AND AGREED that pursuant to NRS 125.510 (7) and (8), the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, are applicable to the parties as follows:

> Section 8: If a parent of the child lives in a foreign country or has significant commitments in a foreign country:
> (a) The parties may agree, and the Court shall include in the Order for Custody of the child, that the United States is a country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in Subsection 7.
> (b) Upon motion of the parties, the Court may order the parent to post a bond if the Court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the Court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed

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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 children.

DATED this 23 day of June, 2011.

KELLEHER & KELLEHER, LLC

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
807 South Seventh Street
Las Vegas, Nevada 89101
Attorneys for Defendant

DATED this 23 day of June, 2011.

LACEY PICTUM,
Defendant

DATED this 23 day of June, 2011.

DESMON BRANDES
5220 White Coyote Place
Las Vegas, Nevada 89130
Defendant in Proper Person

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ORDER

Based upon the Stipulation of the parties, and good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff Desmon Brandes is the biological father of Paige Jolie Brandes, born April 5, 2007.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall share JOINT LEGAL CUSTODY of the minor child. Joint legal custody shall be defined as follows:

> The parents shall confer with each other on all important matters pertaining to the children's health, welfare, education, religious training and upbringing to arrive at a harmonious policy to promote the children's best interests, and not to promote the personal desires of either party.
> The parents shall confer with each other on all matters regarding the children's health care, including but not limited to, medical, dental, orthodontic, surgical, optical, or psychological, and shall immediately inform the other parent of any health condition of the children except in emergency situations when prior consultations are not possible.
>
> The parents shall confer with each other on all matters pertaining to the religious training and upbringing of the children.
>
> The parents shall confer with each other regarding decisions pertaining to the education and school curriculum of the children.

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Each parent shall share with the other parent information concerning the well-being of the children, including, but not limited to, copies of report cards; school meeting notices; vacation schedules; class programs; requests for conferences; results of standardized or diagnostic tests; notices of activities involving the children; samples of school work; order forms for school pictures; and all communications from health care providers, childcare providers, and educators.

The parents shall confer with each other regarding the extracurricular activities which are available to or contemplated for the children either through the regular school curriculum or outside of the school curriculum, and shall inform the other parent of the times and places of athletic events and extracurricular events of the children so that the other parent shall also have the opportunity to participate in such activities.

Both parents shall be allowed free access to any and all records pertaining to their children. Both parents shall be allowed to confer independently with any and all professionals involved with their children.

Each parent shall keep the other parent informed of his or her respective address, home and work telephone numbers, and shall notify the other parent of any change thereto within twenty-four (24) hours of any change.

Each parent shall be entitled to reasonable telephone communication with the children Each parent is restrained from unreasonably interfering with the children's right to privacy during such telephone conversations with the other parent.

In the event that either parent shall take the child(ren) out of state on vacation, that parent shall specifically notify the other parent of the plans in advance and provide a telephone number and itinerary to the other parent.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Lacey Pictum will have PRIMARY PHYSICAL CUSTODY of the minor child.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the visitation schedule shall be as follows: Plaintiff shall have the minor child every two (2) days on weekdays and every other weekend. Exchanges shall occur no later than 8:30 P.M. However, the parties will accommodate one another's work schedules when they interfere with exchange times.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the receiving parent shall provide transportation for the exchanges.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event the parties agree to additional visitation time outside of the regular visitation schedule, the parent receiving additional visitation time shall be responsible for providing transportation for both the pick up and drop off of the minor child.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Holiday Visitation Schedule shall take precedence over the regular visitation schedule. The Holiday Visitation Schedule shall be defined as follows:

THREE-DAY HOLIDAYS

The holiday will begin on the day observed for the holiday at 9:00 AM and conclude at 9:00 AM the day following the three-day holiday weekend, or the day following the holiday where not attached to a three-day holiday weekend.

	ODD	EVEN
MEMORIAL DAY	MOM	DAD
INDEPENDENCE DAY	MOM	DAD
LABOR DAY	MOM	DAD
NEVADA DAY	MOM	DAD

INDIVIDUAL DAYS

The holiday visitation shall begin at 9:00 AM on the individual holiday (or after school on school days) and end at 9:00 PM the same day.

	ODD	EVEN
MOTHER'S DAY	MOM	MOM
FATHER'S DAY	DAD	DAD
MOTHER'S BIRTHDAY	MOM	MOM
FATHER'S BIRTHDAY	DAD	DAD
CHILD'S BIRTHDAY	DAD	MOM

EASTER

The holiday visitation shall begin at 8:00 PM the Saturday preceding Easter and conclude at 2:00 PM on Easter Sunday.

	ODD	EVEN
EASTER	MOM	DAD

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THANKSGIVING

The holiday visitation shall begin the Wednesday preceding Thanksgiving at 8:00 PM, and conclude at 9:00 AM the Friday following Thanksgiving.

	ODD	EVEN
THANKSGIVING	MOM	DAD

CHRISTMAS

The holiday visitation shall be divided into two (2) segments: Christmas Eve and Christmas Day. Christmas Eve shall begin on December 24th at 9:00 AM and conclude at 9:00 PM on December 24th. Christmas Day shall begin on December 24th at 9:00 PM and conclude at 2:00 PM on December 25th.

	ODD	EVEN
CHRISTMAS EVE	MOM	DAD
CHRISTMAS DAY	DAD	MOM

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall each be entitled to up to fourteen (14) vacation days with the minor child each year. Each party shall be required to provide at advanced notice in writing at least one (1) week prior to using any vacation days. Vacation days shall take precedence over the regular visitation schedule but not the holiday visitation schedule.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if either parent plans to take the minor child out of state for any reason, the parent must provide notification to the other parent regarding when and why they will be leaving the state.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event either party is required to be admitted to the hospital for any reason, the other parent must be notified as soon as possible.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff shall pay CHILD SUPPORT in the amount of $350.00 per month, from June 2011 until August 2011. Child Support shall be due on the 1st day of each month. Defendant shall provide Plaintiff with receipts of the minor child's expenses.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that beginning September 2011, Plaintiff shall pay CHILD SUPPORT in the amount of $400.00 per month, with $200.00 being due when Plaintiff receives the first paycheck of the month and $200.00 being due when Plaintiff receives the second paycheck of the month.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are put on notice that NRS 125B.145 allows the court to review a child support order every three years or upon a change in circumstances to determine whether child support can be modified to align with the statutory formula set out in NRS 125B.070; the parties must request a review, it is not an automatic function of the court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are put on notice that pursuant to NRS 125.450, a parent responsible for paying child support is subject to NRS 31A.010 through NRS 31A.340, inclusive, and Sections 2 and 3 of Chapter 31A of the Nevada Revised statutes, regarding the withholding of wages and commissions for the delinquent payment of support, that these statutes and provisions require that, if a parent responsible for paying child support is delinquent in paying the support of a child that such person has been ordered to pay, then that person's wages or commissions shall immediately be subject to wage assignment and garnishment, pursuant of the provisions of the above-referenced statutes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff shall continue to provide medical insurance for the minor child as long as it is available to him. As Plaintiff currently incurs no out of pocket costs to insure the minor child through NV Energy, Plaintiff shall continue beings solely responsible for maintaining the insurance. In the event that Plaintiff begins incurring an out of pocket expense for insuring the minor child, the parties shall equally divide the cost of insuring the minor child.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall equally share the costs of any unreimbursed medical expenses pursuant to the 30/30 rule, which is defined as follows:

> Any of the minor children's medical expenses, including dental, vision, and, orthodontic, beyond the insurance coverage will be divided equally between the parties. The paying party will have thirty (30) days to provide a receipt for medical services rendered, and the reimbursing party will have thirty (30) days in which to reimburse his or her half of the bill. If the paying party does not provide the receipt within thirty days, the expense is considered waived. If the reimbursing party does not remit payment within thirty days, he or she may be held in contempt.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall alternate claiming the minor child as their dependent for tax purposes each year, with Plaintiff receiving the deduction every even year and Defendant receiving the deduction every odd year.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are to mutually agree on extracurricular or recreational activities for the minor child and equally divide the costs associated therewith.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that until the minor child begins attending school full-time, the parties shall equally divide daycare costs for the minor child during the regular school year. The parties shall provide one another with written documentation to verify the costs paid to their chosen daycare providers. This is being done to ensure that the parties are equally dividing daycare costs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that during the summer months (defined as June 13, 2011 until August 19, 2011), Defendant's mother will be available to watch the minor child during the day at no charge. Therefore, Defendant shall not be required to pay any daycare costs during that time period.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff has opted not to use Defendant's mother to watch the minor child during the summer months (defined as June 13, 2011 until August 19, 2011), and shall be solely responsible for any daycare costs he incurs during that time period.

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Docket 83399 Document 2021-33082

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties will mutually agree on which school to enroll the minor child no later than April 30, 2012. The parties will not discuss the minor child's elementary school enrollment any earlier than April 2012.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that for the remainder of the year 2011, Plaintiff shall have the right, up to three (3) times each month, to request Defendant to submit to random urinalysis in his home when Defendant is there for exchanges with the minor child. Plaintiff shall supervise the drug tests. Defendant shall receive a copy of the test results, and shall sign and retain a copy of the actual drug screen to prevent tampering. Any costs associated with the random urinalysis at Plaintiff's home shall be borne by Defendant. Beginning in the year 2012, and for each subsequent year, Defendant shall not be required to submit to urinalysis in Plaintiff's home absent further Court Order.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that during the year 2011, Plaintiff shall have the right to request Defendant to submit to one (1) hair and urine test at the American Toxicology Institute. The parties shall equally share the costs of the hair analysis and urine test at the American Toxicology Institute. Plaintiff shall accompany Defendant to the American Toxicology Institute to ensure that the parties equally share the expense.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that during the year 2012, Plaintiff shall have the right to request Defendant to submit to one (1) hair and urine tests at the American Toxicology Institute. The parties shall equally share the costs of the hair analysis and urine test at the American Toxicology Institute. Plaintiff shall accompany Defendant to the American Toxicology Institute to ensure that the parties equally share the expense.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event Defendant has a positive drug test result, Plaintiff shall immediately take primary physical custody of the minor child. The parties shall then consult legal counsel regarding how to proceed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that beginning the year 2013 and each year thereafter, Defendant shall no longer be required to submit to hair and/or urine tests absent further Court Order.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall equally divide Defendant's attorney's fees for drafting and executing this Stipulation and Order. The parties shall each be responsible for any other attorney's fees and costs they have incurred.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the State of Nevada is the habitual residence of the minor child. Both parties shall be bound by the provisions of NRS 125C.200, which states:

> If custody has been established and the custodial parent intends to move his residence to a place outside of this state and to take the child with him, he must, as soon as possible and before the planned move, attempt to obtain the written consent of the noncustodial parent to move the child from this state. If the noncustodial parent refuses to give that consent, the custodial parent shall, before he leaves this state with the child, petition the court for permission to move the child. The failure of a parent to comply with the provisions of this section may be considered as a factor if a change of custody is requested by the noncustodial parent.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are subject to the provisions set forth in NRS 125.510(6), which provides as follows:

> PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detain, conceal or remove the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this Court, or remove the children from the jurisdiction of the Court without the consent of either the Court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.139.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to NRS 125.510 (7) and (8), the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, are applicable to the parties as follows:

> Section 8: If a parent of the child lives in a foreign country or has significant commitments in a foreign country:
> (a) The parties may agree, and the Court shall include in the Order for Custody of the child, that the United States is a country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in Subsection 7.
> (b) Upon motion of the parties, the Court may order the parent to post a bond if the Court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the Court and may be used only to pay for the cost of locating 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 children.

DATED this 29 day of June, 2011.

DISTRICT COURT JUDGE
CHARLES J. HOSKIN

Submitted By:

KELLEHER & KELLEHER, LLC

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
807 South Seventh Street
Las Vegas, Nevada 89101
Attorneys for Defendant

LACEY PICTUM
Defendant

DESMON BRANDES
5220 White Coyote Place
Las Vegas, Nevada 89130
Defendant in Proper Person

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VERIFICATION TO STIPULATION AND ORDER

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

DESMON BRANDES, being first duly sworn, deposes and says:

That he is the Plaintiff in the above entitled action; that he has read the foregoing Stipulation and Order and knows the contents thereof; that the same is true of his own knowledge except as to those matters therein stated on information and belief, he believes to be true. He also verifies that he has signed the aforesaid document of his own free will, without duress, coercion or while under the influence of a substance that would impair his ability to understand the document he signed. He acknowledges his full and complete understanding of the Stipulation and Order and its legal consequences, and has freely and voluntarily executed the Stipulation and Order.

DESMON BRANDES

SUBSCRIBED and SWORN to before me this 23rd day of June, 2011.

NOTARY PUBLIC

NOTARY PUBLIC
MARY LECKEY
STATE OF NEVADA - COUNTY OF CLARK
MY APPOINTMENT EXP. MAR. 3, 2013
No: 01-67851-1

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VERIFICATION TO STIPULATION AND ORDER

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

LACEY PICTUM, being first duly sworn, deposes and says:

That she is the Defendant in the above entitled action; that she has read the foregoing Stipulation and Order and knows the contents thereof; that the same is true of her own knowledge except as to those matters therein stated on information and belief, she believes to be true. She also verifies that she has signed the aforesaid document of her own free will, without duress, coercion or while under the influence of a substance that would impair her ability to understand the document she signed. She acknowledges her full and complete understanding of the Stipulation and Order and its legal consequences, and has freely and voluntarily executed the Stipulation and Order.

Lacey Pictum
LACEY PICTUM

SUBSCRIBED and SWORN to before me this 23rd day of June, 2011.

Mary Leckey
NOTARY PUBLIC

NOTARY PUBLIC
MARY LECKEY
STATE OF NEVADA - COUNTY OF CLARK
MY APPOINTMENT EXP. MAR. 3, 2013
No: 01-67851-1

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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

desmon brandes
Plaintiff/Petitioner

v. lacey pictum
Defendant/Respondent

Case No. d-10-440022-c

Dept. e

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: _____ Date _____

Signature of Party or Preparer lacey pictum 12/07/2020

/s/ lacey pictum

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1/11/2021 2:43 PM
Steven D. Grierson
CLERK OF THE COURT

RPLY
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Attorney for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum, n/k/a** **Lacey Krynzel,** Defendant.	Case No.: **D-10-440022-C** Dept. No.: **E** Date of Hearing: **01/19/2021** Time of Hearing: **9:00 a.m.**

REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION

Plaintiff, **Desmon Brandes**, by and through his attorney, **Bruce I. Shapiro, Esq.**, of PECOS LAW GROUP, respectfully requests that this Court enter Orders granting him the following relief:

1. For an order denying Lacey's countermotion;

2. For an order awarding the parties joint physical custody of their minor child;

3. For an order setting child support;

4. For a finding of no child support arrears;

5. For drug and alcohol screening of Defendant;

6. For an order awarding Plaintiff attorney's fees; and

7. For an order awarding Plaintiff such other and further relief as this Court deems just and proper in the premises.

This reply and opposition is made and based on all the papers and pleadings on file herein, the Points and Authorities submitted herewith, the argument as may be adduced at the hearing of this matter.

DATED this 11th day of January 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

REPLY AND OPPOSITION

Initially, Desmon would like to note that his reply is timely. As of the filing of this pleading, Lacey has not served her opposition and countermotion that was filed on December 7, 2020. Lacey filed a certificate of service on December 8, 2020 stating that she had served her opposition "through the court's electronic service system." Lacey *filed* her pleading electronically on that date, however, Lacey has not *served* her pleading electronically, or by any other means. Desmon's attorney happened to look on Odyssey to see if Lacey had filed anything and saw Lacey's opposition and countermotion.

The statements Lacey made in her opposition and countermotion are a clear indication that Lacey is dishonest and takes no responsibility for her actions. Lacey alleges that Desmon "got her hooked on pills." Lacey further states that her "addiction and emotional issues were all caused by [Desmon]." Lacey does not accept responsibility for her drug abuse or her own choices and actions. Desmon is particularly concerned if Lacey truly believes the outlandish allegations set forth in her opposition.

There was a brief point in time that Desmon over-used pain pills after having knee and shoulder surgeries. Desmon, however, did not force Lacey to take drugs or ask her to take pain pills. Lacey did illegal drugs before the parties' relationship. In fact, Lacey helped Desmon get pain medication from her drug dealers. Regardless, Desmon has not used drugs or abused pills since 2008, before the parties separated and before the initial custody proceedings.

Lacey was in and out of numerous drug treatment programs, both before and after the custody stipulation and order was entered in July 2011. In the later part of 2011, Desmon gave Lacey an "at home" drug test[1] and caught Lacey trying to use urine from a baggie for the test. Paige told Desmon that Lacey was having Paige "pee in a cup." At that point, ***Desmon then had Paige full time because Lacey was obviously still using drugs.*** Desmon allowed Lacey's parents to take Paige for visitation and Lacey would see Paige while supervised by her parents. There were several times Lacey would show up at Desmon's home to try to take

[1] The Stipulation and Order entered July 5, 2011, allowed Desmon to request Lacey to submit to random urinalysis for at home drug testing. *See* page 7, lines 4-11.

Paige for visitation, but Lacey would be "high" and Desmon would not allow Lacey to take Paige. An evidentiary will clearly show that Desmon had custody and Paige has not been honest with this court.

Lacey alleged in her opposition that Desmon "makes up" issues with her other three children. This is also not true. Lacey's daughter, Reese, was born in 2015 with opiates in her system and Reese was held at the hospital for approximately one month until the drugs were out of her system and she had no withdrawals. Lacey did not deny this in her opposition. Desmon believes CPS opened a case because around the time Reese was born, CPS went to Paige's school to talk to Paige.[2] Although Lacey's lies regarding her three younger children may be irrelevant to this case, they show Lacey is deceitful.

Desmon already stated in his underlying motion that he did not file a motion to change custody because Desmon believed he already had primary physical custody of Paige. Paige was safe with Desmon and living with him full time. To Desmon, there was no need to file a motion for primary physical custody because he believed he already had it.

Even though Desmon had Paige full time, he paid child support until approximately 2012, hoping Lacey would stop doing drugs and take responsibility for Paige and they would share custody. After realizing Lacey's drug abuse was not just a temporary situation, he stopped paying due to the fact his child support was only funding Lacey's drug addiction, and there was no logistical reason for him to pay support since he had de facto primary physical custody.

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[2] The CPS records will likely reflect that Paige told the CPS case worker that she lives with her father.

It should be noted that Lacey states she has "been in sobriety since 2015….and she has remained drug free since 2015." Although Desmon believes Lacey was using drugs until 2017, and possibly recently, by Lacey's own admittance, she was indeed using drugs for several years after the custody order was entered in 2011.

Further evidence that Desmon has had de facto primary physical custody of Paige is Lacey's own statements that Desmon did not pay the child support ordered in 2011. ***Lacey did not open her child support case through the district attorney's office until 2020***. If Lacey had primary physical custody of Paige from 2011 until 2020, or even joint physical custody, why did it take her nine years to enforce a child support order? The reason is because Lacey knew she should not have been entitled to child support because Desmon had primary physical custody of Paige.

On a related note, Lacey makes issue with the fact that Desmon has claimed Paige on his taxes each year although the custody order awards Desmon to claim Paige in even years and Lacey to claim Paige in odd year. Specifically, Lacey makes issue that Desmon claimed Paige in 2013, 2015, 2017 and 2019, which were Lacey's years according to the order. Lacey knows that Desmon claimed Paige those years because he had de facto primary physical custody those years. If Lacey had primary physical custody of Paige those years, or even joint physical custody, certainly she would have addressed this matter before now.

Desmon's motion requested joint physical custody rather than primary physical custody because Paige, who is close to 14-years-old, stated she wants to

live with "both parents." Based on Lacey's opposition, however, and other recent events, Desmon believes that he should be awarded primary physical custody and requests this court open discovery and set an evidentiary hearing.

1. EDCR 5.506

In her opposition, Lacey requested that Desmon be held in contempt of court and sanctioned for failing to provide a current Financial Disclosure Form. As of the filing of this pleading, and a month after Lacey's request for the sanctions, Lacey still has not provided her FDF. Nevertheless, Desmon's FDF will be filed contemporaneously with this reply.

2. Custody

As explained in his underlying motion, Desmon had primary physical custody of Paige from 2011 until summer 2020, and he has had joint physical custody of Paige since August 2020. Desmon did not provide actual physical evidence of this because he did not believe Lacey would outright lie in her pleadings and deny something that can be so simply proven. Teachers, coaches, and friends can verify Desmon has had primary physical custody of Paige since 2011. *See* Plaintiff's exhibit addendum at Bates stamp nos. PTF0001-0003 for witness statements of two friends who have witnessed Desmon's primary physical custody of Paige. If discovery is conducted in this matter, Desmon has many more witnesses such as friends, family members, coaches, and others, who will confirm this as well. Further, any CPS interviews of Paige will likely reflect Paige has said she lives with Desmon.

Moreover, if Paige is interviewed by FMC and has not been conditioned or made to feel guilty by Lacey, Paige can confirm that she lived primarily with Desmon until March 2020 and jointly with Desmon since then.

Until 2019, Lacey, her husband and their three children, i.e., six people, lived in a one-bedroom apartment. Paige's bed was in the kitchen and Paige would often tell Desmon there was no food in the refrigerator at Lacey's home, and at one point, no hot water for about a month. Just before Lacey's youngest child was born, they all moved into a two-bedroom apartment with seven people.

Desmon was informed Lacey was supposed to be evicted from her home in December 2020, but that the eviction has been "postponed," perhaps until the current rent moratorium has ended.

As explained below, Desmon believes Lacey may be using drugs again and, pending a drug test, Desmon reserves his right to modify his request for joint physical custody, to primary physical custody. Since Lacey is denying that Desmon had primary custody, and more recently joint custody, this court should find that there is adequate cause and open discovery and schedule an evidentiary hearing to determine what is in Paige's best interest. There has certainly been a change of circumstances since the initial custody order in 2011and based on the foregoing, Desmon believes he will show the court that it is in Paige's best interest that he is awarded primary physical custody.

. . .

. . .

3. Child Support

In early 2020, although he had primary physical custody of Paige since 2011, Desmon's wages were garnished by the district attorney's office. *See* Case No. R-20-215032-R. Desmon learned that due to the custodial order stating that Lacey has primary physical custody, and due to the fact that Lacey is receiving welfare benefits, the district attorney opened a child support case.

A hearing in the child support case was conducted on November 23, 2020 for a review of Desmon's child support obligation. Desmon's child support was increased to $1,040.00 per month, based on the 2011 custodial order of Lacey having primary physical custody. The court further ordered constructive arrears back to August 1, 2020 and ordered payments of $104.00 per month for those arrears, for a total monthly child support payment of $1,144.00 per month.

Once the court modifies custody, child support should be modified accordingly. Further, this court should also make a finding of no child support arrears since the parties have shared de facto joint physical custody, if not Desmon having de facto primary physical custody, since the R case was opened.

4. Softball

Desmon, not Lacey, has had Paige in softball. Desmon had Paige in recreation softball from 2014-2018 and has had her in club ball from 2018 to current. Desmon has always paid for these activities with no contribution from Lacey, although the 2011 custody order states they equally pay for extracurricular activities. Club softball, lessons, games, and tournaments costs approximately $1,100.00 per month. Although since 2014 Paige has had multiple practices and

games each week, in addition to regular tournaments, Lacey was not involved in Paige's softball until October 2020, when Paige asked her to be.

Desmon never said Paige would not be allowed to pay softball anymore. Desmon simply cannot afford to pay the $1,144.00 monthly child support in addition to the $1,100.00 per month for softball. Desmon having a conversation with Paige about cutting back on some extra expenses is not in violation of EDCR 5.300.

Further, the court should confirm the previous order that the parties share in the cost of all agreed upon extracurricular activities for Paige. Since Lacey has indicated she not only agrees with Paige playing softball, but she wants her to continue to play softball, Lacey should be responsible for one-half of the expense of Paige's club softball expenses and fees.

5. Taxes

As stated above, Desmon has claimed Paige on his taxes each year since 2012 because he has had primary physical custody of Paige since 2011. In fact, it was not until 2017 that Lacey had Paige unsupervised without her parents during the summers. Lacey has provided no evidence that she ever disagreed with this. Further, Desmon does not believe Lacey would have benefited from claiming Paige those tax years because based on information and belief, Lacey was not employed during those years.

Because the parties have been sharing joint physical custody of Paige since 2020, conducive with joint physical custody, Desmon requests an order that Lacey claim Paige in even numbered tax years beginning with 2020, and Desmon claim

Paige in odd years beginning with tax years 2021. The order should also include a provision that if either party will not benefit from claiming Paige in any given year, the other party may claim Paige that year.

6. Lacey Should Submit to Drug/Alcohol Screening.

Nevada Revised Statutes (NRS) 125.510 provides this Court with authority to enter any order during the minority of a child for that child's custody and care "as appears in their best interests."

Further, NRCP 35(a) states:

> Physical and mental examination of persons
>
> **(a) Order for Examination.** When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a suitably licensed or certified examiner or to produce for examination the person in the party's custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

In her opposition, Lacey admitted she has a history of drug use and she did not deny that in 2015 her other daughter was born with opiates in her system. While Desmon cannot be certain if Lacey is lying about past events, or her drug use has caused memory issues, since the filing of his motion, he has learned facts that suggest Lacey either continues, or has resumed using drugs.

On December 15, 2020, Paige sent text messages to her older sister, Jadyn, suspecting Lacey was on drugs. In the messages, Paige states regarding Lacey,

"*she's moving slow and her hands are doing sum weird and she's not being herself and she's swerving in the lanes and her eyes keep closing and she's like slurring*." *See* text messages included in Desmon's exhibit addendum at BS PTF0004-0005. Further, Paige has recently told Desmon of other recent instances where Lacey appeared to be high on drugs. During one instance Lacey was standing and "zoned out" while holding her nine-month baby who was screaming, and Lacey just stood there in a daze and did nothing about it. Paige took the baby and cared for him. On another recent occasion, Lacey left home at 11:30 p.m. having Paige watch the baby saying she needed to go to the store to buy a baby thermometer. Lacey did not return home until much later and did not have a baby thermometer with her even though they live near a CVS and other stores.

Accordingly, Desmon respectfully requests that Lacey be required to submit to a full hair and urine drug and alcohol screening to ascertain whether Lacey has been using any illicit drugs, prescription drugs not prescribed to her, or excessive alcohol use. It is further requested that Desmon be ordered to pay for the drug screening, subject to reimbursement from Lacey if the test is positive.

7. Desmon should be awarded attorney's fees.

On November 23, 2020, Desmon's attorney, Mr. Shapiro, reached out to Lacey requesting that they try to reach an agreement before the hearing in this matter. Specifically, Mr. Shapiro asked Lacey if she would agree to maintain their current joint physical custody schedule. After receiving no response from Lacey, Mr. Shapiro reached out again on December 1, 2020. Lacey then responded that "We will just have the judge make the decisions at this time." *See*

email exchanges at BS PTF0006-0007. Nearly a week later, Lacey filed her frivolous opposition and countermotion.

Rather than attempt a resolution in this matter, Lacey continues to increase litigation and attorney's fees, and therefore, Desmon should be awarded attorney's fees.

III. CONCLUSION

WHEREFORE, based on the foregoing, Desmon requests that this Court enter orders granting him the following relief:

1. For an order denying Lacey's countermotion;

2. For an order awarding the parties joint physical custody of their minor child;

3. For an order setting child support;

4. For a finding of no child support arrears;

5. For drug and alcohol screening of Defendant;

6. For an order awarding Plaintiff attorney's fees; and

7. For an order awarding Plaintiff such other and further relief as this Court deems just and proper in the premises.

DATED this 11th day of January, 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

DECLARATION OF DESMON BRANDES

Desmon Brandes states and declares:

1. I am over the age of 18 and a competent witness to testify to the matters contained in this declaration.

2. I have read the foregoing Reply and Opposition and the facts contained therein are stated upon my personal knowledge and are true, unless stated to be upon information and belief, and in that case, I believe them to be true.

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

DATED January 11, 2021.

/s/ Desmon Brandes
Desmon Brandes

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that the "*Reply and Opposition*" in the above-captioned case was served this date by mailing a true and correct copy thereof, via first class mail, postage prepaid and addressed as follows:

Lacey Krynzel
6530 Annie Oakley Drive #814
Henderson, Nevada 89014
Defendant in Proper Person

DATED this 11th day of January 2021.

/s/ Amy Robinson
an employee of PECOS LAW GROUP

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1/11/2021 2:43 PM
Steven D. Grierson
CLERK OF THE COURT

EXHS
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Telephone: (702) 388-1851
Facsimile: (702) 388-7406
Email: Bruce@pecoslawgroup.com
Attorney for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum, n/k/a** **Lacey Krynzel ,** Defendant.	Case No.: **D-10-440022-C** Dept. No.: **E** Date of Hearing: **01/19/2021** Time of Hearing: **9:00 a.m.**

EXHIBIT ADDENDUM TO "REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION"

Plaintiff, **Desmon Brandes**, by and through his attorney, **Bruce I. Shapiro, Esq.**, of the PECOS LAW GROUP, hereby provides the following exhibits for his "REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION":

1. Witness statements regarding Plaintiff's primary physical custody, Bates stamp nos. PTF0001-0003;

2. Text messages from the minor child regarding Defendant's drug use, Bates stamp nos. PTF0004-0005;

3. Email exchanges between Mr. Shapiro and Defendant, Bates stamp nos. PTF0006-0007.

DATED this 11th day of January, 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro

Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that the foregoing "*EXHIBIT ADDENDUM TO 'REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION'*" in the above-captioned case was served this date by mailing a true and correct copy thereof, via first class mail, postage prepaid and addressed as follows:

Lacey Krynzel
6530 Annie Oakley Drive #814
Henderson, Nevada 89014
Defendant in Proper Person

DATED this 11th day of January 2021.

/s/ Amy Robinson
an employee of PECOS LAW GROUP

December 15, 2020

Re: Desmon Brandes – Father of Paige Jolie Brandes

To Whom it May Concern:

Desmon and I started a relationship in May 2011. At that time Paige Brandes had just turned 4 years old prior in April. Desmon always showed love and support to his girls (sister Jadyn). He always made sure they had everything they needed as well as loving them and being involved in their lives. A couple months into the summer of 2011, Lacey Pictum (Paige's mother) came to our home to pick up Paige. It was in the court orders due to her history with random pills/drugs, Desmon was allowed to administer random drug tests up to so many a year. I took Paige into the bedroom so Desmon could administer the test.

Lacey was taking some time in the bathroom, Desmon checked on her and heard a Ziploc baggy drop to the ground. He demanded she opened the door, at this time he found Lacey using someone else's urine from the bag in order to pass the test. It was in their legal custody documents, if at any time Lacey failed or tampered with a test Desmon would get full custody of Paige.

Desmon called Lacey's parents at this time to let them know what happened and that Paige would not be coming home with Lacey. (Lacey lived with her parents for she could not live on her own due to her pill/drug issue) Lacey knew she had done wrong and left. From that day on Paige was with Desmon full time, Paige was not allowed to be around Lacey alone unless her grandma or grandpa were present. Desmon has always put the safety and well being of Paige first. It was not his intention to keep Paige from her mother, but he wanted to ensure she was safe when around her.

After this incident, Lacey was not around. I soon became the female figure in Paige's life. Desmon did everything for Paige knowing her mother was not in the picture nor fit to take care of her. As the years went on, we enrolled Paige at May Elementary the school Desmon was zoned for. I would get Paige up every morning and get her ready for school, then would take her to before school care from Kindergarten – 2nd grade.

Desmon did homework with Paige every day, he would play outside with her, and always made sure she had everything she needed. There is one thing that was never in question was how much Desmon loves Paige.

When Paige got older she wanted to start participating in sports. Desmon was very much involved in her sports activities. Paige's main focus was softball. Desmon brought her to every practice, game, and any event or fundraiser her team was hosting. He not only brought

her to each event, but he also stayed there to watch her and took the time with her to improve her abilities. Regardless of the task at hand, Desmon was always there to support Paige.

Paige has been with Desmon full-time from the age of 4 (2011) since the incident with Lacey's drug test. I was witness to this from 2011-2016, I also stayed in contact with Paige after these years and know well after me witnessing she still was with her father more than her mother.

Desmon has provided for Paige solely from the age of 4. He has never asked anything of Lacey but that she take part in Paige's life as her mother and in a safe manner.

Please contact me if you need any further information or questions.

Thank you,

Alison Prince

702.239.4993

December 13, 2020

RE: Desmon Brandes – Father of Paige Brandes

To Whom It May Concern:

I am writing on behalf of Desmon Brandes, who I have known for more than a decade.

To provide some historical context, Desmon and I were involved in a relationship for the better part of 2010 and have remained friends since ending it late that year. I witnessed Paige with him on a day-to-day basis and I am aware that she has spent a majority of her time with him since. He has never shied away from his financial responsibilities or from doing right by his daughter. Whether he is providing for her daily living and educational needs, or traveling with her for her club softball tournaments, Desmon has been the primary caregiver for Paige given the personal struggles her mother has faced over the years, some of which I personally witnessed. While it is truly my hope that those days are well behind her, it is fundamentally inaccurate for her to now claim she has been a responsible co-parent who has shared equally in caring for Paige, physically or otherwise, for the entirety of her life.

Desmon and I are still friends today largely because I have the utmost respect for what a committed and devoted father he is.

Thank you for the opportunity to submit this letter. Please feel free to contact me at 702-533-2681 if you have questions or need additional information.

Sincerely,

Andrea L. Smith
333 Orange Avenue, Unit 40
Coronado, CA 92118

7:33

sis

how did you act when you were high

like serious question

like when i was high or laced

high

like hurry up

just like my eyes were heavy and i was just chill

but i found everything funny

did you like act different

and like move weird

no

and just be weird

just when i was laced

ok

you know what's going on you just feel relaxed

iMessage

7:33

sis

alr thanks

wait could you like talk normal

yeah

okay

why is your mom high

no she's on drugs

again

what's she acting like

she's moving slow and her hands are doing sum weird and she's not being herself and she's swerving in the lanes and her eyes keep like closing and she's like slurring

are you going home

to my grams

okay good

have you told dad

no i will when i'm done with both of my

iMessage

From: Lacey Krynzel <laceykrynzel@gmail.com>
Sent: Tuesday, December 1, 2020 10:28 PM
To: Bruce Shapiro <Bruce@pecoslawgroup.com>
Subject: Re: FW: Custody Motion

Hello,

Thanks for the email, and I'm sorry for the delay in response. I submitted my response to be typed up and submitted to you and the court. You should have it in a few more days. We will just have the judge make the decision at this time.

Thank you for reaching out to me,

Lacey Krynzel

On Tue, Dec 1, 2020, 12:00 PM Bruce Shapiro <Bruce@pecoslawgroup.com> wrote:

Lacey, I have not received a response to my email of November 23rd. Please advise if you are willing to work out an agreement or you prefer having a judge decide these issues.

Bruce Shapiro, Esq. || Attorney at Law

8925 S. Pecos Road, Suite 14A

Henderson, Nevada 89074

P: (702) 388-1851

F: (702) 388-7406

E: BRUCE@PECOSLAWGROUP.COM

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To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. tax penalties.

From: Bruce Shapiro
Sent: Monday, November 23, 2020 10:57 AM
To: laceykrynzel@gmail.com
Subject: Custody Motion

Lacey, did you receive a copy of this motion? Before you have to hire an attorney to file a response and we have to go in front of a judge, we would like to try to work this out. Are you agreeable to the joint physical custody schedule set forth in the motion? Are you agreeable to reducing the amount of child support awarded by the child support hearing master today based on there being joint custody?

Bruce Shapiro, Esq. || Attorney at Law

8925 S. Pecos Road, Suite 14A

Henderson, Nevada 89074

P: (702) 388-1851

F: (702) 388-7406

E: BRUCE@PECOSLAWGROUP.COM

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To ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. tax penalties.

FDF
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
Pecos Law Group
Address: 8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Phone: (702) 388-1851
Email: Bruce@pecoslawgroup.com
Attorney for Plaintiff

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1/11/2021 2:43 PM
Steven D. Grierson
CLERK OF THE COURT

Eighth Judicial District Court

Clark County, Nevada

Desmon Brandes, Plaintiff, vs. **Lacey Pictum, n/k/a Lacey Krynzel,** Defendant.	Case No. **D-10-440022-C** Dept. **E**

GENERAL FINANCIAL DISCLOSURE FORM

A. Personal Information:

1. What is your full name? ***Desmon Brandes***
2. How old are you? 44 3. What is your date of birth? 02/07/1976
4. What is your highest level of education? High School

B. Employment Information:

1. Are you currently employed/ self-employed? *(☑ check one)*
   ☐ No
   X Yes If yes, complete the table below. Attached an additional page if needed.

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)
04/07/1998	NV Energy	Inspector	Mon. – Fri.	6:00 a.m. -2:30 p.m.

2. Are you disabled? *(☑ check one)*
   X No
   ☐ Yes If yes, what is your level of disability? _____
   What agency certified you disabled? _____
   What is the nature of your disability? _____

C. Prior Employment: If you are unemployed or have been working at your current job for less than 2 years, complete the following information.

Prior Employer: _____ Date of Hire: _____ Date of Termination: _____
Reason for Leaving: _____

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending 01/03/2021 my gross year to date pay is $3,738.55

B. Determine your Gross Monthly Income.

Hourly Wage

41.31	×	40	=	1,652.40	×	52 Weeks	=	85,924.80	÷	12 Months	=	$7,160.40
Hourly Wage		Number of hours worked per week		Weekly Income				Annual Income				Gross Monthly Income

C. Other Sources of Income.

Source of Income	Frequency	Amount	12 Month Average
Annuity or Trust Income			
Safety Bonus	Annually		148.64*
Car, Housing, or Other allowance:			
Commissions or Tips:			
Net Rental Income:			
Overtime Pay	Random		1,036.75*
Pension/Retirement:			
Social Security Income (SSI):			
Social Security Disability (SSD):			
Spousal Support			
Child Support			
Workman's Compensation			
Other: _____			
	Total Average Other Income Received		$1,185.39

Total Average Gross Monthly Income (add totals from B and C above)	**$8,345.79**

***** Not guaranteed. Totals based on 2020.

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support (includes garnishment fees)	1,154.83
2.	Federal Health Savings Plan	
3.	Federal Income Tax	764.87
4.	Health Insurance Amount for you: For Opposing Party:_____ For your Child(ren):_____	229.92
5.	Life, Disability, or Other Insurance Premiums	95.07
6.	Medicare	119.25
7.	Retirement, Pension, IRA, or 401(k)	1,176.92
8.	Savings	
9.	Social Security	509.80
10.	Union Dues	90.97
11.	Other: (Type of Deduction) 401 (k) loans	532.58
	Total Monthly Deductions (Lines 1-11)	$4,674.21

Business/Self-Employment Income & Expense Schedule

A. Business Income:

What is your average gross (pre-tax) monthly income/revenue from self-employment or businesses?
$_____

B. Business Expenses: Attach an additional page if needed.

Type of Business Expense	Frequency	Amount	12 Month Average
Advertising			
Car and truck used for business			
Commissions, wages or fees			
Business Entertainment/Travel			
Insurance			
Legal and professional			
Mortgage or Rent			
Pension and profit-sharing plans			
Repairs and maintenance			
Supplies			
Taxes and licenses (include est. tax payments)			
Utilities			
Other:_____			
	Total Average Business Expenses		**N/A**

Personal Expense Schedule (Monthly)

A. Fill in the table with the amount of money **you** spend each month on the following expenses and check whether you pay the expense for you, for the other party, or for both of you.

Expense	**Monthly Amount I Pay**	For Me ☐	Other Party ☐	For Both ☐
Alimony/Spousal Support				
Auto Insurance	126.00			
Car Loan/Lease Payment	500.00			
Cell Phone	685.00			
Child Support (for other child)	200.00			
Clothing, Shoes, Etc…	200.00			
Credit Card Payments (minimum due)	373.00			
Entertainment	500.00			
Electric	300.00			
Food (groceries & restaurants)	1,000.00			
Fuel	200.00			
Gas (for home)	60.00			
Health Insurance (not deducted from pay)				
HOA				
Home Insurance (if not included in mortgage)				
Home Phone				
Internet/Cable	300.00			
Lawn Care				
Membership Fees				
Mortgage/Rent/Lease	1,350.00			
Pest Control	30.00			
Pets	100.00			
Personal Care	150.00			
Property Taxes (if not included in mortgage)				
Security				
Vehicle Maintenance	50.00			
Student Loans				
Unreimbursed Medical Expense	50.00			
Water	100.00			
Vacations	350.00			
Total Monthly Expenses	**$6,624.00**			

Household Information

A. Fill in the table below with the name and date of birth of each child, the person the child is living with, and whether the child is from this relationship. Attached a separate sheet if needed.

	Child's Name	**Child's DOB**	**Whom is this child living with?**	**Is this child from this relationship?**	**Has this child been certified as special needs/disabled?**
1st	Paige Brandes	04-05-07	Both	Yes	No
2nd	Jadyn Brandes	08-04-04	Both	No	No
3rd					
4th					

B. Fill in the table below with the amount of money you spend each month on the following expenses for each child.

Type of Expense	**1st Child**	**2nd Child**	**3rd Child**	**4th Child**
Cellular Phone	100.00			
Child Care				
Clothing	100.00	100.00		
Education				
Entertainment	100.00	100.00		
Extracurricular & Sports	800.00			
Health Insurance (if not deducted from pay)				
Summer Camp/Programs				
Transportation Costs for Visitation				
Unreimbursed Medical Expenses				
Vehicle				
Other:_____				
Total Monthly Expenses	1,100.00	200.00		

C. Fill in the table below with the names, ages, and the amount of money contributed by all persons living in the home over the age of eighteen. If more than 4 adult household members attached a separate sheet.

Name	**Age**	**Person's Relationship to You (i.e. sister, friend, cousin, etc…)**	**Monthly Contribution**
Cassie Perron	39	Girlfriend	600.00

Personal Asset and Debt Chart

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line	Description of Asset and Debt Thereon	Gross Value		Total Amount Owed		Net Value	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.		$	-	$	=	$	
2.		$	-	$	=	$	
3.		$	-	$	=	$	
4.		$	-	$	=	$	
5.		$	-	$	=	$	
6.		$	-	$	=	$	
7.		$	-	$	=	$	
8.		$	-	$	=	$	
9.		$	-	$	=	$	
10.		$	-	$	=	$	
11.		$	-	$	=	$	
12.		$	-	$	=	$	
13.		$	-	$	=	$	
14.		$	-	$	=	$	
15.		$	-	$	=	$	
Total Value of Assets (add lines 1-15)		$	-	$	=	$	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line #	Description of Credit Card or Other Unsecured Debt	Total Amount owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.		$	
2.		$	
3.		$	
4.		$	
5.		$	
6.		$	
Total Unsecured Debt (add lines 1-6)		**$**	

CERTIFICATION

Attorney Information: *Complete the following sentences:*

1. I *have* retained an attorney for this case.
2. As of the date of today, the attorney has been paid a total of $5,300.00 on my behalf.
3. I have a credit with my attorney in the amount of $2,386.50 as of 12/29/2020.
4. I currently owe my attorney a total of $_____.
5. I owe my prior attorney a total of $ _____.

IMPORTANT: Read the following paragraphs carefully and initial each one.

_____ I swear or affirm under penalty of perjury that I have read and followed all instructions in completing this Financial Disclosure Form. I understand that, by my signature, I guarantee the truthfulness of the information on this Form. I also understand that if I knowingly make false statements I may be subject to punishment, including contempt of court.

__DB__ **I have attached a copy of my 3 most recent pay stubs to this form**.

_____ **I have attached a copy of my most recent YTD income statement/P&L statement to this form, if self-employed**.

_____ **I have not attached a copy of my pay stubs to this form because I am currently unemployed**.

/s/ Desmon Brandes 01/11/2021
Signature Date

CERTIFICATE OF SERVICE

I hereby declare under the penalty of perjury of the State of Nevada that the following is true and correct:

That on January 11, 2021 service of the General Financial Disclosure Form was made to the following interested parties in the following manner:

X Via 1st Class U.S. Mail, postage fully prepaid addressed as follows:

Lacey Krynzel
6530 Annie Oakley Drive #814
Henderson, Nevada 89014
Defendant in Proper Person

☐ Via Electronic Service, in accordance with the Master Service List, pursuant to NEFCR 9, to:

_____

☐ Via Facsimile and/or Email Pursuant to the Consent of Service by Electronic Means on file herein

to: _____

Executed on the 11th day of January 2021.

/s/ Amy Robinson
An employee of Pecos Law Group

NVEnergy

Nevada Power Co dba NV Energy
PO Box 98910
Las Vegas, NV 89151

Pay Group:	NP1-Nevada Power Co dba NV Energy	Business Unit:	NPC01
Pay Begin Date:	12/21/2020	Advice #:	**000000001587212**
Pay End Date:	01/03/2021	Advice Date:	01/07/2021

Desmon J Brandes
7637 Genesis Ct
Las Vegas, NV 89128

Employee ID:	14277
Department:	D309-Elect Coord & Insp SNV Region
Location:	Beltway Complex
Job Title:	Underground Inspector
Pay Rate:	$41.310000 Hourly

TAX DATA:	Federal	NV State
Tax Status:	Single	Single
Allowances:	N/A	0
Addl. Percent:	N/A	
Addl. Amount:		

HOURS AND EARNINGS

		Current		YTD	
Description	**Rate**	**Hours**	**Earnings**	**Hours**	**Earnings**
Regular Earnings	41.310000	45.00	1,858.95	45.00	1,858.95
Holiday	41.310000	24.00	991.44	24.00	991.44
Personal Time Off Paid (PTO)	41.310000	11.00	454.41	11.00	454.41
Overtime 1.5	61.965000	6.50	402.77	6.50	402.77
Missed Meal OT1.5	61.965000	0.50	30.98	0.50	30.98
TOTAL:		**87.00**	**3,738.55**	**87.00**	**3,738.55**

TAXES

Description	Current	YTD
Fed Withholdng	300.03	300.03
Medicare	52.56	52.56
OASDI	224.75	224.75
TOTAL:	**577.34**	**577.34**

BEFORE-TAX DEDUCTIONS

Description	Current	YTD
Medical	118.69	118.69
401(k)	598.17	598.17
TOTAL:	**716.86**	**716.86**

AFTER-TAX DEDUCTIONS

Description	Current	YTD
Supp Life	25.83	25.83
Child Life	0.24	0.24
LTD	21.84	21.84
Garnishment - C (Amount)	528.00	528.00
Garnishment - C (Co. Fee)	3.00	3.00
GarnishmntC (Payee Fee)	2.00	2.00
401K Loan1	230.71	230.71
401K Loan2	40.17	40.17
Union Dues	92.29	92.29
TOTAL:	**944.08**	**944.08**

EMPLOYER PAID BENEFITS

Description	Current	YTD
Basic Life*	5.10	5.10
***TAXABLE**		

	TOTAL GROSS	FED TAXABLE GROSS	TOTAL TAXES	TOTAL DEDUCTIONS	NET PAY
Current	3,738.55	3,026.79	577.34	1,660.94	1,500.27
YTD	3,738.55	3,026.79	577.34	1,660.94	1,500.27

Description	Curr Accrual	Curr Taken	YTD Taken	Balance
PTO	0.0	11.00	11.00	285.00
Holiday	0.0	24.00	24.00	80.00

Pager Duty Leave	Earned $	Taken $	Cashout $	Balance $
Regular	0.00	0.00	0.00	0.00
Holiday	0.00	0.00	0.00	0.00

NET PAY DISTRIBUTION

Payment Type	Account Type	Amount
Advice #000000001587212	Checking	1,500.27
TOTAL:		**1,500.27**

MESSAGE:

NVEnergy

Nevada Power Co dba NV Energy
PO Box 98910
Las Vegas, NV 89151

Pay Group:	NP1-Nevada Power Co dba NV Energy	Business Unit:	NPC01
Pay Begin Date:	12/07/2020	Advice #:	**000000001584827**
Pay End Date:	12/20/2020	Advice Date:	12/23/2020

			TAX DATA:	Federal	NV State
Desmon J Brandes	Employee ID:	14277	Tax Status:	Single	Single
7637 Genesis Ct	Department:	D309-Elect Coord & Insp SNV Region	Allowances:	N/A	0
Las Vegas, NV 89128	Location:	Beltway Complex	Addl. Percent:	N/A	
	Job Title:	Underground Inspector	Addl. Amount:		
	Pay Rate:	$41.310000 Hourly			

HOURS AND EARNINGS

		Current		YTD	
Description	**Rate**	**Hours**	**Earnings**	**Hours**	**Earnings**
Regular Earnings	41.310000	80.00	3,304.80	1,608.00	65,275.59
Overtime 1.5	61.965000	10.00	619.65	92.50	5,636.35
Rescheduled Lunch			0.00	0.50	20.66
Rest Period			0.00	88.00	3,594.88
Meal Allowance L396			0.00	22.00	352.00
Holiday			0.00	88.00	3,570.64
Personal Time Off Paid (PTO)			0.00	296.00	11,948.50
Missed Meal OT1.5			0.00	8.50	516.88
OT Adjustment			0.00		10.54
Double-time 2.0			0.00	88.00	7,189.76
BU Safety Bonus			0.00		1,783.77
Safety Award			0.00		250.00
TOTAL:		**90.00**	**3,924.45**	**2,291.50**	**100,149.57**

TAXES

Description	Current	YTD
Fed Withholdng	348.70	9,178.45
Medicare	56.02	1,430.75
OASDI	239.50	6,117.67
TOTAL:	**644.22**	**16,726.87**

BEFORE-TAX DEDUCTIONS

Description	Current	YTD
Medical	114.96	2,759.04
401(k)	627.91	14,123.03
HLI Credit	-50.00	-1,200.00
TOTAL:	**692.87**	**15,682.07**

AFTER-TAX DEDUCTIONS

Description	Current	YTD
Supp Life	25.83	619.92
Child Life	0.24	5.76
LTD	21.84	515.15
Garnishment - C (Amount)	184.62	3,877.02
Garnishment - C (Co. Fee)	3.00	63.00
GarnishmntC (Payee Fee)	2.00	38.00
401K Loan1	230.71	3,229.94
401K Loan2	40.17	3,161.04
Union Dues	0.00	1,091.64
TOTAL:	**508.41**	**12,601.47**

EMPLOYER PAID BENEFITS

Description	Current	YTD
Basic Life*	3.40	81.60
***TAXABLE**		

	TOTAL GROSS	FED TAXABLE GROSS	TOTAL TAXES	TOTAL DEDUCTIONS	NET PAY
Current	3,924.45	3,234.98	644.22	1,201.28	2,078.95
YTD	100,149.57	84,549.10	16,726.87	28,283.54	55,139.16

Description	Curr Accrual	Curr Taken	YTD Taken	Balance
PTO	0.0	0.0	296.00	0.0
Holiday	0.0	0.0	88.00	16.00

Pager Duty Leave	Earned $	Taken $	Cashout $	Balance $
Regular	0.00	0.00	0.00	0.00
Holiday	0.00	0.00	0.00	0.00

NET PAY DISTRIBUTION

Payment Type	Account Type	Amount
Advice #000000001584827	Checking	2,078.95
TOTAL:		**2,078.95**

MESSAGE:

NVEnergy

Nevada Power Co dba NV Energy
PO Box 98910
Las Vegas, NV 89151

Pay Group:	NP1-Nevada Power Co dba NV Energy	Business Unit:	NPC01
Pay Begin Date:	11/23/2020	Advice #:	**000000001580063**
Pay End Date:	12/06/2020	Advice Date:	12/10/2020

			TAX DATA:	Federal	NV State
Desmon J Brandes	Employee ID:	14277	Tax Status:	Single	Single
7637 Genesis Ct	Department:	D309-Elect Coord & Insp SNV Region	Allowances:	N/A	0
Las Vegas, NV 89128	Location:	Beltway Complex	Addl. Percent:	N/A	
	Job Title:	Underground Inspector	Addl. Amount:		
	Pay Rate:	$41.310000 Hourly			

HOURS AND EARNINGS

		Current		YTD	
Description	**Rate**	**Hours**	**Earnings**	**Hours**	**Earnings**
Regular Earnings	41.310000	63.50	2,623.19	1,528.00	61,970.79
Holiday	41.310000	16.00	660.96	88.00	3,570.64
Personal Time Off Paid (PTO)	41.310000	0.50	20.66	296.00	11,948.50
Overtime 1.5	61.965000	11.00	681.62	82.50	5,016.70
Missed Meal OT1.5	61.965000	1.00	61.97	8.50	516.88
Rescheduled Lunch			0.00	0.50	20.66
Rest Period			0.00	88.00	3,594.88
Meal Allowance L396			0.00	22.00	352.00
OT Adjustment			0.00		10.54
Double-time 2.0			0.00	88.00	7,189.76
Safety Award			0.00		250.00
TOTAL:		**92.00**	**4,048.40**	**2,201.50**	**94,441.35**

TAXES

Description	Current	YTD
Fed Withholdng	371.60	8,437.32
Medicare	57.81	1,348.87
OASDI	247.18	5,767.58
TOTAL:	**676.59**	**15,553.77**

BEFORE-TAX DEDUCTIONS

Description	Current	YTD
Medical	114.96	2,644.08
401(k)	647.74	13,495.12
HLI Credit	-50.00	-1,150.00
TOTAL:	**712.70**	**14,989.20**

AFTER-TAX DEDUCTIONS

Description	Current	YTD
Supp Life	25.83	594.09
Child Life	0.24	5.52
LTD	21.84	493.31
Garnishment - C (Amount)	184.62	3,692.40
Garnishment - C (Co. Fee)	3.00	60.00
GarnishmntC (Payee Fee)	2.00	36.00
401K Loan1	230.71	2,999.23
401K Loan2	40.17	3,120.87
Union Dues	92.29	1,091.64
TOTAL:	**600.70**	**12,093.06**

EMPLOYER PAID BENEFITS

Description	Current	YTD
Basic Life*	3.40	78.20
***TAXABLE**		

	TOTAL GROSS	FED TAXABLE GROSS	TOTAL TAXES	TOTAL DEDUCTIONS	NET PAY
Current	4,048.40	3,339.10	676.59	1,313.40	2,058.41
YTD	94,441.35	79,530.35	15,553.77	27,082.26	51,805.32

Description	Curr Accrual	Curr Taken	YTD Taken	Balance
PTO	0.0	0.50	296.00	0.0
Holiday	0.0	16.00	88.00	16.00

Pager Duty Leave	Earned $	Taken $	Cashout $	Balance $
Regular	0.00	0.00	0.00	0.00
Holiday	0.00	0.00	0.00	0.00

NET PAY DISTRIBUTION

Payment Type	Account Type	Amount
Advice #000000001580063	Checking	2,058.41
TOTAL:		**2,058.41**

MESSAGE:

Electronically Filed
1/11/2021 3:19 PM
Steven D. Grierson
CLERK OF THE COURT

EXAP
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Telephone: (702) 388-1851
Facsimile: (702) 388-7406
Email: Bruce@pecoslawgroup.com
Attorney for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum, n/k/a** **Lacey Krynzel,** Defendant.	Case No.: **D-10-440022-C** Dept. No.: **E** Date of Hearing: **01/19/2021** Time of Hearing: **9:00 a.m.**

EX PARTE APPLICATION FOR DRUG/ALCOHOL SCREENING OF DEFENDANT

Plaintiff, **Desmon Brandes** ("Desmon"), by and through his attorney, **Bruce I. Shapiro, Esq.**, of the law firm PECOS LAW GROUP, respectfully requests that this court order for Defendant, **Lacey Krynzel** ("Lacey"), to immediately submit to full drug testing and alcohol screening.

. . .

This application is made and based on all the papers and pleadings on file herein and the certificate of counsel attached hereto.

DATED this 11th day of January 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

CERTIFICATE OF COUNSEL

I. FACTS

1. There is a custody hearing in their matter set for January 19, 2021. Details of Lacey's history of drug abuse are provided in Demon's motion filed on November 18, 2020 and his reply and opposition filed on January 11, 2021.

2. Lacey has been in and out of drug treatment facilities both before and after the parties' custody litigation began. Lacey admitted a history of addiction in her opposition and countermotion filed on December 7, 2020. In her opposition, Lacey did not deny that when she gave birth to another child from another relationship in 2015, her baby was born with opiates in her system.

3. Desmon recently learned that Lacey has likely been abusing drugs and/or alcohol. On December 15, 2020, the parties' minor child, Paige, sent text messages to her older sister, Jadyn, suspecting Lacey was on drugs. In the messages, Paige states regarding Lacey, "*she's moving slow and her hands are*

doing sum weird and she's not being herself and she's swerving in the lanes and her eyes keep closing and she's like slurring." *See* text messages included in Desmon's exhibit addendum to his reply at BS PTF0004-0005.

4. Paige has recently told Desmon of other recent instances where Lacey appeared to be high on drugs. During one instance Lacey was standing and "zoned out" while holding her nine-month baby who was screaming, and Lacey just stood there in a daze and did nothing about it. Paige took the baby and cared for him. On another recent occasion, Lacey left home at 11:30 p.m. having Paige watch the baby saying she needed to go to the store to buy a baby thermometer. Lacey did not return home until much later and did not have a baby thermometer with her even though they live near a CVS and other stores.

ARGUMENT

It is important that this court order the ex parte drug/alcohol screening to mitigate Lacey having advanced warning and taking measures to deceive this court. Nevada Revised Statutes (NRS) 125.510 provides this Court with authority to enter any order during the minority of a child for that child's custody and care "as appears in their best interests."

Further, NRCP 35(a) states:

Physical and mental examination of persons

> **(a) Order for Examination.** When the mental or physical condition (including the blood group) of a party, or of a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental examination by a suitably licensed or certified examiner or to produce for examination the person in the party's

custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

Desmon has submitted sufficient facts and evidence that constitute adequate cause for the court to order drug and alcohol screening. Accordingly, Desmon respectfully requests that Lacey be required to submit to a full hair and urine drug and alcohol screening pursuant to this request. Specifically, Desmon is requesting that a combined hair and urine test be performed by ATI within twenty-four (24) hours of receipt of an order of this court to ascertain whether Lacey has been using any illicit drugs, prescription drugs not prescribed to her, or excessive alcohol use. It is further requested that Desmon be ordered to pay for the drug screening, subject to reimbursement from Lacey if the test is positive. A proposed order will be submitted.

DATED this 11th day of January 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

Electronically Filed
1/14/2021 10:56 AM
Steven D. Grierson
CLERK OF THE COURT

EXHS
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Telephone: (702) 388-1851
Facsimile: (702) 388-7406
Email: Bruce@pecoslawgroup.com
Attorney for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum, n/k/a** **Lacey Krynzel ,** Defendant.	Case No.: **D-10-440022-C** Dept. No.: **E** Date of Hearing: **01/19/2021** Time of Hearing: **9:00 a.m.**

SUPPLEMENTAL EXHIBIT TO "REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION"

Plaintiff, **Desmon Brandes**, by and through his attorney, **Bruce I. Shapiro, Esq.**, of the PECOS LAW GROUP, hereby provides the following supplemental exhibit to his "REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION":

. . .

4. Video of Defendant appearing intoxicated, Bates stamp nos. PTF0008. (USB containing video submitted to court under separate cover).

DATED this 14th day of January, 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that the foregoing "*SUPPLEMENTAL EXHIBIT TO 'REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION*'" in the above-captioned case was served this date by mailing a true and correct copy thereof, via first class mail, along with a CD containing the video, postage prepaid and addressed as follows:

Lacey Krynzel
6530 Annie Oakley Drive #814
Henderson, Nevada 89014
Defendant in Proper Person

DATED this 14th day of January 2021.

/s/ Amy Robinson
an employee of PECOS LAW GROUP

Electronically Filed
1/18/2021 12:11 PM
Steven D. Grierson
CLERK OF THE COURT

EXHS
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Telephone: (702) 388-1851
Facsimile: (702) 388-7406
Email: Bruce@pecoslawgroup.com
Attorney for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum, n/k/a** **Lacey Krynzel ,** Defendant.	Case No.: **D-10-440022-C** Dept. No.: **E** Date of Hearing: **01/19/2021** Time of Hearing: **9:00 a.m.**

SECOND SUPPLEMENTAL EXHIBIT TO "REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION"

Plaintiff, **Desmon Brandes**, by and through his attorney, **Bruce I. Shapiro, Esq.**, of the PECOS LAW GROUP, hereby provides the following supplemental exhibit to his "REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION":

. . .

5. Text message exchanges of January 17, 2021 between Defendant, Lacey, and the minor child, Paige. The message exchanges include but are not limited to Paige telling Lacey, "I don't feel comfortable when you're like that (referring to Lacey being on drugs) and Lacey telling Paige to "Stay at dads" and "I am sorry for everything." Bates stamp nos. PTF0009-0010.

DATED this 18th day of January, 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that the foregoing "*SECOND SUPPLEMENTAL EXHIBIT TO 'REPLY IN SUPPORT OF MOTION AND OPPOSITION TO COUNTERMOTION*'" in the above-captioned case was served this date by mailing a true and correct copy thereof, via first class mail, along with a CD containing the video, postage prepaid and addressed as follows:

Lacey Krynzel
6530 Annie Oakley Drive #814
Henderson, Nevada 89014
Defendant in Proper Person

DATED this 18th day of January 2021.

/s/ Amy Robinson
an employee of PECOS LAW GROUP

9:13

2

H

house phone >

no mom, i don't feel comfortable when you're like that. i want to stay with dad until you get better. i love you

Paige.

I wish you would talk to me.

i will if you text me

You dont need to worry about me being mad at you or anything like that. Just call me.

Please.

mom i don't want to call

Let me talk to you and hear your voice.

I love you. I miss you

Fine. I wont make you do anything you dont want to. Stay at dads.

Text Message

6:48

3

H

house phone

I am sorry. I am sorry for everything.

do you really think i believe you when you go to "welfare" multiple times with everyone in the car. that is insulting that you think i'm that dumb. then after you drive like total crap. you make me cry in the car but you're too high to see or know what's going on. you told me and the girls not to say anything to dave because you ran into something on the way home because you were not in the right state of mind. do not lie to me i'm not 5 anymore. when i was 5 i believed all of this but not anymore. i deserve to know the truth because this is just all making me mad. do not lie to me. you need help mom. i'm sorry, i love you but this is not right.

Today 6:29 PM

I love you very much.

This is killing me.

Text Message

Electronically Filed
2/3/2021 3:38 PM
Steven D. Grierson
CLERK OF THE COURT

NEOJ
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Telephone: (702) 388-1851
Facsimile: (702) 388-7406
Email: Bruce@pecoslawgroup.com
Attorneys for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum, n/k/a,** **Lacey Krynzel** Defendant.	Case No. **D-10-440022-C** Dept. No. **E** Date of Hearing: **01/19/2021** Time of Hearing: **9:00 a.m.**

AMENDED NOTICE OF ENTRY OF ORDER FROM JANUARY 19, 2021 HEARING

TO: **Lacey Krynzel**, Defendant:

PLEASE TAKE NOTICE that an "*Order from January 19, 2021 Hearing*" was entered in the above-captioned case on February 2, 2021, by filing with the clerk.

. . .

. . .

A true and correct copy of said "*Order from January 19, 2021 Hearing*" is attached hereto and made a part hereof.

DATED this 3rd day of February 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that the foregoing *"AMENDED NOTICE OF ENTRY OF ORDER FROM JANUARY 19 2021 HEARING"* in the above-captioned case was served this date by and through Wiz-Net Electronic Service, pursuant to Clark County District Court Administrative Order 14-2 for service of documents identified in Rule 9 of the N.E.F.C.R.

Lacey Krynzel
Laceykrynzel@gmail.com
Defendant

DATED this 3rd day of February 2021.

/s/ Amy Robinson
an employee of PECOS LAW GROUP

ELECTRONICALLY SERVED
2/2/2021 10:35 AM

Electronically Filed
02/02/2021 10:35 AM
CLERK OF THE COURT

ORDR
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Telephone: (702) 388-1851
Facsimile: (702) 388-7406
Email: Bruce@pecoslawgroup.com
Attorney for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum, n/k/a** **Lacey Krynzel ,** Defendant.	Case No.: **D-10-440022-C** Dept. No.: **E** Date of Hearing: **01/19/2021** Time of Hearing: **9:00 a.m.**

ORDER FROM JANUARY 19, 2021 HEARING

THIS MATTER having come via video conference before the Honorable Charles J. Hoskin on Plaintiff's Motion to Modify Custody to Joint Physical Custody, to Set Child Support, for Finding of No Child Support Arrears, for Attorney's Fees and Related Relief; and Defendant's Opposition and Countermotion to Hold Plaintiff in Contempt of Court, Referral to Mediation, for Award of Fees and Costs, for Sanctions and Related Relief; Plaintiff, **Desmon Brandes**, present and represented by his attorney, **Bruce I. Shapiro, Esq.**, of

PECOS LAW GROUP; Defendant, **Lacey Pictum, n/k/a Lacey Krynzel**, present in Proper Person; the court being fully advised in the premises;

THE COURT NOTED that it read the text messages and had some concerns.

IT IS HEREBY ORDERED that Defendant is referred to American Toxicology Institute (ATI) for a full drug screen. Defendant must test today, January 19, 2021. A copy of the ATI Referral and instructions were emailed to Defendant.

IT IS FURTHER ORDERED that temporarily the parties shall have joint physical custody of the minor child, *Paige Jolie Brandes* born April 5, 2007.

IT IS FURTHER ORDERED that pending the drug test results, the parties shall continue to exercise the following custodial timeshare: Week one, Plaintiff will have the minor child Thursday through Sunday and Defendant will have the minor child Monday through Wednesday. Week two, Plaintiff will have the minor child Wednesday through Friday and Defendant will have the minor child Saturday through Tuesday. If there is no issue with the drug test, the parties will continue to follow the schedule on a temporary basis.

IT IS FURTHER ORDERED that Defendant shall file a Financial Disclosure Form prior to the Calendar Call set for May 18, 2021 so that the court may set child support.

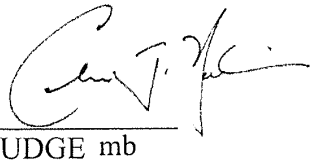
IT IS FURTHER ORDERED that the court shall order the CPS records.

IT IS FURTHER ORDERED that Plaintiff's request for a child interview is deferred. If there are concerns with the drug test, the court will refer the child for an interview.

IT IS FURTHER ORDERED that the court set the matter for an evidentiary hearing for June 1, 2021 a 1:30 p.m. (stack #2) to address custody and related issues. The Case and Evidentiary Hearing Management Order was executed, filed and processed in Odyssey. A copy of the Order shall be emailed to counsel and to Defendant.

IT IS FURTHER ORDERED that the Calendar Call and Return Hearing are set for May 18, 2021 at 11:00 a.m.

DATED this ____ day of _____ 2021. Dated this 2nd day of February, 2021



_____
DISTRICT COURT JUDGE mb

E3B 07C 52FC F096
Charles J. Hoskin
District Court Judge

Submitted by:
PECOS LAW GROUP

/s/ Bruce I. Shapiro
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff. vs. Lacey Pictum, Defendant.	CASE NO: D-10-440022-C DEPT. NO. Department E

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 2/2/2021

Bruce Shapiro	bruce@pecoslawgroup.com
Amy Robinson	amy@pecoslawgroup.com
admin email	email@pecoslawgroup.com
Lacey Pictum	Laceykrynzel@gmail.com

Electronically Filed
5/11/2021 4:02 PM
Steven D. Grierson
CLERK OF THE COURT

PTM
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
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Henderson, Nevada 89074
Tel: (702) 388-1851
Fax: (702) 388-7406
Email: Bruce@pecoslawgroup.com
Attorney for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum n/ka** **Lacey Krynzel,** Defendant.	Case No. **D-10-440022-C** Dept. No. **E** Date of Trial: **06/01/2021** Time of Trial: **1:30 p.m.**

PLAINTIFF'S PRE-TRIAL MEMORANDUM

I. STATEMENT OF ESSENTIAL FACTS

A. NAMES AND AGES OF THE PARTIES.

Plaintiff: **Desmon Brandes** ("Desmon"), age 45;

Counsel for Plaintiff: **Bruce I. Shapiro, Esq.**;

Defendant: **Lacey Krynzel** ("Lacey"), age 38;

Counsel for Defendant: None.

B. NAMES AND AGES OF THE CHILDREN.

Paige Jolie Brandes, born April 5, 2007.

C. RESOLVED ISSUES, INCLUDING AGREED RESOLUTION.

1. None.

D. STATEMENT OF UNRESOLVED ISSUES.

1. Physical custody;
2. Child support;
3. Attorney's fees.

II. PLAINTIFF'S LIST OF WITNESSES

1. Plaintiff;
2. Defendant;
3. Marc Stone;
4. Noah Van Rossum;
5. Rosalee Pictum;
6. John Pictum;
7. David Krynzel;
8. Amy M. Richardson;
9. Person most knowledgeable, Clark County Department of Family Services;
10. Andrea L. Smith;
11. Any and all witnesses called by Defendant; and
12. Any necessary rebuttal witnesses.

Plaintiff reserves his right to supplement this list of witnesses any time prior to trial.

III. PLAINTIFF'S LIST OF EXHIBITS

1. Witness statements regarding Plaintiff's primary physical custody;
2. Text messages from the minor child regarding Defendant's drug use;
3. Email exchanges between Mr. Shapiro and Defendant;
4. Video of Defendant appearing intoxicated;
5. Text message exchanges of January 17, 2021 between Defendant and the minor child;
6. Documents produced from Western Elite Environmental, Inc. in response to Plaintiff's Subpoena Duces Tecum;
7. Defendant's ATI drug test results;
8. CPS records;
9. Child support case documents, Case No. R-20-215032-R;
10. Defendant's responses to Plaintiff's First Set of Interrogatories to Defendant;
11. Deposition Transcript for Defendant;
12. Plaintiff's *Financial Disclosure Form;*

Plaintiff reserves his right to supplement this list of exhibits any time prior to trial.

. . .

. . .

IV. LENGTH OF TRIAL

One-half day.

DATED this 11th day of May 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro

Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that the foregoing "PLAINTIFF'S PRE-TRIAL MEMORANDUM" in the above-captioned case was served this date pursuant to Clark County District Court Administrative Order 14-2 for service of documents identified in Rule 9 of the N.E.F.C.R.

Lacey Krynzel
Laceykrynzel@gmail.com
Defendant

DATED this 11th day of May 2021.

/s/ Amy Robinson
an employee of PECOS LAW GROUP

Electronically Filed
5/20/2021 4:59 PM
Steven D. Grierson
CLERK OF THE COURT

LACEY KRYNZEL
6530 Annie Oakley Drive #814
Henderson, NV 89014
(72) 472-2955
laceykrynzel@gmail.com
Defendant in Proper Person

DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, vs. LACEY KRYNZEL, Defendant.	Case No. D-10-440022-C Dept No. F

DEFENDANT'S PRE-TRIAL MEMORANDUM

STATEMENT OF ESSENTIAL FACTS

A. Names and ages of the parties:

Desmon Brandes, age 45 years
Lacey Krynzel, age 38 years

B. Name and Ages of Child/ren.

Paige Jolie Brandes (DOB: 4/5/07), presently age 14 years

C. Resolved Issues, including agreed resolution.

Joint Legal Custody

D. Statement of unresolved issues.

Physical Custody

Visitation

Child Support

I.

CUSTODY/ VISITATION

A. Names, birth dates, and ages of children.

Paige Jolie Brandes (DOB: 4/5/07), presently age 14 years

B. **Plaintiff's Meritless Request to Modify Custody**

Defendant would first point out Plaintiff's PTM is VOID of any information, facts or argument whatsoever.

His motion was based upon his desire to minimize his child support obligation, and in fact, was heard "concurrent with R-20-215032-R." That is, when Defendant filed to ensure collection of child support, Plaintiff RETALIATED with this action - knowing Defendant did not have the financial resources during COVID to afford counsel, and provide care for the five minor children in her home.

In this attempt, Plaintiff drudged upon ancient drug issues that this court has resolved long ago, in violation of **McMonigle v. McMonigle.**

There is no change of circumstances that warrant modification of custody. There IS manipulation by Plaintiff to convince the child in line with Plaintiff's financial desires, which would remove her from her three blood siblings, and her step sibling. This is NOT in the best interest of the child.

Facts/History

The parties met while Plaintiff/Dad was married. He got Defendant/Mom hooked on pills. She had never previously used drugs prior to the relationship. Then she got pregnant, and Plaintiff cheated on her. Defendant's addiction and emotional issues were all caused by Plaintiff, and these issues no longer exist, as the problem (Plaintiff) is now longer in her life.

Defendant wholly denies Plaintiff's self serving and false allegations in his underlying motion that "within a couple of months after the stipulation and order, Desmon had custody of Paige full time..." Defendant maintained custody of the child.

And just as inaccurate is Plaintiff's misrepresentation that "Desmon believes Reese was released from the hospital to Lacey's parents' custody." In fact, all three of her children with her husband, were released to Defendant and her husband. Where does Plaintiff get his inaccurate information? "Desmond ***believes***" further demonstrates his lack of knowledge of the facts.

Apparently, Plaintiff simply MAKES IT UP, attempting to make Defendant look bad. She has three children with her husband, under 5 years old, and ZERO issues caring for these children.

Defendant might question why Plaintiff is making allegations from 2011 - 2017, when he never filed a motion timely alleging issues, and raises these false allegations only now, in an attempt to minimize his child support obligation - which he had failed to even pay, although it was ordered beginning September, 2011.

In fact, the controlling Stipulation and Order allows Plaintiff to request random drug and/or urine tests in 2011, 2012, and 2013. He has never done so. If he had such concerns, why not?

Plaintiff has failed to file a single iota of evidence. There are ZERO exhibits supporting Defendant allegations for a change of custody of the minor child. There are no email or text communications of the parties to support Plaintiff's preposterous misrepresentation that he had primary physical custody of the child! Plaintiff's underlying motion wants this court to believe he had custody for 9 years and never filed a motion!

Since the pandemic began in March, 2020, through the start of the present school year, on or about August 24, 2020, Paige has been living with Defendant/ Mom Monday through Friday, and every other weekend.

However, Defendant has allowed Plaintiff to have the child in alternating weeks since August 24, 2020 - which had only been for the past three months at the time of filing of the meritless motion. This was NOT a de facto change of custody.

Plaintiff filed this custody action, and then solely addressed drug allegations of Defendant which were previously discussed before this court, Thus, it is inappropriate to re-hash these matters at this time, pursuant to *McMonigle v. McMonigle*, 887 P.2d 742 (1994).

Defendant has been in sobriety since 2015. Drugs are not an issue. The child was on Defendant/Mom's lease agreement in 2015 - contrary to Plaintiff's further misrepresentations in his motion. Prior to that in 2012-2015, Defendant lived with her mother, so there was no lease.

The court provided Plaintiff the child until Defendant completed her program, and she has remained drug free since that time (2015). **There is no change in circumstances.**

Defendant has since married, and has **three additional children**, who are siblings of the minor child at issue, and has been raised with said minor child.

Plaintiff is trying to make it appear that he had "custody" of the child, which is completely false. The parties agreed to have the child in the kindergarten in Plaintiff's zone because it was one of two kindergartens that had a full day, and best accommodated both parties work schedules. The Stipulation and Order did suggest the parties cooperate, and they do have joint LEGAL custody. School is a LEGAL CUSTODY ISSUE.

Plaintiff failed to provide court ordered child support, and now says "Eventually, however, Desmon stopped paying since he had de facto primary custody of Paige." [Plaintiff's motion, page 3, lines 10-11] Yet, his meritless motion sought to allege he owes no child support arrears. Child support is NOT RETROACTIVELY MODIFIABLE. Had that been true, and Dad had custody, it was HIS obligation to file with the court at that time. It was never true; and it was never filed.

Thereafter, Plaintiff motion alleges, "Here, the parties have shared 50/50 physical custody since August 2020." [Plaintiff's motion, page 4, line 20.] This is patently FALSE.

Not only did he NOT have '*de facto primary custody of Paige,*" but for the sake of argument, had he had 'de facto primary custody of Paige' the court order for custody and child support remain the same until there is an Order changing custody.

Interestingly, while Plaintiff alleges 'de facto primary physical custody of Paige,' he is asking for joint physical custody of the child. If he had 'de facto primary physical custody, why would he want to agree to joint physical custody instead?

Why did Plaintiff not file a motion if there were any truth to his allegations? Why did he not comply with EDCR 5.501, and address another possible stipulation and order with Defendant? His motion ADMITS he failed to address this matter with Defendant, alleging "but there is insufficient time to attempt to negotiate an agreement before the November 23, 2020 hearing." Said hearing was set before the child support division **MONTHS AGO**, and how long does it take to send Defendant an email?!

Further, Plaintiff's underly motion demonstrates he has failed to comply with EDCR 5.506, as his FDF was not on file - and he had not provided Defendant with a copy of his FDF.

Defendant respectfully requests the court SANCTION Plaintiff for failing to comply with EDCR 5.501 and EDCR 5.506. There is no exemption for Plaintiff just because he can afford an attorney.

ARGUMENT

A. Child Custody

The existing custody and support order is in the record. It is the Stipulation and Order filed 7/5/11.

Plaintiff has NOT had de facto custody of the minor child.

Defendant has had primary physical custody of the minor child - but has

encouraged Plaintiff to have more time with the child.

After all of Plaintiff's prior (and now repeated exaggerated or outright inaccurate allegations), the parties signed a Stipulation and Order, filed July 5, 2011, which remains to this day, the controlling order of the court.

Plaintiff has primary physical custody of the minor child, and Defendant has specified visitation stated as follows:

"that the visitation schedule shall be as follows: Plaintiff shall have the minor child every two (2) days on weekdays and every other weekend. Exchanges shall occur no later than 8:30 p.m. However, the parties will accommodate one another's work schedules when they interfere with exchange times."

Defendant/Mom has been very liberal with Plaintiff's visitation. She has often agreed to modify or add time. There is no complaint in Plaintiff's underlying motion that there has been any interference whatsoever by Defendant in this matter.

In entering orders for custody and support of minor children, the Court's paramount consideration should be the welfare of the minor children. Culbertson v. Culbertson , 91 Nev. 230, 533 P.2d 768 (1975). The guiding principle in the court's exercise of its discretion in cases affecting the rights and welfare of the children, are the best interests and the welfare of the children whose rights are involved in the matter. Fenkell v. Fenkell, 86 Nev. 397, 469 P.2d 701 (1970).

N.R.S. 125.510 states in pertinent part as follows:

> In determining custody of a minor child in a action brought under this chapter, the court may:
>
> (a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest;

Best interest is determined pursuant to factors set forth in NRS 125C.0035(4):

(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 physical custody.

The child recently turned 14 years old, and desires to please both parents.

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

N/A

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

Defendant has always encouraged the child's relationship with her father, as Plaintiff acknowledges. There is no issue with this factor.

(d) The level of conflict between the parents.

The level of conflict is low, and only incited by Plaintiff's wrongful allegations in his motion, in spite of his knowledge that Defendant has maintained sobriety for over five years.

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

The parties have cooperated, and thus, they have not returned to court for many years; and only return now for Plaintiff to seek to reduce his child support obligation.

(f) The mental and physical health of the parents.

There are no issues with Defendant. Plaintiff cannot speak to Defendant's mental health.

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

The child is not special needs, and has typical needs of a child her age.

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

The child has a good relationship with both parents, as she should.

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

Defendant has three additional children with her present husband. The child at issue has grown up with her siblings, and the children are very close.

The child has one other sibling on Plaintiff's side.

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

There are no such issues on the part of Defendant. Defendant is a loving mother of all four of her children.

(k) Whether either parent or any other person seeking physical 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.

N/A

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

N/A

B. Child Support

The genuine issue driving this matter is, Plaintiff has been served with a child support case: R0290215932-R. Plaintiff having primary physical custody of the minor child effective September, 2011, and Plaintiff was awarded the sum of $400 per month as and for child support: An obligation which Plaintiff **FAILED AND REFUSED TO PAY.**

Due to non-payment and non-support of his child, Defendant was forced to receive financial assistance from the State, and Plaintiff's child support obligation was reviewed. In an act of desperation, Plaintiff filed his motion in both th District Court AND the child support court, seeking to interfere with the review of his child support obligation. It failed. Plaintiff's child support was increased to $1,144 per month, plus $104 per month for arrears, and **THIS is the reason for the desire to modify custody.**

Plaintiff's sudden lack of understanding that 'legal' custody and 'physical' custody are not the same over 9 years ago is completely irrelevant.

Plaintiff's false allegation of having 'de facto primary' or even joint physical custody, is also irrelevant.

In *Bluestein v. Bluestein*. 131 Nev. Ad. Op. 14, the Nevada Supreme Court reiterates that public policy encourages parents to enter into provide custody agreements for co-parenting. See *St. Mary v. Damon*, 129 Nev. ___, ___, P.3d 1027, 1035-36 (2013) *Rennels v. Rennels*, 127 Nev. ___, __, 257 P.3d 396, 399 (2011). **The terms upon which the parties agree control until one or both parties move the court to modify the custodial agreement.** [Emphasis added.]

Once a party moves the court to modify the existing child custody agreement, the court must use the terms and definitions provided under Nevada law, and the parties' definitions no longer control. *Rivero v. Rivero*, at 429, 216 P.3d at 227.

Plaintiff is now moving the court to modify the existing child custody agreement.

Defendant was not adverse to mediation to address a modification of the custody that was established in 2011, when the child was not even in school. However, she IS adverse to "retroactively" changing the title - or the child support. Further, if there is an agreement for a joint physical custody arrangement, it must be complied with by Plaintiff, and not just at his whim.

As for the true heart of Plaintiff's desire, the issue of child support, that cannot be retroactively modified.

It has been well founded that, "A court may not retroactively modify a child support order." See NRS 125B.140(1)(a).

Lawyer or no lawyer, there can be no retroactivity to modifying child support.

A child support order "may not be retroactively modified or adjusted...." *Khaldy v. Khaldy*, 111 Nev. 374, 377, 892, P.2d 584, 586 (1995).

"Nevada case law clearly prohibits retroactive modification of a support order." *Id.*

A court may, however, modify a child support order effective with the date of a motion to modify the order. *Ramacciotti v. Ramacciotti*, 106 Nev. 529, 532, 795 P.2d 988, 990 (1990) (clarifying that modification effective with the date of the

motion to modify is not "retroactive."

In this matter, however, the Child Support Division, has reviewed this matter, and established a current order for child support. **Any child support issues should be directed to the child support division.** In fact, this court is well known to defer child support issues to the child support court.

No modification of child support should be considered until Plaintiff complies with EDCR 5.506. He had failed to file his FDF within three days of the filing of his motion, as required by local rules.

Plaintiff has always used finances to manipulate and attempt to control Defendant. There are numerous threats and texts by Plaintiff demanding Defendant "fix this problem."

Defendant has had the child in competitive/travel/club softball now for four (4) years, with 'Lil Rebels.' Plaintiff previously paid the necessary club ball fees, but once his wages were garnished, Defendant was told that if she didn't make the payments from now on, that the child wouldn't be allowed to play softball anymore. Plaintiff alleged he would not pay her $400 per month child support on top of the softball dues. Then Plaintiff discussed this with the minor child - a violation of EDCR 5.300. The child asked Defendant is she was going to have to quit playing! This is heartbreaking that Plaintiff would hurt the child like that, and come before this court acting like he is a good parent!

Defendant has provided her FDF, and show the court at that this time, she has only been receiving minimal unemployment income of approximately $200 per week.

Plaintiff attempts to allege Defendant moves frequently. She has moved three times in six years, and one of these instances was staying in the same apartment complex - just moving to a bigger unit. The child was NEVER involved in any of the moves, which the Defendant and her husband handled while the child was visiting Plaintiff. She never had to help.

Further Plaintiff alleges Defendant does not have a vehicle. She has an 8

passenger mini van - a Hondy Odyssey. The whole family can fit. The prior vehicle was in an accident in 2018, and it took some time to replace it, but had been replaced. However, the parties always had a VW Passat in the interim.

Finally, Defendant has traveled to St. George, UT; Laughlin, NV , Mesquite, Nevada and Prescott, AZ to watch Paige play in softball tournaments. Plaintiff further misrepresents that Defendant does not participate in watching softball, which is unsupport, and untrue. She also pays her monthly fees, watches local practices. She has even scheduled private lessons for Paige a thte batting cages. Defendant has ALWAYS been involved in the child's life.

TAX ISSUE

Plaintiff is, in a word, a bully. He has always rushed to claim the child for tax purposes - in spite of the clear language in the Stipulation and Order that directs that the parties to alternative the child for tax purposes.

Plaintiff was to have even years; and Defendant was to have odd years. However, since Plaintiff has taken Defendant's years in 2013, 2015, 2017 and 2019, Defendant requests the court order that Defendant is entitled to claim the minor child for the next 8 years - four of which would have been Plaintiff's years - which would take the parties until the child is 18 years old.

II.

CHILD SUPPORT

Child support should be deferred to the Child Support Division.

NAC 425.140 Schedule for determining base child support obligation based on number of children and monthly gross income of obligor. (NRS 425.620) Except as otherwise provided in NAC 425.145, the base child support obligation of an obligor must be determined according to the following schedule:

1. For one child, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 16 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 8 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 4 percent of such a portion.

2. For two children, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 22 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 11 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 6 percent of such a portion.

3. For three children, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 26 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 13 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 6 percent of such a portion.

4. For four children, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 28 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 14 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 7 percent of such a portion.

5. For each additional child, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, an additional 2 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, an additional 1 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, an additional 0.5 percent of such a portion.

(Added to NAC by Div. of Welfare & Supp. Services by R183-18, 10-30-2019, eff. 2-1-2020)

NAC 425.145 Establishment of child support obligation using low-income schedule if economic circumstances of obligor limit ability to pay; publication of schedule by Administrative Office of the Courts. (NRS 425.620)

1. If the court determines that the total economic circumstances of an obligor limit his or her ability to pay a child support obligation in the amount determined pursuant to NAC 425.140, the child support obligation must be established by using a low-income schedule which is based on the current federal poverty guidelines, as determined by the Secretary of Health and Human Services, and which is published annually in the Federal Register.

2. If the monthly gross income of an obligor is below the lowest level set forth in the low-income schedule, the court may establish an appropriate child support obligation based on the total economic circumstances of the obligor, balancing his or her need for self-support with the obligation to support his or her child.

3. The low-income schedule must be published by the Administrative Office of the Courts on or before March 31 of each year.

NAC 425.135 Order must include provision that medical support is required to be provided to child. (NRS 425.620)

1. Every order issued or modified in this State must include a provision specifying:
(a) That medical support is required to be provided for the child; and
(b) Any details relating to that requirement.

2. As used in this section, "medical support" includes, without limitation, the payment of a premium for accessible medical, vision or dental coverage under a plan of insurance, including, without limitation, a public plan such as Medicaid or a reduced-fee plan such as the Children's Health Insurance Program, that is reasonable in cost. For the purpose of this subsection:
(a) Coverage under a plan of insurance is "accessible" if the plan:
(1) Is not limited to coverage within a geographical area; or
(2) Is limited to coverage within a geographical area and the child resides within that geographical area.
(b) The payment of a premium for coverage under a plan of insurance is "reasonable in cost" if:
(1) The cost:
(I) To each party who is responsible for providing medical support is not more than 5 percent of the monthly gross income of the party; or
(II) Of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the monthly gross income of the party; and
(2) The court assesses the plan of insurance, including the copayments, deductible and maximum out-of-pocket costs, and determines that the plan is reasonable in cost.

IV.

LIST OF WITNESSES

Plaintiff

Defendant

David Krynzel

Any and all witnesses of Plaintiff

Any necessary rebuttal witnesses

V.

LIST OF EXHIBITS

A. Child Expenses paid by Mom

B. Defendant's medical evidence

C. Defendant's FDF

VI.

UNUSUAL LEGAL OR FACTUAL ISSUES PRESENTED

The complete lack of grounds for an evidentiary hearing pursuant to *Rooney v. Rooney.*

VII.

LENGTH OF TRIAL

4 hours

DATED this 20th day of May, 2021.

/s/ Lacey Krynzel

LACEY KRYNZEL
Defendant in Proper Person

Electronically Filed
5/31/2021 11:02 AM
Steven D. Grierson
CLERK OF THE COURT

MEMO
Bruce I. Shapiro, Esq.
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Attorney for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum n/ka** **Lacey Krynzel,** Defendant.	Case No. **D-10-440022-C** Dept. No. **E** Date of Trial: **06/01/2021** Time of Trial: **1:30 p.m.**

PLAINTIFF'S EDCR 7.27 TRIAL MEMO

COMES NOW Plaintiff **Desmon Brandes** ("Desmon"), by and through his attorney of record **Bruce I. Shapiro, Esq.,** and **Jack W. Fleeman, Esq.,** of PECOS LAW GROUP, and hereby submits his Trial Memo pursuant to EDCR 7.27.

I. FACTS

Plaintiff **Desmon Brandes** ("Desmon") and Defendant **Lacey Krynzel** ("Lacey") were never married but share one minor child, *Paige Jolie Brandes* born April 5, 2007.

A. *Lacey's Drug Issues and De Facto Custody Since the 2011 Order*

On July 3, 2011, the parties entered into a stipulation and order granting them joint legal custody, with Lacey being awarded primary physical custody. Although Lacey had suffered from significant substance abuse and emotional problems prior to this, Desmon believed that Lacey had turned her life around and that she was committed to being a fully engaged, sober parent.[1]

Unfortunately, not long after the court entered the stipulation and order, Lacey relapsed. As a result, the parties agreed that Desmon would have Paige full time, with Lacey's time limited to every other weekend, supervised by her parents.

In 2012, Lacey's substance abuse issues continued, and Lacey was arrested for DUI.[2] She claimed in her discovery responses that she was arrested was for reckless driving, but admitted later that the arrest was for a DUI.

Lacey's substance abuse continued into 2015, when she was pregnant with her daughter, Rhys. When Rhys was born on January 31, 2015, she tested positive for opiates.[3] Lacey admits that the opiates she was using at the time were from her boyfriend – now husband – Dave's Loritab prescription.[4]

As a result of Rhys being addicted to opiates at birth, CPS substantiated child abuse allegations against Lacey. This was the second substantiation of child

---

[1] In 2011, Lacey went to a rehabilitation center in Riverside, California for 45 days. *See* Lacey Krynzel deposition, dated April 20, 2021, at pages 19 through 20.

[2] *Id.* at pages 45 through 46.

[3] *Id.* at pages 35 through 36; *see also* CPS records received by the court.

[4] *Id.* at page 36, lines 8 – 10.

abuse related to substance abuse during pregnancy. Lacey also had a child abuse allegation substantiated against her in 2010 when her baby was stillborn after she overdosed on opiates.

Lacey claims she got sober in September 2015, about nine months after Rhys was born addicted to opiates. Lacey further alleges that she has been sober at all times since then. As part of her alleged sobriety, Lacey states that she has undergone therapy and has taken Suboxone daily for several years.[5]

Despite her claim that she has remained sober since 2015, the facts indicate otherwise. In 2018, Lacey was fired from her employer, Western Elite for reasons that appear to be clearly related to continued substance abuse.

On July 11, 2018, a Human Resources employee of Westen Elite named Noah Van Rossum, discovered Lacey unresponsive and slouched in her chair.[6] Lacey was blue and pale, had a weak pulse, and was unresponsive for 8 minutes. Employees at Western Elite were instructed by 9-1-1 operators to perform chest compressions on Lacey, which they did for 2 minutes. Lacey was transported to the emergency room.

On August 16, 2018, Mr. Rossum again discovered Lacey unresponsive at her desk. This time her body was tense and she was leaning into her keyboard. She was only breathing about four times per minute and her skin was blue and

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[5] Lacey claims that Suboxone is non-narcotic, and is simply an opiate blocker. This is not true. Suboxone is a combination of a opiate (narcotic) and an opiate blocker. Suboxone is buprenorphine and naloxone. Buprenorphine is an narcotic, opioid partial antagonist. *See* *https://www.samhsa.gov/medication-assisted-treatment/medications-counseling-related-conditions/buprenorphine*

[6] *See* subpoenaed documents from Western Elite, at PTF 00034.

pale. Paramedics were called and they administered Oxygen and medicine via IV. Lacey was responsive after the administration of the medication and declined transport to the hospital via ambulance, choosing to go with another employee instead.

Despite the clear indications of a narcotic overdose on both occasions, which reduces breathing and can be immediately reversed by administration of drugs like Naloxone, Lacey maintains that she had no substance abuse problems during the summer of 2018 and claims that she left Western Elite "due to gallbladder surgery/medical difficulties."[7]

Lacey finally admitted in her deposition that she did not "leave" Western Elite as she stated in her discovery responses but was "let go for absences."[8] Even then, however, she refused to admit that she was let go for issues related to substance abuse, claiming instead that the absences were related to her gallbladder surgery and alleged appendicitis.[9]

When asked what type of health issues she was having in August 2018, Lacey explained that it was related to appendicitis. Asked if she had her appendix removed, she testified that the doctors told her they wanted to remove it, but she said no.[10] Lacey claims that she was admitted to UMC from August 23 – 25,

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[7] *See* Lacey's Response to Interrogatory No. 2; *see also* subpoenaed documents from Western Elite, at PTF 00129 (employer

[8] *See* Lacey's Deposition at page 21, lines 12 – 14.

[9] She has no explanation for why she would be unresponsive, turn blue, have minimal respirations, or require chest compressions for problems related her gallbladder or appendix.

[10] Lacey's Deposition at page 18.

2018, for the alleged appendicitis.[11] When asked if she would sign a HIPAA release for those records, she said she would not sign because she does not "want [her] medical records released at all."[12]

In addition to Lacey's unresponsive episodes at work, she was tardy, called out on several occasions, and spent too much time away from her work desk. This occurred from April 2018 until October 2018, when she was fired. There was an also an incident where her employers suspected her of stealing $40.00 in cash. The suspicion arose because Lacey changed her story about the events surrounding the missing cash, and evidence that Lacey went to the restroom with cash in her hands and only stayed there for 10 seconds. This incident occurred on July 26, 2018, between the two episodes of unresponsiveness.[13]

During 2018, Desmon was not fully aware of Lacey's troubles at work, and it was not particularly relevant to him because he continued to have Paige full time until March 2020.

In 2019, Desmon understood that when Paige was with Lacey every other weekend, there were six people in a one-bedroom apartment and Paige's bed was in the kitchen. Paige confided in her dad that there was no food in the refrigerator and no hot water for at least one month.

In 2020, because Lacey had reportedly gotten a larger apartment and had seemingly turned her life around, Desmon agreed that Lacey would have half of

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[11] See Lacey's Response to Interrogatory No. 26.

[12] *See* Lacey's Deposition at page 23, lines 12-20.

[13] *See* subpoenaed documents from Western Elite, at PTF 00113.

the time with Paige. This 50/50 schedule began in March 2020. Lacey does not dispute this.

Desmon's belief that Lacey had recovered and remained sober was short-lived. Paige, who was for the first time spending significant time with Lacey, and who was now much older than she was when the initial custody order was entered in 2011, began to confide in Desmon that Lacey was having troubles with substance abuse. Paige also reported on multiple occasions when Lacey drove, she was swerving, closing her eyes a lot, and slurring her speech. She told her father on other occasions that Lacey had left the house at 11:30 p.m. one evening to get a thermometer for the baby, but when she came home a long time after that she had nothing with her, even though they live close to several stores. These concerns are documented in the CPS records delivered to the court.

Paige also took a video of her mother one night where she appeared to be high on drugs. Lacey alleges that her condition in that video, taken since this case re-opened last year, was the result of drinking perhaps three glasses of wine and taking an Ambien. Then, rather than take any responsibility for that, Lacey claims that at the "coaching and pathogenic parenting of her father," Paige recorded the incident. This is notable because it is part of Lacey's M.O., she seeks to avoid responsibility for her behaviors and is unable to realize that mixing alcohol and Ambien means she has not remained sober.

As further evidence that Lacey has not remained sober, she has remained on *Suboxone* for at least the past six years, during which time she has also continued to use alcohol, marijuana, and prescription medications, like Ambien.

Lacey admitted in her discovery responses that she "drinks wine occasionally, and smoke marijuana socially." What Lacey means by "smoke marijuana socially" is unknown because she testified that she not only smokes marijuana, but she uses a marijuana based oil, and she consumes marijuana edibles.[14] According to Lacey, all of this marijuana is consumed at home with the only other adult in the house, her husband Dave. As Lacey also testified, there is never a time when at least a couple of her four children, including her four year old and one year old are not home with her.[15]

B. *Child Support and Waiver of Arrears*

As mentioned, the 2011 custody order set Desmon's monthly child support at $400.00 per month. Desmon, however, had *de facto* primary physical custody of Paige from shortly after the 2011 order was entered until March 2020. Lacey recognizes this, and notes that child support did not become an issue until she went on TANF last year, and that was only because the government sought it.[16]

Lacey further testified that she waived child support and that she does not want any arrears for times she did not have Paige. Specifically, she testified:

> Yes, I will say that from the time that Des took her to help me, I didn't want child support.[17]

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[14] *See* Deposition of Lacey Krynzel, at pages 40 through 41. Lacey tried to back away from her statement that she "smokes" marijuana after the question was asked where she smokes it.

[15] *See* Deposition of Lacey Krynzel, at page 29.

[16] *Id.* at pages 28 and 39.

[17] *Id.* at page 47, lines 14-15.

Then, when asked "So since 2015, you want child support based on what you guys were actually doing?" her response was "Yes." Asked if that "fair," she replied:

> Fair. One hundred percent fair.[18]

Based on this, Desmon asks that the court issue a finding that he has no child support arrears and owed no child support, based on explicit waiver, from the date of the 2011 custody order until March 2020 when the parties began their *de facto* joint physical custody arrangement.

From November 2020 – the month Desmon filed his motion – through the date of trial, child support should be set based on the parties' *de* facto joint physical schedule, Desmon's income, and Lacey's earning capacity. Based on her deposition testimony, Lacey is receiving at least $527.00 per month in unemployment benefits. Based on Lacey's income of $2,283.66 per month and Desmon's income of $8345.00 per month, Desmon's child support obligation for this period should have been $782.00. Since Family Support set his child support at $1,040.00 based on the order which presumed Lacey had primary custody, Desmon should be given a credit of $258.00 per month for seven months (November 2020 through May 2021) for a total of $1806.00, plus credit for$728.00 for the seven months he paid $104.00 per month on arrears that he anticipates the court will find do not exist. In total, Desmon should receive a credit against future support of $2,534.00.

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[18] *Id.* at pages 48 through 49.

Going forward, Desmon seeks an order setting child support based on the custodial timeshare, which he argues herein should be primary physical custody to him.

C. *Lacey's Credibility is a Central Factor in this Case*

As noted above, many things that Lacey has alleged or testified to simply do not make sense in light of the facts. To highlight a few of those:

1. In her opposition, filed on December 7, 2020, Lacey outright denied that Desmon had full custody of Paige during any time period since the 2011 order, stating "Defendant maintained custody of the child."[19] Lacey's denial, however, is demonstrably false as she testified that from 2011 until at least March 2020 Desmon had Paige during the school week and she had visitation her "every other weekend."[20]

2. Lacey also stated that Desmon had Paige solely because she was enrolled in a school near him. Lacey finally admitted, however, that it was not about school, but instead that the parties agreed that Desmon "[w]as going to keep Paige until [she] was better." She added, "[a]nd I was okay with it because at the time I was sick and I wasn't – I wasn't in my right mind and I did need Des, I did need his help…"[21]

3. On two separate dates in the summer of 2018, Lacey was unresponsive and blue, requiring emergency services, and even chest compressions on one occasion, while she was at work. Lacey denies drug use during that time, alleging sobriety since 2015. She also claims that issues at her work, were related to issues with her gallbladder

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[19] *Opposition to Motion to Modify Custody to Joint Physical Custody, Et Al.*, at pages two through three.

[20] *See* Deposition of Lacey Krynzel, at page 31.

[21] *Id*. at page 33, lines 2-7.

and appendix. Yet she refuses to provide medical records or sign a HIPAA release.

4. While claiming to be sober since 2015, Lacey also admits to having been on Suboxone for the past six years, drinking alcohol, and taking at least three different forms of marijuana when she is home with the children.

5. Lacey's claims of sobriety are also undercut by Paige's descriptions of her mom being under the influence of something. Paige's description is supported by a video showing Lacey out of it in the home where her children reside. Lacey claims that she had maybe three glasses of wine with Ambien that night, and that is why she appear that way. What she misses is that taking the alcohol with the strong sedative like Ambien is a problem and shows she is not sober.

6. Lacey's discovery responses allege that Desmon's greatest strength as a parent is "his financial ability to provide for the child; and his greatest weakness is his inability to consider the needs of the child above himself."[22] She also claims that he "has a certain degree of unfitness."[23] Her testimony contradicted this, with her stating, ""Don't get me wrong, he's a great father. I just – I guess I just expected more in return when I got better. And it just never happened."[24]

D. *Living Conditions at Lacey's Home*

Lacey lives in a three bedroom apartment with her husband and five children, when Paige is there. As a result, Paige, who is 14 years old, is not able to have her own personal space.

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[22] *See* Response to Interrogatory No. 22.

[23] *See* Response to Interrogatory No. 18.

[24] *See* Deposition at page 33 at lines 12-14.

Lacey is also on welfare and struggling to make ends meet. There is no indication that she has legitimately sought employment, as she has not worked outside the home since she was fired from Western Elite in 2018. Moreover, given her lack of sobriety and having a four year old and a one year old, it is not clear that she has any motivation to seek employment and try to move beyond the small apartment. Lacey's husband, according to her testimony, has also been unemployed for the past year.

Desmon does not believe that it is in Paige's best interests to be in a small apartment without her own space for half the time.

II. ISSUES & ANALYSIS

A. *Child Custody*

For a primary custodial order to be modified by the Court, the Court must find that: (1) there has been a substantial change in circumstances affecting the welfare of the child, and (2) the child's best interest is served by the modification."[25] District courts have broad discretion in child custody matters, but substantial evidence must support the court's findings.[26] Substantial evidence "is evidence that a reasonable person may accept as adequate to sustain a judgment."[27]

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[25] *Ellis v. Carruci*, 123 Nev. 145, 150, 161 P. 3d 239, 242 (2007).

[26] *Id*. at 149, 241-42.

[27] *Id.* at 149.

In cases where parties share *de facto* joint physical custody despite the Court's order, the first prong of *Ellis* is satisfied because the Court is required to apply Nevada's definition of joint physical custody in determining which modification test to use.[28] Under *Rivero*, a parent with at least 40 percent of the year (146 days) is a joint physical custodian, thus the test becomes whether a modification is in the child's best interests.[29]

In the present case, there is no dispute that the parties have exercised *de facto* joint physical custody since March 2020. Additionally, there is no dispute that prior to March 2020, Desmon had *de factor* primary physical custody.

Regardless of the timeshare during the months of March 2020 to August 2020, it is clear that there have been substantial changes since the 2011 order that have affected Paige's welfare. Mom admits to abusing substances during that timeframe, she appears to have lost a job because of that, and she acknowledges that the parties never followed the primary custody scheduled from the order.

As there has been a change of circumstances even beyond the *de factor* arrangements, the NRS 125C.0035 best interests factors are thus analyzed as follows:

(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 physical custody.*

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[28] *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009).

[29] *See* NRS 125C.0035; *Truax v. Truax*, 874 P.2d 10, 110 Nev. 437 (1994); *Bluestein v. Bluestein*, 131 Nev. Adv. Op. 14 (2015).

Paige is 14-years-old and has expressed to Desmon that she would like to live primarily with him. This is based on events that have happened since the parties began sharing joint physical custody in March 2020, and specifically her witnessing her mother acting strangely, as well as her discomfort in her mother's apartment. Desmon requested that Paige be interviewed at the January 19, 2021 hearing Because Paige has requested to be interviewed because she does not feel safe at Lacey's home. The court deferred on that request.

(b) *Any nomination of a guardian for the child by a parent.*

Not applicable.

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

Desmon has always supported Paige's relationship with Lacey and he will continue to do so. Desmon believes Lacey will be supportive of Desmon's relationship with Paige also.

(d) *The level of conflict between the parents.*

To date, the parties have not had much conflict. For the past three years when Lacey appeared to be sober, the parties have been able to effectively coparent.

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

Desmon has always met Paige's needs and believes the parties will continue to cooperate to ensure Paige's needs are met. In the past, Lacey has met Paige's needs by allowing her to live primarily with Desmon during periods where she

was not sober. The change now is that Lacey is aware that she will not receive welfare or support related to Paige if Paige does not live with her.

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

Desmon is in good mental and physical health. Lacey has had addiction and mental health issues. When Desmon filed his motion, he believed she had maintained her sobriety. Since then, however, it has become clear that Lacey has again relapsed.

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

Paige has typical physical, developmental, and emotional needs for her age. That includes her need for her own personal space, which she does not have at Lacey's apartment.

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

The child has a close relationship with both parents. Desmon will ensure that Paige maintains a safe and healthy relationship with Lacey.

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

Desmon has a 16-year-old daughter, Jadyn, from a previous marriage. Desmon has joint physical custody. Paige has a close bond with her older sister. Lacey has three younger children from three different relationships and Paige has a close relationship with those younger siblings, although she is too often depended upon to act as a parent when Lacey is incapacitated.

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

Lacey has had addiction and mental health issues. Desmon has never been abusive or neglectful of Paige or anyone and has always ensured Paige is safe, healthy and well taken care of.

(k) *Whether either parent or any other person seeking physical 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.*

This factor is not applicable.

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

This factor is not applicable.

Based on the substantial change of circumstances since the last order, and the recent evidence that Lacey has relapsed, Desmon respectfully asks that he be awarded primary physical custody of Paige.

B. *Child Support and Waiver*

Desmon had *de facto* primary physical custody of Paige from shortly after the 2011 order was entered until March 2020. Lacey testified that child support did not become an issue until the State of Nevada sought it from Desmon after she obtained welfare.[30] Lacey further testified that she waived child support prior to 2015 and that she does not want any arrears for times she did not have Paige. [31]

[30] *Id.* at pages 28 and 39.

[31] *Id.* at page 47, lines 14-15.

When asked, "So since 2015, you want child support based on what you guys were actually doing?" her response was "Yes."[32]

The parties both acknowledge that Desmon had Paige from shortly after the 2011 order was entered until at least March 2020. Based on this, Desmon asks that the court issue a finding that he has no child support arrears and that he owed no child support, based on explicit waiver, because Lacey has clearly shown an "intentional relinquishment of a known right" to child support, from the 2011 order until March 2020.[33]

B. *Attorney's Fees*

Desmon seeks fees under the prevailing party statute NRS 18.010, as well as the child custody statute NRS 125C.250, which provides the court discretion to award fees whenever custody is at issue. The court should also note that Lacey's material misrepresentations justify attorney's fees under EDCR 7.60.

DATED this 31st day of May 2021.

PECOS LAW GROUP

/s/ Bruce I. Shapiro

Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Attorney for Plaintiff

[32] *Id.* at pages 48 through 49.

[33] *Parkinson v. Parkinson*, 106 Nev. 481, 483, 796 P.2d 229, 231 (1990), abrogated on other grounds by *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009).

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that the foregoing "Plaintiff's Trial Memo pursuant to EDCR 7.27" in the above-captioned case was served this date pursuant to Clark County District Court Administrative Order 14-2 for service of documents identified in Rule 9 of the N.E.F.C.R.

Lacey Krynzel
Laceykrynzel@gmail.com
Defendant

DATED this 31st day of May 2021.

/s/ Amy Robinson
an employee of PECOS LAW GROUP

NEO

Electronically Filed
6/7/2021 4:05 PM
Steven D. Grierson
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * *

Desmon Brandes, Plaintiff. vs. Lacey Pictum, Defendant.	Case No: D-10-440022-C Department E

NOTICE OF ENTRY OF ORDER

Please take notice that the FINDINGS of FACT, CONCLUSIONS of LAW and ORDER from June1, 2021 Hearing was entered in the foregoing action and the following is a true and correct copy thereof.

Dated: June 07, 2021

/s/ Sherri Estes

Sherri Estes
Judicial Executive Assistant
Department E

NEO

CERTIFICATE OF SERVICE

I hereby certify that on the above file stamp date:

☐ I placed a copy of the foregoing NOTICE OF ENTRY OF ORDER in the appropriate attorney folder located in the Clerk of the Court's Office of:

☒ I provided the foregoing NOTICE OF ENTRY OF ORDER to:

Bruce I. Shapiro
bruce@pecoslawgroup.com

Lacey Pictum
Laceykrynzel@gmail.com

____/s/ Sherri Estes_____

Sherri Estes
Judicial Executive Assistant
Department E

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6/7/2021 2:20 PM
Steven D. Grierson
CLERK OF THE COURT

ORDR

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

BRANDES, DESMON, Plaintiff, v. PICTUM, LACEY, nka KRUNZEL Defendant.	Case No.: D-10-440022-C Dept.: E Date: June 1, 2021 Time: 1:30 p.m.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter having come on for Evidentiary Hearing, via video, on the 1st day of June, 2021, for the Court to consider Plaintiff's request for modification of custody; Plaintiff, Desmon Brandes (Desmon) being present, and represented by Bruce Shaprio, Esq.; Defendant, Lacey Krunzel (Lacey) being present, and representing herself. The Court, having heard the evidence and arguments presented, taking the matter under advisement, finds and orders as follows.

Non-Trial Disposition:
☐ Settled/Withdrawn:
☐ Without Judicial Conf/Hrg
☐ With Judicial Conf/Hrg
☐ By ADR
☐ Other
☐ Dismissed - Want of Prosecution
☐ Involuntary (Statutory) Dismissal
☐ Default Judgment
☐ Transferred

Trial Disposition:
☐ Disposed After Trial Start
☐ By Judgment Reached by Trial

CHARLES J. HOSKIN
DISTRICT JUDGE
FAMILY DIVISION, DEPT. E
LAS VEGAS, NV 89101-2408

Statement of the Case

The parties' permanent custody arrangement is defined by their Stipulation and Order, filed July 5, 2011 (SAO). That SAO awards the parties joint legal custody and Lacey primary physical custody of their minor child: Page, born April 5, 2007 (child). Desmon's visitation schedule was "two (2) days on weekdays and every other weekend." Desmon's monthly child support obligation was established at $400.00. As such, primary physical custody to Lacey is the controlling permanent custody order.

On November 18, 2020, Desmon filed his *Motion to Modify Custody to Joint Physical Custody; to Set Child Support; for Finding of No Child Support Arrears; For Attorney's Fees; and for Related Relief.* On December 7, 2020, Lacey filed her Opposition and *Countermotion to Hold Plaintiff in Contempt of Court; Referral to Mediation; for Award of Fees and Costs; for Sanctions and Related Relief.*

On November 23, 2020, in the child support case, R-20-215032-R, Desmon's child support obligation was modified to $1,040.00 per month, effective August 2020. That Recommendation and Order was entered on December 16, 2020. The Order is unclear, however, concerning whether the child support court assessed arrears. An arrears payment is established, but no arrears are listed.

CHARLES J HOSKIN
DISTRICT JUDGE
FAMILY DIVISION DEPT E
LAS VEGAS NV 89101-2408

At the January 19, 2021 hearing, Lacey was referred for drug testing and a temporary joint physical custody and visitation schedule was implemented. On week one, Desmon was to have the care of the child Thursday through Sunday; on week two Desmon was to have the care of the child Wednesday through Friday. An Evidentiary Hearing was set on Desmon's request to modify physical custody. The drug test results demonstrated a very low level of THC in Lacey's urine.

At the May 18, 2021 Calendar Call, the Evidentiary Hearing was set firm.

Findings of Fact

That this Court has personal and subject matter jurisdiction in this case.

That Desmon testified in his case-in-chief. He has worked for NV Energy for 23 years. He has another child, Jayden, who is 16 years old whom he shares joint physical custody with that child's mother.

That, as of January 2021, the child has resided primarily with him. The child came to him with a video of Lacey, which concerned her, and has since been in his primary care. The child has seen Lacey a handful of times since January 2020 and at the child's softball tournaments. Between January 2021 and the Trial, Lacey has exercised one overnight visit with the child.

That Desmon indicated that, following the July 2011 SAO, the parties exercised joint physical custody. That situation stopped in late 2011 or early 2012. Desmon indicated that, with Lacey's agreement, the child then began living full time with him.

That, when Lacey went into rehab in California, the child would contact her by telephone. After Lacey's return from rehab, the child visited her on weekends and during the summers. Lacey was living with her parents at that point.

That Desmon indicated that the child has always attended school in the zone determined from his home. During the summers the child would spend every other weekend with Desmon. Between 2012 and 2016, following Lacey's return from rehab, prior to exercising visits with the child, Lacey would take an at-home drug test. If it was not clean, Lacey would not get visitation.

That Lacey moved out of her parent's home in 2016. The prior schedule of every-other weekend and summers with Lacey continued.

That, in March 2020, when schools closed due to Covid, Desmon decided to "start the summer early" and permit the child to start the schedule with Lacey, typically reserved for summer break. Desmon was then exercising every other weekend through August 2020. The child then

followed the same schedule as Desmon's other child, visiting three days one week and four days the next week.

That Desmon testified that, for the majority of the last ten years, he has been the *de facto* primary physical custodian. He did not return to court to confirm that because he did not see a reason to do so. Desmon told Lacey that she did not need to pay him child support.

That Exhibit 3 is a video, taken by the child of Lacey, where Lacey appears to be impaired. Exhibit 1 is a text exchange between the child and Desmon's other child regarding the child's concerns relating to Lacey being impaired. Exhibit 4 is a text exchange between Lacey and the child regarding the child's concerns about Lacey's drug use and desire to remain with Desmon until Lacey gets "better."

That Desmon paid his child support obligation from the July 2011 SAO until mid-2012. He had *de facto* primary custody at that time and Lacey agreed to the support arrangement.

That, on cross-examination, Desmon agreed that, following Lacey's return from rehab, her supervised visitation went to every other weekend within a few months. Desmon agreed to Lacey seeing the child with her parent's supervision without a court order. Lacey's weekend visits were

from Friday, after school, until Monday at school. That schedule continued until March 2020.

That Desmon confirmed that he has not seen Lacey on drugs since 2015.

That Lacey testified in Desmon's case-in-chief and then in her case-in-chief. She was in in-patient rehab, in California, for 45 days. After that, she always had the child during the summers in addition to the weekends.

That Lacey confirmed that, since 2011, she has not exercised primary physical custody. She indicated that she is fighting to get custody back. Between March 2020 and December 2020, Lacey stated that the parties had "50/50" custody.

That, in January 2021, Lacey agreed that the child could remain primarily with Desmon. She believed that, following the drug test, the child would come back. While Lacey understands the child's concerns, she believes that the child is being kept from her.

That Lacey discussed her prior employment and that she was found unresponsive at her desk on two occasions. She was let go from that employment for excessive absences.

That Lacey discussed her health issues. Her doctor recommended that she have her appendix removed, but she refused. Lacey confirmed that she

refused to sign the HIPPA release and permit Desmon to review her medical records. Lacey has been taking Soboxon since 2015. She does not believe it is an opioid.

That Lacey agreed that Desmon could claim the child on his taxes until she was better. Desmon stopped paying her child support when she went to rehab. She agreed that he did not need to pay her further child support until she got better. She now states that she is only asking for child support from 2015 forward. Lacey admitted to not pursuing child support, but she wants it now.

That, when the child support case was opened by the State, Lacey did not tell the District Attorney, Family Support about the parties agreement concerning child support.

That Lacey last worked in 2018 and earned $15.00 per hour. Since then, she has only worked in her husband's business. She is receiving unemployment benefits of $527.00 per week.

That, on cross-examination, Lacey again confirmed that, following rehab, she left the child primarily with Desmon. Notwithstanding the agreed *de facto* arrangement, she wants child support arrears from August 2015 until the present.

That Lacey went through the historical custodial arrangements. Until 2013/2014, Lacey stated she had 35% of the time with the child because of school. She did not object to every-other weekend contact. Lacey never requested to modify the arrangement or child support. She did not come after Desmon for support because he was the one caring for the child.

That Lacey has been making payments for the child's softball participation.

That Desmon's January 11, 2021 Financial Disclosure Form (FDF) represents a gross monthly income (GMI) of $8,345.00. Lacey's May 10, 2021 FDF indicates a GMI of $2,283.00 from unemployment.

Conclusions of Law

The controlling custody order is joint legal and primary physical custody to Lacey. Shortly after that SAO was entered, the parties agreed to Desmon acting as *de facto* primary custodian.

Although this Court entered a temporary joint physical custody order at the January 19, 2021 hearing, the parties have not followed that order either.

In this case, Desmon's Motion requested joint physical custody of the child. However, he argued for primary physical custody at the Trial. Lacey

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DISTRICT JUDGE
FAMILY DIVISION DEPT E
LAS VEGAS NV 89101-2408

is requesting to maintain the primary physical custody SAO, which she admits the parties have not followed for almost a decade.

Regarding modifying physical custody, NRS 125C.0045 states:

> "1. In any action for determining the custody of a minor child, the court may, except as otherwise provided in this section and NRS 125C.0601 to 125C.0693, inclusive, and chapter 130 of NRS:
>
> (a) 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; and
>
> (b) At any time modify or vacate its order, even if custody was determined pursuant to an action for divorce and the divorce was obtained by default without an appearance in the action by one of the parties.
>
> The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.
>
> 2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires the modification or termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it."

In determining whether to modify a primary physical custodial order, the movant must establish that there has been a substantial change of circumstances, affecting the child, since the most recent custody order and

that the child's best interests would be served by the change. *Ellis v. Carucci*, 123 Nev. 145, 147, 161 P.3d 239, 240 (2007). In determining whether to modify a joint physical custodial order, the movant must establish that the change would serve the child's best interests. *Truax v. Truax,* 110 Nev. 437, 439, 874 P.2d 10, 11 (1994).

It is undisputed that Desmon maintained *de facto* primary custody for the majority of the last ten years. It is also undisputed that, between March 2020 and August 2020, the child resided primarily with Lacey on an extended "summer schedule." As the parties have essentially never followed the SAO, it is necessary that this Court entertain a *Rivero* look back.

The Nevada Supreme Court gave direction when calculating the timeshare exercised by the parties.

> "The district court should calculate the time during which a party has physical custody of a child over one calendar year. Each parent must have physical custody of the child at least 40 percent of the time, which is 146 days per year. Calculating the timeshare over a one-year period allows the court to consider weekly arrangements as well as any deviations from those arrangements such as emergencies, holidays, and summer vacation. In calculating the time during which a party has physical custody of the child, the district court should look at the number of days during which a party provided supervision of the child, the child resided with the party, and during which the party made the day-to-day decisions regarding the child. . . .
> Therefore, absent evidence that joint physical custody is not in the best interest of the child, if each parent has physical custody of the

> child at least 40 percent of the time, then the arrangement is one of joint physical custody."

Rivero v. Rivero, 125 Nev. 410, 427, 216 P.3d 213, 225 (2009). The *Rivero* court goes on to conclude that the "district court must apply Nevada's physical custody definition—not the parties' definition." *Id.* at 429.

All evidence establishes that the custody arrangement which existed between 2012 and 2020 would be defined as primary physical custody to Desmon; Lacey maintained primary physical custody between March 2020 and August 2020; the parties maintained joint physical custody between August 2020 and December 2020, which was also temporarily ordered at the January 2021 hearing; and primary physical custody was exercised by Desmon between January 2021 through the June 1, 2020 Evidentiary Hearing.

The law in this State is unclear on how to appropriately address a request for modification of physical custody when a controlling order is primary physical custody to one party, and the actions of the parties for a decade, has been primary physical custody to the other party, who is the non-custodial parent in the controlling order. The law is also unclear on how to analyze a situation where, over the last 15 month, a *de facto* primary custody arrangement to one party existed for five months, a *de facto* primary

custody arrangement to the other party for five months and a *de facto* joint physical custody for has been exercised for five months. Since it can be reasonably argued that either *Ellis* or *Truax* could control depending whether the *de facto* situation or permanent order is controlling, and that a best interest analysis is contained in both approaches, this Court will analyze the evidence presented under both scenarios prior to resolving the custody modification issue.

Since Lacey went to California to deal with her addiction issues, Desmon has acted as primary physical custodian. This Court appreciates Lacey's understanding, over the last decade, that maintaining the controlling order would not have been in the best interests of the child. Such indicates a desire to serve the child's best interests. Similarly, this Court appreciates Desmon's willingness to step in and primarily care for the child while Lacey worked through her issues.

The parties worked together and cooperated in an effort to serve the best interests of the child during Lacey's issues. The best interests of child are served by parents who are able to work through situations and agree to co-parent with the child's best interest as their focus. Such is what occurred since shortly following the SAO. This Court will not punish a parent for looking out for the best interests of the child.

The "*Rivero* look back" through 2012 results in a determination that Desmon is the *de facto* primary physical custodian. *See Rivero* at 427. However, over the last 15 months, Desmon has been the primary physical custodian for five months; Lacey has been the primary physical custodian for five months; and the parties shared joint physical custody for five months. While *Rivero* defines what constitutes primary physical custody and that a year is a reasonable amount of time to assess the schedule, it does not indicate that demonstration of the same automatically results in a substantial change of circumstance finding.

Desmon bore the burden of establishing the factors necessary to modify custody. Parents cooperating to serve the best interests of the child while one parents struggles with an addiction is what is best for child. However, the ongoing and continuing maintaining of *de facto* primary custody to the "non-custodial" parent for such a substantial period satisfies a substantial change of circumstances affecting the child. Thus, Desmon meets the first prong under *Ellis*.

The Court will also look to whether a modification would be in the child's best interests pursuant to both *Ellis* and *Truax*.

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DISTRICT JUDGE
FAMILY DIVISION DEPT E
LAS VEGAS NV 89101-2408

In analyzing the best interest of the child, the court must analyze the factors enumerated in NRS 125C.0035(4). Those factors are reviewed below:

The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody. The child is 14 years old and of sufficient age and capacity to form an intelligent preference. Evidence indicates that the child expressed a desire to reside with Desmon until Lacey got better. Given the drug test results from January 2021, it appears that drug use is not a current concern. Lacey indicates that she understands the child's concern. This factor favors Desmon.

Any nomination of a guardian for the child by a parent. No nomination occurred in this case.

Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent. The parties worked together when Lacey went into rehab and Lacey agreed to Desmon exercising primary care of the child. Desmon has worked with Lacey and permitted her to maintain reasonable contact following her rehab. This factor is neutral.

The level of conflict between the parents. Minimal evidence concerning this factor was presented. The parties have shared information and been able to exchange the child throughout. They have agreed upon specific duties relating to the child notwithstanding minimal communication between the parties. Conflict is low. The factor is neutral.

The ability of the parents to cooperate to meet the needs of the child. Prior to the current litigation, the parties were able to cooperate to meet the needs of the child. They were model parents in the area of cooperation and permitting the other to spend time with the child. Since July 2020, that circumstance has changed as a result of the conflict concerning primary custody and, presumably, child support. This factor is neutral.

The mental and physical health of the parents. Lacey has demonstrated addiction issues. Such is the reason the parties changed custody in 2012 and the reason the child chose to reside primarily with Desmon earlier this year. No health issues relating to Desmon were presented. This factor favors Desmon.

The physical, developmental and emotional needs of the child. Desmon handles the physical needs of the child. For many years,

these parents have been able to work together to insure that the needs of the child have been met. This factor is neutral.

The nature of the relationship of the child with each parent. Neither party specifically discussed their relationship with the child. Ultimately, this factor is neutral.

The ability to maintain a relationship with a sibling. Desmon has another child whom he maintains joint physical custody. The child has a good relationship with that sibling. Lacey did not reference any siblings in her household, although the record indicates other children in her home. This factor favors Desmon.

Any history of parental abuse or neglect of the child or a sibling of the child. Although the Department of Family Services has been involved with this family for many years, the only substantiated finding against Lacey occurred in September 2010. No ongoing abuse or neglect was demonstrated. This factor is neutral.

Whether either parent has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child. No evidence was presented concerning this factor.

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DISTRICT JUDGE
FAMILY DIVISION DEPT E
LAS VEGAS NV 89101-2408

Whether either parent has engaged in an act of abduction. No evidence was presented concerning this factor.

Desmon bore the burden of establishing that it would be in the child's best interests to modify the primary physical custodial order as the second prong in *Ellis* and as the standard under *Truax*. He met that burden and demonstrated that a modification to the controlling order would be in the best interest of the child. Neither party established that the other is incapable of adequately caring for the child for 146 days per year. As such, a modification of physical custody is appropriate on this record. *See* NRS 125C.003. It is in the best interests of the child that the parties be awarded joint physical custody. Certainly, this determination is predicated on Lacey maintaining her sobriety.

The last child support order was entered by the child support court in November 2020, presuming that the controlling order was still the custodial situation. Given the change in the controlling order, it is appropriate that child support be reviewed. Applying Desmon's GMI of $8,345.00 to the regulatory formula results in a monthly obligation of $1,147.00; applying Lacey's GMI of $2,283.00 to the regulatory formula results in a monthly obligation of $365.00. *See* NAC 425.145. Such would bring the Desmon's current calculated monthly child support obligation to $782.00. The

monthly out-of-pocket cost for insuring the child, if any, should be equally divided by the parties. *See* NAC 425.135. No additional adjustment evidence was provided pursuant to NAC 425.150.

Desmon argues for a waiver of the child support arrearages as it is undisputed that he maintained *de facto* primary custody since before he stopped making his child support payments to Lacey. The Nevada Supreme Court determined that "equitable defenses such as estoppel or waiver may be asserted by the obligor in a proceeding to enforce or modify an order for child support." *Parkinson v. Parkinson*, 106 Nev. 481, 483, 796 P.2d 229, 231 (1990), *abrogated on other grounds by Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009).

Lacey admits the *de facto* change in custody. She stated that she did not seek support because Desmon was caring for the child. Her request for child support arrears currently, for August 2015 forward, is not supported. Lacey waived her right to collect child support. The child has not consistently resided with Lacey, with the exception of summers, since 2012.

The child support court, in November 2020, considered that Lacey was the primary physical custodian and determined their modified child support obligation was to begin in August 2020. However, the parties were exercising *de facto* joint physical custody during that period. Beginning in

January 2021, the *de facto* arrangement was primary physical to Desmon. As such, the child support court's unspecified arrears are appropriate to be resolved in this Order.

The Court considered NRS 18.010 and the relative income of the parties. With the exception of the last year, the parties have cooperated in their custody of the child, presumably with the best interests of the child at heart. Their cooperation should not be discouraged. As such, each side shall bear their own attorney's fees and costs.

Decision

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that Desmon's motion to modify physical custody is granted and it is in the best interests of the child that the parties are awarded joint physical custody. Lacey is not to partake in drugs. A relapse would be a basis for this Court to revisit this decision.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall continue to share joint legal custody.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, given the joint physical custody determination, Desmon's monthly child support obligation shall be set at $782.00 beginning June 2021. The parties are also directed to equally share in the health insurance premium out-of-

pocket cost for insuring the child. Such support shall continue until further order of the Court, upon a three year review, or substantial change of circumstances.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, Lacey's request to receive child support arrears going back to 2015 is DENIED. However, since the child support court's determination that Desmon's child support obligation of $1,040.00 begin August 2020, when the parties were actually exercising joint physical custody, such necessitates modification by this Court. Desmon's child support between August 2020 and December 2020, when the parties were exercising *de facto* joint physical custody should be calculated at $782.00 per month, for a total of $3,910.00. Lacey's child support obligation for the months of January 2021 through May 2021 should have been set at $365.00 per month because Desmon maintained *de facto* primary physical custody during that time. Such totals $1,825.00. Offsetting those obligations results in the net amount of Desmon's obligation to Lacey, between August 2020 and May 2021, being $2,085.00. Such amount should be reduced by payments made by Desmon to Lacey during that time frame. The child support court is directed to implement this revised calculation as part of its enforcement.

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that it is in the child's best interest that the parties' custodial schedule be defined as follows to permit the child and Desmon's other child to exercise their visits together:

> Week One: Desmon shall have custodial time with the child from Wednesday through Friday.
>
> Week Two: Desmon shall have custodial time with the child from Thursday through Sunday
>
> The balance of the custodial time shall be exercised by Lacey.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are to continue to rotate the tax deduction as stated within the SAO. There is no reason to adjust prior years and the deductions taken were supported by the custody arrangement.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each side shall bear their own attorney's fees and costs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all prior orders, not modified by this Order, shall remain in full force and effect.

IT IS SO ORDERED this 7th day of June, 2021

CHARLES J. HOSKIN
District Court Judge

CHARLES J HOSKIN
DISTRICT JUDGE
FAMILY DIVISION DEPT E
LAS VEGAS NV 89101-2408

Electronically Filed
6/18/2021 10:11 AM
Steven D. Grierson
CLERK OF THE COURT

MOT
Bruce I. Shapiro, Esq.
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Tel: (702) 388-1851
Email: Bruce@PecosLawGroup.com
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff, vs. **Lacey Pictum n/ka Lacey Krynzel,** Defendant.	Case No. **D-10-440022-C** Dept. No. **E** Oral Argument Requested: **NO**

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

MOTION TO ALTER, AMEND, AND CLARIFY ITS FINDINGS AND JUDGMENT

COMES NOW Plaintiff **Desmon Brandes** ("Desmon"), by and through his attorney of record **Bruce I. Shapiro, Esq.,** of the Pecos Law Group and respectfully requests that this Court grant him the following relief:

1. An Order altering or amending its findings and judgment set forth in the "Findings of Fact, Conclusions of Law and Order," filed on June 7, 2021;

2. An Order clarifying its findings and judgments set forth in the "Findings of Fact, Conclusions of Law and Order," filed on June 7, 2021;

3. An Order granting Plaintiff such other and further relief as this Court deems just and proper in the premises.

This motion is made and based on all the papers and pleadings on file herein, the Points and Authorities submitted herewith, the declaration attached hereto, and any further evidence and argument as may be adduced at the hearing of this matter.

DATED this 18th day of June 2021.

/s/ *Bruce I. Shapiro*
Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Tel: (702) 388-1851
Attorney for Plaintiff

POINTS AND AUTHORITIES

I. FACTS

The following findings of fact are set forth within the court's "Findings of Fact, Conclusions of Law and Order," filed on June 7, 2021:

1. Prior to the recent evidentiary hearing, the most recent custodial order was set forth in the parties' Stipulation and Order, filed on July 5, 2011.[1] That Order awarded Lacey primary physical custody, with Desmon having specific visitation.[2]

2. Beginning in late 2011 or early 2012, just months after the order was entered, Desmon began exercising *de facto* primary custody.[3]

3. Defendant Lacey Krynzel ("Lacey") confirmed that since 2011 she had not exercised primary physical custody."[4] Lacey further "confirmed that, following rehab, she left the child primarily with Desmon."[5]

4. For the eight years between early 2012 and March 2020, Desmon had primary custody and Lacey had visitation every other weekend.[6]

5. From March 2020 through December 2021, the parties then shared joint physical custody.[7]

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[1] Findings of Fact, Conclusions of Law and Order ("Order") filed June 7, 2021, at page two, lines 3-4.

[2] Order at page two, lines 4-9.

[3] Order at page four, lines 3-6.

[4] Order at page six, lines 11-12.

[5] Order at page seven, lines 22-23.

[6] Order at pages five through six.

6. From January 2021 through May 2021, Desmon had virtually sole custody.[8] This occurred after "Lacey agreed that the child could remain primarily with Desmon."[9]

Based on the foregoing findings of fact, the court concluded that it was "undisputed that Desmon maintained *de facto* primary custody for the majority of the past ten years."[10] The court ultimately found that "the ongoing and continuing maintaining of *de facto* primary custody to the 'non-custodial" parent for such a substantial period satisfies a substantial change of circumstances affecting the child. Thus, Desmon meets the first prong under *Ellis*.[11] The court also found that Desmon met his burden that a modification would be in the best interest of the child.[12] The court then determined that "Neither party established the other is incapable of adequately caring for the child for 146 days per year," and found that it was in the "best interests of the child that the parties be awarded joint physical custody."[13]

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[7] Order at page six, lines 11-15.

[8] Order at page three, lines 21-27

[9] Order at page six, lines 16-17.

[10] Order at page ten, lines 8-10; *see also* page five lines 5-6.

[11] Order at page 13 lines 17-22.

[12] Order at page 17, lines 7-10.

[13] Order at page 17, lines 9-15. *See also* pages 14 through 17, wherein the court found that three statutory best interest factors favored Desmon, while the remaining factors were neutral.

The court ordered that "Desmon's motion to modify physical custody is granted and it is in the best interests of the child that the parties are awarded joint physical custody."[14] The court then set forth the following regular timeshare:

> Week One: Desmon shall have custodial time with the child from Wednesday through Friday.
>
> Week Two: Desmon shall have the child from Thursday through Sunday.
>
> The balance of the custodial time shall be exercised by Lacey.[15]

The parties' traditional custodial timeshare, for the majority of ten years, revolved around Desmon having school days and Lacey having alternating weekends. In fact, at the conclusion of trial, Lacey only asked for weekends, whether alternating or every weekend. Thus, it appeared the question for the court was whether Lacey would get every other weekend, or more than every other weekend.

Despite the *de* facto primary physical custody for nearly ten years; Desmon having historically had the child during the school weeks; and Lacey's request for only weekend time; the court's decision, appears to give Desmon less than 50% of

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[14] Order at page 19, lines 14-18.

[15] Order at page 21, lines 7-11.

the time, and only 40% of the school nights.[16] The parties were in agreement that Desmond should have the majority of the school nights, as he had for the preceding ten years.

Notwithstanding the issues relating to Lacey that were established at trial, including that Lacey conceded sole custody to Desmon in January 2021 through trial, considering that Desmon has had *de facto* primary custody for the past ten years, and the court's specific best interest findings in favor of Desmon, it does not appear to follow that the court would have intended to give Lacey more time, including more school nights, than Desmon.

II. ARGUMENT

The Court's Order Should Be Amended to Reflect the Court's Findings.

NRCP 52(b) states:

> (b) **Amended or Additional Findings.** On a party's motion filed no later than 28 days after service of written notice of entry of judgment, the court may amend its findings — or make additional findings — and may amend the judgment accordingly. The time for filing the motion cannot be extended under Rule 6(b). The motion may accompany a motion for a new trial under Rule 59.

NRCP 59(e) provides:

> (e) **Motion to Alter or Amend a Judgment.** A motion to alter or amend a judgment must be filed no later than 28 days after service of written notice of entry of judgment.

[16] Desmon requests that the court order specific times for child exchanges. *See* NRS 125C.010.

The court's factual findings do not appear to support the court's custodial orders. The court recognized that Desmon was the child's *de facto* primary physical custodian for the past ten years. The court found that three best interests factors favor Desmon.[17] The court also heard Lacey's request that she be awarded weekend time.

Despite all of this, it appears that the court awarded Lacey more custodial time with the child than Desmon. Desmon believes this was done in error. He believes that based on the court's factual findings, the court should issue a legal finding that the child's best interests are satisfied by designating him as the primary physical custodian, with Lacey having alternating weekends, as was the common practice for most of the past decade. Desmon believes this schedule could be switched during the school's summer recess.

Alternatively, if the court believes that joint physical custody is in the child's best interests, Desmon requests that the court set specific child exchange times, as contemplated in NRS 125C.010.

III. CONCLUSION

Therefore, Desmon respectfully requests that the court grant him the following relief:

1. An Order altering or amending its findings and judgment set forth in the "Findings of Fact, Conclusions of Law and Order," filed on June 7, 2021;

[17] No factors favored Lacey over Desmon.

2. An Order clarifying its findings and judgments set forth in the "Findings of Fact, Conclusions of Law and Order," filed on June 7, 2021;

3. An Order granting Plaintiff such other and further relief as this Court deems just and proper in the premises.

DATED this 18th day of June 2021.

/s/ *Bruce I. Shapiro*

Bruce I. Shapiro, Esq.
Nevada Bar No. 004050
PECOS LAW GROUP
8925 South Pecos Road, Suite 14A
Henderson, Nevada 89074
Tel: (702) 388-1851
Attorney for Plaintiff

Declaration of Desmon Brandes

1. I am Plaintiff in above-entitled action; I am over the age of 18 years; and I am competent to testify to the matters contained herein.

2. The contents of this declaration, as well as the facts contained in the above motion, are 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.

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

/s/ *Desmon Brandes*
Desmon Brandes

June 18, 2021
Date

From: Desmon Brandes <sednarb21@gmail.com>
Sent: Friday, June 18, 2021 8:51 AM
To: Bruce Shapiro <Bruce@pecoslawgroup.com>
Cc: Angela Romero <angela@pecoslawgroup.com>; Jack Fleeman <Jack@pecoslawgroup.com>
Subject: Re: Motion to Amend Findings Et Al. (003)

I authorize Pecos Law Group to attach my electronic signature to the attache motion to ammend finding.

Thanks,

Desmon

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that the foregoing "***MOTION TO ALTER, AMEND, AND CLARIFY ITS FINDINGS AND JUDGMENT"*** in the above-captioned case was served this date as follows:

[**X**] pursuant to NEFCR 9, by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;

To individual(s)/person(s) listed below at the address:

admin email	email@pecoslawgroup.com
Amy Robinson	amy@pecoslawgroup.com
Bruce Shapiro	bruce@pecoslawgroup.com
Angela Romero	angela@pecoslawgroup.com
Lacey Pictum	Laceykrynzel@gmail.com

DATED this 18th day of June 2021.

/s/ *Angela Romero*
Angela Romero,
An employee of PECOS LAW GROUP

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes,
Plaintiff/Petitioner

v.

Lacey Pictum n/k/a Lacey Krynzel,
Defendant/Respondent

Case No. D-10-440022-C

Dept. E

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 06/14/2021.
- ☐ 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: Plaintiff - Desmon Brandes Date 06/18/2021

Signature of Party or Preparer /s/ Angela Romero

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Steven D. Grierson
CLERK OF THE COURT

LACEY KRYNZEL
6530 Annie Oakley #814
Henderson, NV 89014
(702) 472-2955
Plaintiff in Proper Person

DISTRICT COURT

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, LACEY KRYNZEL, Defendant.	Case No. D-10-440022-C Dept No. E ORAL ARGUMENT? YES

OPPOSITION TO MOTION TO CLARIFY

COMES NOW Defendant, in Proper Person, and respectfully responds to Plaintiff's motion as follows:

1. That the court acknowledge the court made its joint physical custody arrangement based on the evidence, and the court has broad discretion as to matters of custody.

2. That the Court acknowledge Plaintiff failed to comply with EDCR 5.501 prior to filing its motion.

3. That Defendant agrees with the courts decision that a joint physical custody arrangement is in the best interest of the child.

This Opposition and Countermotion is based upon all the records and files in this action, Points and Authorities, Declaration of Defendant, and any argument that may be adduced at the time of hearing of this Motion.

Dated this 19th day of July, 2021.

/s/ Lacey Krynzel

LACEY KRYNZEL
Defendant in Proper Person

POINTS AND AUTHORITIES
HISTORY/FACTS

The parties in this matter were never married. There is one minor child the issue of the parties, to wit: PAIGE JOLIE BRANDES (DOB: 4/5/07), presently age 14 years old.

After an evidentiary hearing, the court modified custody from Defendant/Mom having primary physical custody to the parties sharing joint legal and joint physical custody, subject to a timeshare determined in the minor child's best interest. Plaintiff appears not to be happy with the court's decision and is seeking to modify the custody under a "motion to clarify."

The court has broad discretion in custody matters:

> "[m]atters of custody and support of minor children rest in the sound discretion of the trial court...It is presumed that a trial court has properly exercised its discretion in determination a child's best interest." *Wallace v. Wallace*, 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996).

The court held an evidentiary hearing, and determined the child wanted to be with Plaintiff until Defendant is well - due to her past drug use. However, the court has taken drug tests due to the issue being raised by Plaintiff, and Defendant has not demonstrated recent or current drug use. The court considered this fact, and overall awarded the parties joint physical custody - clearly making the decision predicated on Defendant maintaining sobriety.

The court acknowledged both parties are available a minimum of 146 days

per year, and it is the policy of the State of Nevada that, absent any restricting issues - which do not exist at this time - the parties shall be awarded joint physical custody.

The court is well within its discretion to award joint physical custody, as it has done. There are no valid grounds to "clarify" - or more accurately "modify" the custody order. It is not about a sum total of what factors favor one party over the other. There is discretion, and this court in its experience, make a judgment based upon the best interest of the child.

Defendant agrees with the timeshare outlined by the court.

However, the court should note that Plaintiff did not comply with EDCR 5.501 prior to filing this motion.

Defendant requests the court confirm its custody determination in full.

FEES AND COSTS

Defendant requests the court award her fees and costs for having to file an Opposition in this matter pursuant to NRS 18.010, and NRS 125C.250, as Plaintiff failed to comply with EDCR 5.501 and address this matter prior to filing a motion.

CONCLUSION

Based on the forgoing, the Defendant requests the above prayed for relief be granted.

DATED and DONE this 19th day of July, 2021.

/s/ Lacey Krynzel

LACEY KRYNZEL
Defendant in Proper Person

DECLARATION OF LACEY KRYNZEL

STATE OF NEVADA)
) ss
COUNTY OF CLARK)

I, LACEY KRYNZEL, declare as follows:

1. That I am the Defendant in this matter, and everything in my opposition and countermotion is true and correct.

2. That I request the court acknowledge the court has vast discretion as to custody matters. The court held an evidentiary hearing, and the custody was based upon the best interest of the child. It should not be "clarified" - and by that Plaintiff means "modified."

3. I request the court confirm its order.

I declare under penalty of perjury, under the laws of the State of Nevada and the United States (NRS 53.045 and 28 USC § 1746), that the foregoing is true and correct.

/s/ Lacey Krynzel

LACEY KRYNZEL

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of July, 2021, I served a copy of the OPPOSITION TO MOTION TO CLARIFY upon the below-listed party by the below designated method:

_X_Electronic mail (Through Odyssey, the Courts efiling/eserve program)

____U.S. Mail, postage prepaid

____Hand Delivery

____Facsimile Transmission

____Certified Mail, Receipt No._____, return receipt requested.

Address: To all registered service contacts pertaining to this case.

/S/ CYSHA MURILLO

PERSON SERVING

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes
Plaintiff/Petitioner

v. Lacey Krynzel
Defendant/Respondent

Case No. D-10-440022-C

Dept. E

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) Opposition to Motion to Clarify.

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: Defendant Date 7/19/21

Signature of Party or Preparer C. Murillo

Electronically Filed
8/2/2021 9:38 AM
Steven D. Grierson
CLERK OF THE COURT

NEJ
Name: LACEY KRYNZEL
Address: 6530 Annie Oakley #814
Henderson, NV. 89014
Telephone: (702) 472-2955
Email Address: Laceykrynzel@gmail.com
Self-Represented

DISTRICT COURT
CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, vs. LACEY KRYNZEL, Defendant.	CASE NO.: D-10-440022-C DEPT: E **NOTICE OF ENTRY OF ORDER / JUDGMENT**

PLEASE TAKE NOTICE that an Order and/or Judgment was entered in this matter on (*date order was filed-on the upper right corner of the order*) July 22, 2021, a copy of which is attached.

DATED (*today's date*) July 29, 2021.

Submitted By: (*Your signature*) ▸ /S/ LACEY KRYNZEL

CERTIFICATE OF SERVICE

I, (*your name*) CYSHA MURILLO declare under penalty of perjury under the law of the State of Nevada that I served this ***Notice of Entry of Order/Judgment*** on (*month*) July (*day*) 29th, 2021, in the following manner: (***check one***)

☐ **Mail:** By depositing a copy in the U.S. Mail in the State of Nevada, postage prepaid addressed to *(print the name and address of the person you mailed the document to):*

_____

_____

_____

☒ **Electronic:** Through the Court's electronic service system.

DATED (*today's date*) July 30, 2021.

Submitted By: (*Your signature*) ▸ /S/ CYSHA MURILLO

ATTACH A FILED COPY OF THE COURT'S ORDER TO THIS NOTICE

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Electronically Filed
07/22/2021 8:40 AM
CLERK OF THE COURT

ORDR

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff v. Lacey Pictum, Defendant	Case No.: D-10-440022-C Dept.: E Sch. Hearing Date: July 30, 2021

ORDER

Pursuant to EDCR 5.502 (i) this matter came on before the Court on the Chambers Calendar, for decision without a hearing.

This Court has reviewed *Plaintiff's Motion to Alter, Amend, and Clarify its Finding and Judgment under NRCP 52 (b) and NRCP 59 (e)* filed on June 18, 2021 and *Defendant's Opposition* filed on July 19, 2021.

The COURT FINDS that there is no basis for this court to amend its findings or make additional findings, or to modify its order pursuant to NRCP 52(b).

The COURT FURTHER FINDS that there is no basis for this court to alter or amend its judgment entered June 7, 2021 pursuant to NRCP 59 (e).

CHARLES J. HOSKIN
DISTRICT JUDGE
FAMILY DIVISION, DEPT. E
LAS VEGAS, NV 89101-2408

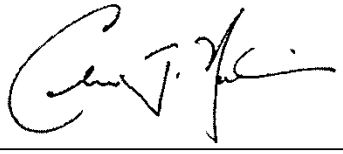
Statistically closed: USJR-FAM-Set/Withdrawn with Judicial Conf/Hearing Close Case (UWJC)

Therefore THIS COURT ORDERS that the Plaintiff's Motion is DENIED.

THIS COURT FURTHER ORDERS that the Order filed June 7, 2021 shall stand and that this CASE IS CLOSED.

IT IS SO ORDERED

Dated this 22nd day of July, 2021



7CA DFF D470 7F67 RVK
Charles J. Hoskin
District Court Judge

CHARLES J. HOSKIN
DISTRICT JUDGE
FAMILY DIVISION, DEPT. E
LAS VEGAS, NV 89101-2408

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Desmon Brandes, Plaintiff.	CASE NO: D-10-440022-C
vs.	DEPT. NO. Department E
Lacey Pictum, Defendant.	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 7/22/2021

Angela Romero	angela@pecoslawgroup.com
Bruce Shapiro	bruce@pecoslawgroup.com
Amy Robinson	amy@pecoslawgroup.com
admin email	email@pecoslawgroup.com
Lacey Pictum	Laceykrynzel@gmail.com

TRANS

FILED
OCT 06 2021
CLERK OF COURT

COPY

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

DESMON BRANDES, Plaintiff, vs. LACEY PICTUM, Defendant.	CASE NO. D-10-440022-C DEPT. E APPEAL NO. 83399

BEFORE THE HONORABLE CHARLES J. HOSKIN
DISTRICT COURT JUDGE

TRANSCRIPT RE: ALL PENDING MOTIONS

TUESDAY, JANUARY 19, 2021

APPEARANCES:

The Plaintiff: DESMON BRANDES (Tel.)
For the Plaintiff: BRUCE I. SHAPIRO, ESQ. (Tel.)
8925 S. Pecos Rd., Suite #14A
Henderson, Nevada 89074
(702) 388-1851

The Defendant: LACEY KRYNZEL (Tel.)
For the Defendant: PRO SE

1 LAS VEGAS, NEVADA TUESDAY, JANUARY 19, 2021

2 **P R O C E E D I N G S**

3 (THE PROCEEDINGS BEGAN AT 8:59:13)

4

5 THE COURT: All right. We are on the record,

6 440022, Brandes Pictum. Mr. Shapiro, your appearance, please.

7 MR. SHAPIRO: Bruce Shapiro, Your Honor, bar number

8 4050.

9 THE COURT: Thank -- thank you. Your client

10 present? Yes.

11 MR. SHAPIRO: He is.

12 THE COURT: All right. And Ms. Pictum? I'm sorry,

13 Ms. --

14 THE DEFENDANT: It's Krynzel.

15 THE COURT: I'm sorry?

16 THE DEFENDANT: I'm sorry?

17 THE COURT: Yes, your name?

18 THE DEFENDANT: Oh, my last name is Krynzel.

19 THE COURT: Oh, it is. I'm sorry. I have it as

20 Pictum. K-r-y --

21 THE DEFENDANT: Yeah, that was my maiden name.

22 THE COURT: Okay. K-r-y-n-z-e-l?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. And you're representing

1 yourself today, ma'am?
2 THE DEFENDANT: Yes.
3 THE COURT: All right. We're here today on the
4 Plaintiff's motion, which I have reviewed as well as your
5 response and the reply that was filed. I got a chance to take
6 a look at that. So Mr. Shapiro, it is your motion. What else
7 do I need to know?
8 MR. SHAPIRO: Yes, Your Honor. The -- the minor
9 child, Paige, she's going to be 14 in April. Pursuant to our
10 motion, she has been in the primary care of Dad for the past
11 10 years. We did not expect Mom to contest that in her
12 opposition, but she has made some pretty bold statements which
13 -- which we believe will be clarified in the child interview
14 and/or an evidentiary hearing. Since we filed the motion, Dad
15 has continued to have de facto joint physical custody but we
16 believe that Mom has been and has either continued or resumed
17 using drugs.
18 Since we filed the motion, we believe much has
19 changed and Dad is now seeking primary. An evidentiary
20 hearing either way, however, is going to be required because
21 Mom is denying that Dad has at least joint physical custody.
22 Since we filed the motion, we've had multiple reports of drug
23 use. We've been informed that she was terminated from a job
24 for drug use in 2018. Her siblings have attempted to

1 intervene in her drug use. We filed this as a supplemental
2 affidavit. The minor child sent Dad a video that appears to
3 show her mom under the influence of drugs last week.
4 We believe late last week over the weekend CPS had
5 -- has also become involved. We do not know whether C -- CPS
6 ordered a drug test. We don't believe that CPS took any
7 immediate action because the child is safe with Dad. The
8 child was afraid to return to Mom and texted Mom that. And
9 Mom, you know, pursuant to the supplemental affidavit, Mom
10 said I'm sorry and basically okay, you can stay with Dad. So
11 that's where we're at right now. The child is with Dad. We
12 believe there is CPS involvement. We believe there is CPS
13 involvement. We believe Mom is using drugs. We would request
14 that the Judge -- that the Court interview the child, order
15 Mom to take a drug test, open up discovery and set an
16 evidentiary hearing.
17 Again, we originally were -- were asking that the
18 Court modify the order to confirm the de facto prim -- joint
19 physical custody. Mom contested that there was joint custody.
20 So that would require an evidentiary hearing based upon those
21 cir -- change of circumstances. But at this point, we are
22 asking for primary and depending upon the drug test, the Court
23 may order supervised visitation.
24 THE COURT: Just clarifying --

1 MR. SHAPIRO: There's some final -- financial issues
2 as well, but I think that it's going to be important to
3 address the custodial issues first.
4 THE COURT: All right. Just clarifying, I know your
5 motion was filed more than a month ago and you sort of
6 intimated it during your argument, but as far as what has been
7 the status quo for visitation, is it still on a week -- two
8 week rotation with Dad Thursday to Sunday in week one and
9 Wednesday to Friday in week two?
10 MR. SHAPIRO: Essentially, yes. That's -- that's
11 the way it was since last year. And again for the previous 10
12 years it's Dad's position that he actually had primary custody
13 and Mom had limited contact because of her drug use.
14 THE COURT: But there has been ongoing contact with
15 the child and Mom essentially close to a 40 percent swing at
16 least since August?
17 MR. SHAPIRO: Can you clarify that for me?
18 THE COURT: Yeah, the -- the --
19 MR. SHAPIRO: I'm -- I'm not sure what you mean.
20 THE COURT: What I -- what I pulled out of your
21 motion was the status quo as of August was Dad had Thursday to
22 Sunday in week one and Wednesday to Friday in week two. And I
23 know there's been --
24 MR. SHAPIRO: Correct.

1 THE COURT: -- CPS and CP -- you indicated that CPS
2 -- I haven't seen the CPS records. I didn't know CPS was
3 involved, but indicated that they were okay because of the
4 safe placement with Dad. But it sounds like Mom's having some
5 ongoing contact as well.
6 MR. SHAPIRO: Well, the CPS invol -- the recent CPS
7 involvement, I mean, Mom's had multiple CPS contacts. This
8 motion -- most recent CPS contact has just been in the last
9 week.
10 THE COURT: Okay. All right. That would explain
11 why I didn't have those records then. All right. Thank you.
12 Ma'am, what would you like to tell me?
13 THE DEFENDANT: I'm -- hi, I'm sorry. I'm not sure
14 if this is where I say it, but I -- I just received all of
15 this new evidence in the mail from Des and his lawyer on
16 Saturday. And I have not had a chance to respond. I have not
17 a chance had to -- I mean, the evidence that's in here, I
18 mean, in -- within the last week this whole case has turned
19 from back child support and previous into now what is
20 accusations of drug use. And it's all been within the last
21 several weeks and that's it. There has -- in the beginning of
22 Desmon's motion, they say in there that it is -- it appears
23 that Lacey is over her addiction and over her demons. And
24 that's stated in there. And there was no prior -- I -- there

1 was no ever -- me -- me and Desmon have not had any fights.
2 We have not had any arguments about drug use, about drug
3 history, about anything like that. These have all been very
4 recent accusations. I understand that video was recorded by
5 my daughter and that the explanation that goes with that is
6 not what is -- is happening. So I -- I, at this time, would
7 like to see if I can get a continuance because I need to -- I
8 feel like it's in my best interest to seek counsel now.
9 THE COURT: Okay. The -- the question that -- that
10 I'm toying with today is not making a -- a change of custody.
11 It's whether I have a basis to set further proceedings to
12 consider a change of custody. So based -- just -- just to
13 kind of bring you up to speed, the last custody order I have
14 is primary physical custody to you. The standard I have to
15 look at comes from a case called Ellis. So there has to be a
16 substantial change of circumstance affecting the child and
17 best interest. So a threshold showing on those two factors
18 would indicate that I need to set further proceedings,
19 evidentiary proceedings with regard to Dad's request to
20 modify.
21 It appears as though we've met those threshold
22 standards. So my intention today is to set an evidentiary
23 proceeding and allow him to present evidence to convince me
24 that it's in the child best interest to make a change, whether

1 that has to do with situations or issues regarding you or
2 simply what's happened in the past in the status quo, I leave
3 to them to present. But that's kind of where I sit today. So
4 understanding that today is not the last hearing on this
5 issue, are you still requesting a continuance?
6 THE DEFENDANT: I mean, yeah, I -- I really would
7 like one. I -- I -- with all the -- the new information and
8 it's -- it's so personally damning, if you don't mind me
9 saying, that I -- I -- like I'm just -- I feel like I
10 absolutely have to have counsel now.
11 THE COURT: Okay. All right. Well, what I'm going
12 to do then -- like I said, just a matter of threshold that it
13 is Dad's burden because he's requesting the modification. So
14 I'm not seeing this as a -- as a detriment to you not having
15 counsel at this point in time especially since these issues
16 were -- if not specifically alleged, were referenced in the
17 moving papers back in November. So I don't know that we have
18 too much of a surprise with regard to this.
19 So what I'm going to do ma'am is I'm -- I am going
20 to send you out for a drug test. We'll get you -- email that
21 information to -- to allow you to do that. Mr. Shapiro, I am
22 going to have your client front the cost of that test. And
23 certainly that'll -- that may resolve some of the issues or
24 concerns ma'am that -- that have been raised. And just so

1 you're aware, while I have reviewed -- well, I haven't
2 reviewed the video because I didn't receive the video; I knew
3 that it was coming but I hadn't received it yet which may be a
4 COVID situation, I don't know, but I did review the -- the
5 text messages and certainly they can be taken out of context
6 or not, but I'm -- certainly allow you to -- to have time to
7 get Counsel before we set your evidentiary proceeding.
8 In the meantime, I am going to leave -- well, let me
9 ask you this question, ma'am. You indicated that since August
10 it's been week on week off which is a little different than
11 Dad's schedule. What is your position today as to what the
12 status quo has been with regard to contact with your daughter?
13 THE DEFENDANT: The status quo since the pandemic,
14 since the shutdown, and since school was stopped in March,
15 Paige was with me during -- Monday through Friday and then my
16 weekends and then she would go see her Dad every other
17 weekend.
18 THE COURT: Yes, ma'am. I understand --
19 THE DEFENDANT: That --
20 THE COURT: -- that. My question is --
21 THE DEFENDANT: That schedule --
22 THE COURT: -- from August -- August of 2020.
23 THE DEFENDANT: Oh, I'm sorry. From August, it
24 switched to where it's completely 50/50 now and it's -- I have

her Sunday, Monday --

THE COURT: Okay.

THE DEFENDANT: -- Tuesday, Wednesday of one week and then the following week it is Sunday, Monday, Tuesday.

THE COURT: All right. So -- so pretty much how I laid it out when I was talking to Mr. Shapiro.

THE DEFENDANT: Yeah. Yes.

THE COURT: So the way that Dad indicated that it had been not essentially a week on week off. Is that correct?

THE DEFENDANT: Yes.

THE COURT: Thank you. So what I'm going to do is pending re -- review of the drug test results, I'm going to leave that temporary schedule in place. If the drug test don't cause me any concern, then I will maintain that schedule in place. If it causes me concern, I will enter a minute order that modifies that. We'll set your evidentiary proceeding for June 1st at 1:30. Your calendar call will be May 18th at 11:00 a.m. My staff will put together a scheduling order that we'll -- we'll email that to you, ma'am. Mr. Shapiro, we'll -- we'll get that one to you as well outlining the dates and deadlines, ma'am.

When you do retain counsel, make sure you get that to your attorney so that they can prepare appropriately for the upcoming evidentiary proceedings. I will take evidence

1 moving forward on that. Certainly -- there may be further
2 issues to deal with after we take a look at the drug test with
3 -- it appears that we have a stipulation that we're at -- had
4 joint physical custody at least on a -- on a temporary basis.
5 I don't believe -- let me double check. Yeah, I don't have a
6 financial disclosure form from you, ma'am. I do need you to
7 get one on file. Can you get that in the next seven days?
8 THE DEFENDANT: A financial disclosure?
9 THE COURT: Financial disclosure form, yes. You can
10 pull that from the Self-Help Center.
11 THE DEFENDANT: Okay. Okay.
12 THE COURT: But I need to get that on file so that I
13 can make a -- a child support -- a temporary child support
14 order.
15 THE DEFENDANT: Okay.
16 MR. SHAPIRO: And Your Honor, would you consider
17 having the child interviewed ASAP? I -- I think there's three
18 issues that would be addressed. One would be concerns
19 regarding Mom's drug use, two, what has the status -- the --
20 the custody status quo been for the last 10 years. And three,
21 whether or not the child does have any fear of Mom.
22 THE COURT: Yeah, my -- my hesitation with having
23 children interview always is whether we're over involving them
24 in -- in litigation and putting them in a situation which was

1 detrimental rather than beneficial to their best interest. So
2 what I'm going to do, Mr. Shapiro, is I'm going to defer on
3 that mainly because one of those questions may resolve itself
4 with the drug test that we get back. So with the minute order
5 that I will enter after reviewing the drug test, I will
6 address the child interview question. Ma'am, do you have
7 concerns with regard to the child being interviewed?
8 THE DEFENDANT: Yes, I do.
9 THE COURT: Okay.
10 THE DEFENDANT: I -- I --
11 THE COURT: Tell --
12 THE DEFENDANT: -- don't want her --
13 THE COURT: Tell me your concerns.
14 THE DEFENDANT: -- to be. I don't want her to have
15 any additional stress put on her at all.
16 THE COURT: Okay. All right. You -- do you think
17 she's not --
18 THE DEFENDANT: And if I might --
19 THE COURT: -- mature enough?
20 THE DEFENDANT: -- add --
21 THE COURT: Do you think she's not mature --
22 THE DEFENDANT: Oh, I'm sorry.
23 THE COURT: -- enough --
24 THE DEFENDANT: Go ahead.

1 THE COURT: -- to deal with it, or what's the
2 concern?
3 THE DEFENDANT: The concern is having spoken to her
4 before about if ever having to talk in a situation like this
5 and hearing her response and seeing her emotion of how upset
6 she would be. I -- I just don't think it would be -- I just
7 don't think it's good for her or --
8 THE COURT: Okay.
9 THE DEFENDANT: -- for any of us.
10 THE COURT: All right. Certainly, I will consider
11 that and I will -- I will -- if -- if I do send her for an
12 interview, Mr. Shapiro, I will enter that order to have her
13 sent to the mediation center for an interview utilizing
14 whatever --
15 MR. SHAPIRO: Your Honor, perhaps --
16 THE COURT: -- protocols they're using at the time.
17 MR. SHAPIRO: -- if -- if you're able to -- to
18 review the CPS file from the last week or so, that may help
19 you with that decision as well.
20 THE COURT: Yeah, and -- and I -- I made a note to
21 request those -- those records as well. So we'll take a look
22 at them. All right. I think that that resolves or defers the
23 issues that I had before me today unless either side is aware
24 of something that they need me to clarify.

1 MR. SHAPIRO: I think the -- the additional issues
2 can be clarified at the next hearing, Your Honor.
3 THE COURT: All right. All right. Then ma'am, take
4 a look in your email for those -- those referrals. The drug
5 test will need to be done today. So make sure you take a look
6 at that, okay?
7 THE DEFENDANT: Okay.
8 THE COURT: Mr. Shapiro, do you want an order from
9 today?
10 MR. SHAPIRO: I'll prepare it, Your Honor.
11 THE COURT: Thank you.
12 MR. SHAPIRO: Thank you.
13 (PROCEEDINGS CONCLUDED AT 9:14:16)
14 * * * * * *
15 ATTEST: I do hereby certify that I have truly and
16 correctly transcribed the digital proceedings in the above-
17 entitled case to the best of my ability.
18
19 Adrian Medrano
20
21 Adrian N. Medrano
22
23
24