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IN THE SUPREME COURT OF THE STATE OF NEVADA

STEPHANIE RUBIDOUX, Appellant, vs. DANIEL RUBIDOUX, Respondent.	Case No.: 83628 **APPELLANT'S APPENDIX, VOLUME III**

APPEAL

Appellant's Appendix, Volume III

DATED this 10th day of December, 2021.

/s/ Alex Ghibaudo
ALEX B. GHIBAUDO, Nevada Bar No. 10592
ALEX B. GHIBAUDO, PC
Attorney for Appellant

Certificate of Service

Pursuant to NRAP 25, on December 10th, 2021 APPELLANT'S APPENDIX, VOLUME III was served upon each of the parties to appeal 82444 via electronic service through the Supreme Court of Nevada's electronic filing system.

/s/ Alex Ghibaudo

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An Employee of Alex B. Ghibaudo, PC

RUBIDOUX v. RUBIDOUX

Docket No. 83628

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1 Stephanie?
2 A No.
3 Q Okay. So there's a loud noise in one of those
4 videos and I think it's the one that you're talking about.
5 A Yeah.
6 Q Do you recall that?
7 A Yes.
8 Q Were you breaking something in the house at that
9 time?
10 A No, it was -- it was either a half used juice box or
11 a lunch or something like that I was throwing in the garbage.
12 Q Okay. And do you -- were you -- you doing it with
13 force?
14 A Yes. Yes.
15 Q Okay. And just very quickly, I mean, we've -- you
16 have acknowledged that -- that you've caused some damage to
17 the house at times, yes?
18 A Yes.
19 Q All right. And has Stephanie caused damage to the
20 house?
21 A Yes.
22 Q What kind of damage has Stephanie caused?
23 A We both put holes in walls at some point or another
24 but she also broke a -- a drawer in our master bathroom two or

1 three times. She shattered the medicine cabinet, her medicine
2 cabinet. She broke tile with beer bottles. And there was --
3 she's also broken a watch and my -- both these glasses and my
4 sunglasses that are prescription. And she threw a bunch of
5 other things. I -- I can't remember all of them.
6 Q Has -- has she -- so you're -- you're saying that
7 she physically hit you as well, yes?
8 A Yes.
9 Q And how often did she physically hit you?
10 A It was -- it had -- it was -- it wasn't a bunch, but
11 I mean, it was -- it was probably like five times possibly.
12 Q Okay. Has -- was there ever an altercation between
13 you and Stephanie that was any more severe on your part
14 against her than what we've seen in these videos?
15 MR. PAGE: Objection, leading.
16 MR. BLACKHAM: That's a yes or no question.
17 THE COURT: Overruled.
18 THE WITNESS: No. I was injured more in every
19 single one.
20 BY MR. BLACKHAM:
21 Q What was that?
22 A I was injured more in -- in those videos.
23 Q Okay.
24 MR. BLACKHAM: Now, I think that was -- was that 40?

1 That was 44, yes. All right. So can we do 37, please?
2 1:58:34
3 (VIDEO PLAYED)
4 Q All right. What did you mean this is called
5 dragging it out? What were you saying?
6 A I'm just trying to end it. I said let's just go to
7 bed, deal with it some other time.
8 Q End what?
9 A The argument that was going on and Riley's right
10 there. I'm trying to just stop it. And --
11 Q What were you arguing about?
12 A Obviously, I woke her up but I don't remember how or
13 what -- what ended up happening with that.
14 Q Did -- did she -- in your opinion, did she seem
15 afraid of you at that day?
16 A No.
17 Q Did -- did she tell you she was afraid of you that
18 day?
19 A No.
20 Q Okay. Okay. Let's talk about -- I think that's it
21 for the videos. Let's talk about the January 2018 incident at
22 school. Well, actually, you know what, the -- there were two
23 incidents at school that the principal testified to earlier,
24 right?

1 A Yes.
2 Q Okay. And which one was first? I just want to deal
3 with them chronologically.
4 A The first one was when I was there and then she left
5 with me.
6 Q Okay. So not the window incident. The one -- but
7 this is earlier. So this would have been the same year? Was
8 it 2018 or 2017 or do you know?
9 A I believe it was the same year. Yes.
10 Q The window incident was January 2018, correct?
11 A Yes.
12 Q Okay. So was this that same month?
13 A No, actually, it was before that thing because it
14 would have been 2017 if it -- yeah.
15 Q Okay. Now, you -- you will recall that the
16 principal testified that -- that you had arrived and that you
17 wanted Stephanie to leave and that she didn't want to go. Do
18 you recall that?
19 A Being there, I remember it was --
20 Q Do you recall the testimony is what I'm asking you?
21 A The testi -- yes.
22 Q Okay. So -- so tell us what happened that day to
23 the extent that you remember.
24 A I don't know if we were even arguing that day. I

1 don't remember why I was there, but I -- I was there to talk
2 to her real quick. Riley was with me. And then that's when
3 the principal came around and started talking to us. And then
4 asked her if she needed to leave and then she left with me.
5 Q And do you recall why she left with you?
6 A I don't.
7 Q Do you recall threatening her to get her to leave?
8 A No, I wasn't threatening her and I don't know if
9 that was because of something for work or if that was
10 something like a marriage problem we were having. It was -- I
11 don't remember exactly what the context was why I was there.
12 Q Okay. But do you -- do you remember if you were --
13 if you were attempting to force her to leave, do you think you
14 would remember that?
15 A Yeah.
16 Q Okay. And were you attempting to force her to
17 leave?
18 A No.
19 Q Okay. So now into January 2018 I would say. Right.
20 Tell us -- first of all, you -- you went to -- you went to
21 school. You went to her school while she was there and it was
22 after school hours, correct?
23 A Right. Correct.
24 Q Okay. Had you done that before?

1 A Yes.
2 Q How many times before do you think you've done that?
3 A A bunch of times even during school like during her
4 preps and stuff since I would come by to help her move
5 furniture, eat lunch with her, since it was after school --
6 normally the ones after school was because we were trying to
7 change gears and not fight in front of Riley. So if we were
8 having a disagreement that day which I am -- talk about it
9 before, one of us had to go pick up Riley.
10 Q Right. And so is that -- is that what happened? Is
11 that why you were there in January of 2018?
12 A Yes, to talk to her about some disagreement we had
13 because I was the one picking up Riley that day.
14 Q Did she know that you were going to be coming?
15 A Yes.
16 Q All right.
17 A Yes.
18 Q So it was not a surprise to her when you arrived?
19 A No.
20 Q Now, help us understand the logistics of -- of where
21 the door is with the window as -- and in conjunction with
22 where Stephanie's office is.
23 A Yes, and when you park in the front and you walk up
24 now -- the guy -- the groundskeeper guy, I think it was a

1 groundskeeper guy. He's seen me there before. So he opened
2 the door for me. He said hello to me and let me in. There
3 was a giant courtyard in the middle basically. And where her
4 room was was the very last room at the end of the -- the
5 hallway closest to the doors that come out. After school
6 hours closed technically -- or maybe even all day, I don't
7 know, but the doors locked. So I had to hit the door --
8 Q Is this the door directly into the -- into the
9 building?
10 A Into the hallway and then her room's like right
11 there as soon as you come in.
12 Q Is it the first office inside?
13 A It's -- yeah, I believe -- yes. Pretty sure. There
14 might be one next to it but I can see straight in her room
15 from outside.
16 Q Okay. And -- and how far away from her door is it
17 if you -- if you can tell?
18 A Five feet, maybe.
19 Q Okay. So about -- so then now you've done this
20 before?
21 A Yes.
22 Q Okay. And so you've encountered the door being
23 locked?
24 A Yes.

1 Q And what did you do typically when you encountered
2 the door being locked?
3 A I would normally call or I hit the door loud enough
4 to get her attention.
5 Q Okay.
6 A And I think the argument was a little heated. I
7 don't think she was even looking at her phone at that point.
8 Q Okay. So are you -- and so you -- you tapped on the
9 door that way as well on -- in January of 2018?
10 A Yeah, that's -- yeah, that's the school incident.
11 Q No, I understand that. But you said -- my question
12 was had you ever done that as a means to get Stephanie's
13 attention prior to January of 2018?
14 A Yes.
15 Q Okay. And that's -- and that's what you did that
16 day as well.
17 A Yes.
18 Q Did you -- did you see her from the window?
19 A Yes.
20 Q Okay. And did you try to get her attention?
21 A Yes.
22 Q Okay. And what did you do?
23 A I open palm hit the door.
24 Q Okay. With what hand?

1 A With -- with my left hand. Yeah.
2 Q Okay.
3 A Yeah.
4 Q And were you wearing a ring at that time?
5 A Yeah, a heavy tungsten wedding band.
6 Q Okay. And what happened?
7 A The window shattered.
8 Q Okay. Were you surprised when the window shattered?
9 A Yes.
10 Q Were you trying to damage the window?
11 A I did not go to school with the intention of
12 breaking a window. No.
13 Q Okay. Did you -- what -- what happened then? Tell
14 -- tell us the events.
15 A I panicked. I should have just stayed in hindsight.
16 But I -- I panicked. I didn't know what to do. I took off.
17 And that's when they called -- she called CCSD police. They
18 came down and she filed a report and her -- you know, which
19 then she drove the police to my mom's house where Riley was,
20 where I was, and had them -- them arrest me for like a bunch
21 of different charges that were all eventually dropped anyways.
22 But -- and then when I finally got to see the police report, I
23 was -- it was a heated day for sure, but the -- the statement
24 she put was stretched and her exact response to that was that

1 the police officer said if you don't write down exactly what I
2 want --
3 MR. PAGE: Objection, hearsay.
4 THE COURT: Sustained.
5 MR. BLACKHAM: And Your Honor, he's sound -- he's
6 telling -- he is reporting something Stephanie reported to
7 him.
8 MR. PAGE: No, he's telling what the officer --
9 MR. BLACKHAM: It -- it -- it's Stephanie's
10 representation --
11 MR. PAGE: Then --
12 MR. BLACKHAM: -- of what the officer --
13 MR. PAGE: -- double hearsay then.
14 MR. BLACKHAM: Ma'am -- I'm sorry, Your Honor, the
15 -- what -- it doesn't -- it's not double hearsay necessarily.
16 I don't know if -- if it's true. The point is Stephanie said
17 it. I don't know what the officer said. I know what
18 Stephanie told my client the officer said. It's not being
19 presented for the truth of the matter asserted and the
20 statement. It's being presented as to what he was told by
21 Stephanie.
22 MR. PAGE: It's still hearsay, so --
23 MR. BLACKHAM: It's not hearsay.
24 MR. PAGE: -- if Stephanie --

1 MR. BLACKHAM: It's not for the truth of the matter.
2 MR. PAGE: -- gets back up on the stand saying I
3 didn't -- the officer didn't say that, then it's --
4 MR. BLACKHAM: But I'm not --
5 MR. PAGE: -- it's still hearsay.
6 THE COURT: But yeah, he -- he's right that he's not
7 offering it for the truth that it was -- the officer said it
8 or not. What Stephanie said to him is not hearsay.
9 MR. BLACKHAM: Thank you. So it's overruled, Your
10 Honor?
11 THE COURT: Yes.
12 MR. BLACKHAM: Thank you.
13 BY MR. BLACKHAM:
14 Q So please continue -- or -- or resume because I
15 don't -- that got interrupted.
16 A Her response was because I was kind of like --
17 that's a little much because now I've got a big mess on our --
18 Q Hang on. I -- so you saw the report what --
19 A Right.
20 Q -- you wrote. And you -- and -- and you confronted
21 Stephanie -- and not -- I'm not saying violently but you --
22 you took exception to it and you talked to Stephanie about
23 what’s in the report?
24 A Yes.

1 Q Okay. And then she responded to that?
2 A Yes.
3 Q And what did she say?
4 A She said the officer told her if she didn't write
5 down exactly what he wanted to hear then she was going to go
6 to jail too.
7 Q Okay. Now, why was she worried that she -- why did
8 she -- did she indicate why she thought she might go to jail?
9 A No.
10 Q She just thought she would go to, remember?
11 A It was -- I -- I can't remember. I can't remember
12 exactly.
13 Q But did you get -- did she indicate to you that she
14 wanted to call the police?
15 A No.
16 Q Okay. She told you she had to call the police?
17 A Yes.
18 Q Okay. Did she ultimately cooperate with that
19 prosecution?
20 A Yes, she went to the hearing with me.
21 Q Okay. But was she at the hearing as a witness
22 against you or was she at the hearing supporting you?
23 A Supporting me.
24 Q All right. What happened with that case?

1 A Everything was completely dismissed and dropped a
2 hundred percent.
3 Q You -- you heard Stephanie's testimony that you made
4 her take an anger management class for you?
5 A Yes.
6 Q Is that true?
7 A I didn't make her take it.
8 Q Okay. Was an anger management class required in
9 that case?
10 A No.
11 Q All right. Why did -- was there an anger management
12 class taken by anyone?
13 A Yes.
14 Q Who took it?
15 A Stephanie did.
16 Q Why?
17 A She wanted to kind of show good faith that she
18 wanted to do a step in the right direction and turn this whole
19 thing around and she was -- she offered -- said I want to -- I
20 -- I'll take -- I'll take this online course and we'll just
21 send it in with you.
22 Q But it wasn't required.
23 A It was not required.
24 Q So why -- why did she want to do that if she told

1 you --
2 MR. PAGE: Objection, foundation, speculation.
3 A She's -- extra help.
4 BY MR. BLACKHAM:
5 Q If she told you.
6 A Yes.
7 Q Extra help for what? What does that mean?
8 A Just it was her idea thinking that it might look
9 good when we get there.
10 Q Okay. Was that what she told you?
11 A Yes.
12 Q Okay. Now, do you recall Stephanie's father's
13 testimony regarding Halloween of 2019?
14 A Yes.
15 Q Do you recall that he indicated that you didn't want
16 to participate and that you sped off?
17 A Yes.
18 Q Do you recall that testimony?
19 A Yes.
20 Q Tell us about Halloween 2019.
21 A 2019 was the year we -- we wanted to make it more
22 about us not going or so we -- and Riley was a little bit
23 older at that time. So -- and I actually did all the shopping
24 for the unicorns. Well, she bought -- Stephanie bought

1 Riley's unicorn outfit and I --
2 Q Slow down. Slow down. Slow down. Take -- take a
3 deep breath --
4 A All right.
5 Q -- because you're -- you're talking real fast.
6 A All right.
7 Q All right. So deep breath. All right. Tell us
8 about Halloween 2019.
9 A Stephanie's parents came over to hand out candy for
10 us while we took Riley trick-or-treating.
11 Q Okay. And did you dress up?
12 A Yes.
13 Q What did you dress up as?
14 A A unicorn.
15 Q Okay. Did you participate in the Halloween events
16 of that day?
17 A Yes.
18 Q Did you speed off in your car that day?
19 A No.
20 Q Okay. Did you --
21 MR. BLACKHAM: Okay. Court's indulgence.
22 Q You heard testimony that there was one occasion that
23 you slept in Stephanie's car outside of her parents' house.
24 A Yes.

1 Q Is that true?
2 A Yes.
3 Q Tell -- why did you do that?
4 A I was just -- just, you know, we both made mistakes
5 but I was distraught and upset and struggling with realizing
6 our marriage was probably not going to work and Riley was
7 going to be in separate households. And it was a bad move on
8 my part, but, you know, I -- I just wanted to try and
9 reconcile things, even though I knew -- like looking back it
10 was impossible, but that was the same day I was also really
11 bloodied up. And the only reason with her car is because she
12 had leather seats and I didn't.
13 Q Hold on. You were blood -- what day was this then?
14 A That was May 2nd.
15 Q This was -- this was the incident that we saw where
16 you were hanging on the car?
17 A Yes.
18 Q Okay. So following that incident, you parked
19 outside her parents' house and stayed overnight in the car?
20 A Yes.
21 Q Okay. And so when you say you're bloodied up, it's
22 from the injuries that you testified earlier to --
23 A Yes.
24 Q -- that you sustained from that --

1 A Yes.
2 Q -- yes? Okay. And those injuries -- just to be
3 clear, did Stephanie hit you with her body?
4 A No, she did not.
5 Q Okay. So they were sustained because of the -- you
6 being on the vehicle?
7 A Yes.
8 Q Okay. So you -- you were -- were you trying to
9 intimidate her in any way by being outside the house in her
10 car?
11 A No, I wanted to talk to her. That was pretty much
12 it. That's -- that's when I talked to her father and he said
13 don't go to the hospital because you can get her in trouble.
14 Q All right. So the -- I -- I think that -- was there
15 any other time that you slept in her car?
16 A No.
17 Q All right. Did -- you -- you've had some --
18 obviously, you guys have been separated now, and we'll get
19 into the -- the separation. But you've been separated now
20 since when?
21 A November 5th, 2019.
22 Q Okay. Since that time have you -- how -- have you
23 gained any -- what you might consider perspective concerning
24 your marriage? Do you --

1 MR. PAGE: Obje --
2 Q -- feel different -- strike that.
3 MR. PAGE: Objection, asks for a narrative response.
4 BY MR. BLACKHAM:
5 Q Do you -- do you --
6 THE COURT: Do you want to reask the question? Do
7 you want to --
8 MR. BLACKHAM: Yeah, no. I do. I should strike
9 that. I'm sorry.
10 THE COURT: Okay.
11 Q The -- the -- it was inelegant. Do you think you're
12 a different person now than you were prior to your separation?
13 A Yes.
14 MR. PAGE: Objection, asks for a narrative response,
15 leading, relevance.
16 THE COURT: Overruled.
17 BY MR. BLACKHAM:
18 Q And how are you different?
19 A It's -- I'm happier, I guess. And I -- I spent all
20 those years in a toxic relationship not understanding how
21 miserable it really was and actually how much happier I am on
22 my own by myself, how much I am better with Riley, how much
23 more quality time like we spend together. Everything is
24 better. There's no stress really. There's much -- when I

1 come home there's no arguments. It's -- it's way better. And
2 it's something I just kind of refused to acknowledge
3 throughout the entire marriage, even though people told us
4 that it was like that.
5 Q Why did -- why didn't you leave -- why -- why didn't
6 you separate for good prior in November of 20 -- of -- of --
7 MR. PAGE: Objection, relevance.
8 Q -- 2019?
9 THE COURT: Overruled.
10 THE WITNESS: I just wanted to -- I -- I didn't want
11 to get divorced. I wanted to just stick together as a family.
12 We were actually trying to have another kid and I thought it
13 was going to go in a better direction. And I -- I was just
14 blind by how bad it really was the whole time, how much worse
15 it was getting over time.
16 BY MR. BLACKHAM:
17 Q Did you love Stephanie?
18 A I did.
19 Q Did you -- when you say toxic relationship, right,
20 are you suggesting that it was toxic because of Stephanie
21 only?
22 A No.
23 Q What was it -- what -- when you say toxic, what do
24 you mean by that?

1 A Like we -- we both would argue or have bad
2 situations happen. And it just kind of -- we both -- I think
3 we both just built up resentment for one another. And we've
4 -- we had trigger words that would just -- we -- we say them
5 and then it's almost like we were just doing them back and
6 forth and over time it just got worse and worse and worse. We
7 had a -- we completely resented each other in the end even
8 though we were thinking of having another baby might fix it,
9 but it's -- yeah.
10 Q When you say trigger words, was -- remember the
11 video where you were driving and there was a Peter Cottontail
12 song playing?
13 A Yeah.
14 Q And the word bitch was used --
15 A Yeah.
16 Q -- insensitive.
17 A Yeah.
18 Q Were those examples of the trigger words you're
19 talking about?
20 A Yeah.
21 Q Okay. Did -- did she say those kinds of things to
22 you often?
23 MR. PAGE: Objection, leading still.
24 THE COURT: Overruled.

1 THE WITNESS: I mean, as the argument grew, then
2 yeah. So those would happen.
3 BY MR. BLACKHAM:
4 Q Has she said -- did she say those kinds of words in
5 any event aside from the one that we saw in the video?
6 A Yes.
7 Q Okay. And how many times before that, if you know?
8 A I don't remember exactly. It's almost like our
9 trigger words started to cycle out. After awhile we'd have
10 different ones and stuff. So it's just -- they were just
11 small phases, it's relevant.
12 Q But she would indicate that you were sensitive?
13 A Yes.
14 Q Too sensitive?
15 A Yes.
16 Q You heard Stephanie's testimony in May that she was
17 -- I don't remember the exact word she used, but she was
18 inpatient in a -- in a psych -- or basically inpatient at a --
19 at a mental health facility.
20 A Yes.
21 Q And do you recall that she said that that was
22 because she was raped?
23 A She never told me that.
24 Q Okay. Did you hear her testimony in May --

1 A Yes, I did.
2 Q -- that -- okay. And did you hear her testimony
3 that you knew that that's why she was there?
4 A Yes.
5 Q Okay. And is that true?
6 A No.
7 Q Did she ever tell you that she had been raped and
8 that's why she went into the -- the mental health facility?
9 A No.
10 Q All right. Did she tell you why she went to the
11 mental health facility?
12 A Her reasoning behind that was that she wasn't
13 getting along with her mother and she said it was because she
14 was at the teenage days where they just weren't getting along
15 and there was a lot of fighting and her mom took her and
16 admitted her for -- for that reason. That's what she told me.
17 Q It didn't involve any assault on her by any third
18 party?
19 A Okay. Did -- did Stephanie ever tell you that she
20 suffered from any kind of mental illness?
21 Q Yes.
22 A What did she tell you?
23 Q Personality disorder.
24 A And anything else?

1 Q It started as bipolar but then it just -- I think it
2 just got lumped in to be called personality disorder.
3 A Are those words that she used?
4 Q Yes.
5 A When did she first tell you that she had -- well,
6 first of all, what was the term she used the first time she
7 told you?
8 Q
9 A Bipolar.
10 Q And when did she tell you that?
11 A Before we got married.
12 Q Okay. And what did she tell you about that
13 condition, if anything?
14 A It was normally after an argument she would tell me
15 things like she struggles with empathy or compassion or
16 putting herself in someone else's shoes or also facial
17 expressions or doing things that like she knew would hurt the
18 other person but still didn't (indiscernible) type.
19 Q She used the word -- she used the words lack of
20 empathy?
21 A Yes.
22 Q And she indicated to you that that was part of the
23 bipolar or mental or behavior -- behavioral disorder?
24 A Yes.

1 Q Okay. And did she tell you -- did she mention --
2 did she associate those characteristics with that condition?
3 We're just going to treat it as a single condition, with that
4 -- with two names.
5 A Yes.
6 Q Did she do that more -- on more than one occasion?
7 A Yes.
8 Q How many times, if you recall, did she do that?
9 A From -- dating til the divorce filing of -- too many
10 to count.
11 Q Too many to count?
12 A Yeah. Yes.
13 MR. BLACKHAM: The Court's indulgence.
14 Q You acknowledge that -- well -- well, first of all,
15 have you ever -- have you ever used words that would suggest
16 you might kill yourself?
17 A I have used words like that, yes.
18 Q Have you ever want -- truly wanted to kill yourself?
19 A No.
20 Q Why would you use words like that if you didn't want
21 to truly kill yourself?
22 A The only two reasons would be; one, I was describing
23 something going on with my work day or something bad going on.
24 The other one would be just to be -- I was just -- and I'm

1 unhappy for her but I was just sometimes just straight up
2 dramatic or, you know, trying to get her attention or just it
3 is -- looking for her to care a little bit. I mean, it was a
4 bad move on my part, but yeah, that's -- that's the only
5 reason why. I've never been -- no one ever thought I would be
6 able to -- no one ever thought that about me. I'm not that
7 kind of person.
8 Q Did Stephanie ever indicate she really believed you
9 might kill yourself?
10 A No.
11 Q Okay. When you say sometimes you've mentioned work,
12 you might say something like that about work.
13 A Yeah.
14 Q What -- what kinds of words would you use if it was
15 about work?
16 A Like if I were to be like oh, you know, F my life or
17 I just want to run my truck into traffic. Or it's just
18 whatever came on my mind for the moment. I just used a bunch
19 of different ones.
20 Q But when you said those things, did you really want
21 to do that?
22 A No.
23 Q Do you regret saying those things?
24 A Yes.

1 Q Do you recall -- as Exhibit 29 there's a picture of
2 Riley with a gun.
3 A Yes.
4 Q Okay. Who took that picture?
5 A Stephanie did.
6 Q Are you sure of that?
7 A Yes.
8 Q Do you recall when it was taken?
9 A It was right after we bought it. She was there with
10 me when we bought it. She went and picked up Riley while I
11 finished up the transaction. And then we met back at the
12 house.
13 Q Was -- in your opinion, was it safe for Riley to
14 hold that weapon?
15 A It's probably -- no, it's -- we never were going to
16 get it -- do it. We were just taking a cute photo. It was --
17 you know; obviously it was a bad idea. So it's not like we --
18 we -- yeah, it wasn't the best idea.
19 Q Was it loaded?
20 A No, we didn't even own bullets for it yet.
21 Q Okay. So it -- what chance, in your opinion, was
22 there that she could get that -- that the gun could fire?
23 A None.
24 MR. PAGE: Objection -- objection, foundation.

1 Speculation. Ask for an expert opinion.
2 MR. BLACKHAM: It's not an expert.
3 THE COURT: Overruled.
4 THE WITNESS: None whatsoever. And literally we
5 just pulled it right out of the box.
6 BY MR. BLACKHAM:
7 Q But when you say it was a bad idea and what did --
8 why?
9 A I think I just -- only because I feel like it's kind
10 of -- it's a little heavy for her, I guess. I mean, that's --
11 that's the only thing.
12 Q Yeah.
13 A That's why I was right outside the frame of the
14 picture. I remember that exactly because if she were to drop
15 it, I would be able to grab it.
16 Q Whose idea was it to take the picture?
17 A I don't remember exactly. I think we --
18 Q Did -- did Stephanie tell you not to give her the
19 gun?
20 A No.
21 Q Let's talk about -- and so in May of 2019 there was
22 the incident where you were dragged --
23 A Yes.
24 Q -- with Stephanie's vehicle, right?

1 A Yes.
2 Q And you sustained injuries?
3 A Yes.
4 Q And you told the Court about what those injuries
5 were, correct?
6 A Yes.
7 Q Now, what -- did the two of you get back together
8 right after that?
9 A Not right away.
10 Q Okay. What happened then?
11 A I believe she stayed with her -- yes, she stayed
12 with her parents for quite awhile while she was working on her
13 national board certification. I stayed at the house.
14 Q Okay. And when if at all did you see Riley while
15 she was staying with -- while Stephanie was staying at her
16 parents?
17 A Frequently. We changed the schedule almost every
18 week. We'd just email back and forth until we dial in the
19 schedule. And it slowly transitioned with Stephanie coming
20 back to the house some days and then just staying back at her
21 parents some days and then --
22 Q Did --
23 A -- (indiscernible) back together.
24 Q Did you only visit -- did Riley only come over your

1 house if Stephanie is with her?
2 A No.
3 Q So you were alone with Riley?
4 A Yes.
5 Q Did Stephanie go on any trips while you were
6 separated?
7 A Multiple.
8 Q Okay. And where was Riley when she went on these
9 trips?
10 A With me.
11 Q Okay. In the marital residence?
12 A Yes.
13 Q Okay. Did Stephanie express any concern for Riley's
14 safety in leaving her with you?
15 A No. One of the trips, she had zero phone service
16 the entire time as well.
17 Q So she was unreachable?
18 A Correct.
19 Q Right now, what is your schedule with Riley?
20 A Right now, I have her alternating Friday through
21 Sunday and then Friday through Monday.
22 Q Okay. And who does the transportation?
23 A I do.
24 Q Both ways?

1 A Yes.
2 Q Is that something that you want to continue?
3 A No.
4 Q Why?
5 A We already agreed in the parent -- the partial
6 parenting agreement that the receiving parent picks up. And
7 it's a lot of driving for me. She's, you know, quite a ways
8 away from me; on top of that, she moved her dance studio on
9 the other side of town. So that's three times a week I got to
10 go back for.
11 Q You were asked and -- by Mr. Page earlier about your
12 gas expenses.
13 A Yes.
14 Q How many miles is it from -- well, first of all,
15 where is the exchange location?
16 A In -- on a public street in front of her parents'
17 gated neighborhood.
18 Q Okay. How many miles from your house is that?
19 A I think it's about 38 miles.
20 Q In one direction?
21 A I believe so.
22 Q Or round trip?
23 A I'd have to double check that.
24 Q Okay.

1 A I don't know why 38's on my mind, but I'm pretty
2 sure it's around 30 miles one way for sure. I'm pretty --
3 it's got a --
4 Q So that --
5 A I haven't checked that. It's basically going from
6 Russell and Durango to Lone Mountain and El Capitan.
7 Q Okay. All right. So it's -- it's a hike.
8 A Yes.
9 Q Okay. And is it your -- is it your opinion that
10 that has caused your gas expenses to increase?
11 A Yes.
12 Q So why are you doing that? Why are you doing all
13 the transportation?
14 A They claimed that historically it was done in front
15 of their parents' gate prior to the hearing and that it would
16 be safer for us to exchange because her parents would be
17 there.
18 Q Okay. And was there any -- was there ever any
19 altercation between you and Stephanie at the child exchange?
20 A No.
21 Q Did you ever threaten her in any way at a child
22 exchange?
23 A No.
24 Q You meant you -- you heard well, I think you were

1 asked about the child support check.
2 A Yes.
3 Q Was that a dumb thing to do?
4 A Yes.
5 Q Is that the first child support check that you gave
6 her?
7 A That was the very first one.
8 Q And did you ever do it after that?
9 A No.
10 Q Are you ever going to do that again?
11 A Never again.
12 Q All right. So -- so let's talk about -- okay, so
13 you're separated in -- initially in May of 2019. There was a
14 divorce filed in 2019, right?
15 A Yes.
16 Q Was it after that?
17 A I'm trying -- I think I'm pretty sure it was. It
18 should have been -- no, no, I think it was before that. I
19 can't remember the exact date.
20 Q The -- the divorce filing in 2019, correct?
21 A Yes.
22 Q And there was a period of time where you were
23 separated in 2019, right?
24 A Yes.

1 Q Okay. So and that divorce was ultimately dismissed,
2 yes?
3 A Yes.
4 Q And that was your second divorce filing?
5 A Yes.
6 Q Who filed for divorce the first time?
7 A She did.
8 Q All right. Who filed for divorce the second time?
9 A She did.
10 Q Who filed for divorce the third time?
11 A She did.
12 Q Okay. The -- so you're separated in May of -- of
13 2019. When it -- but at some point you got back together,
14 right?
15 A Yes.
16 Q Okay. So tell us about how that worked. Did -- did
17 she just come back and moved back in?
18 A She did kind --
19 Q What happened?
20 A -- of like a -- a slow transaction off and on, off
21 and on. And then finally did it right before vacation. I
22 believe it was June.
23 Q Okay. So --
24 A 4th of July. It was 4th of July.

1 Q Okay. So by -- was there a trip or something that
2 day -- that year? 0
3 A Yeah, I booked a trip for us to go to La Hoya for
4 4th of July.
5 Q And by the time -- and did you all go together, the
6 three of you?
7 A Yes.
8 Q That picture that Stephanie had said that she took,
9 was that in La Hoya?
10 A No, that was in Oxnard.
11 Q Oxnard, California?
12 A I'm more than certain that was Oxnard.
13 Q Okay. So the beach at Oxnard?
14 A Yes.
15 Q Is she correct that she took that picture?
16 A Yes.
17 Q Okay. Okay. So -- but so is it your testimony that
18 by July of 2019 you guys had reconciled and Stephanie was
19 living with you?
20 A Yes.
21 Q Okay. And then we saw some videos of some -- I
22 guess some disagreements that occurred subsequent to that,
23 right?
24 A Yes.

1 Q All right. And ultimately you did separate.
2 A Yes.
3 Q Okay. Did she express any concern with you being
4 alone with Riley after you reconciled?
5 A No.
6 Q Okay. Do you -- do you drink to excess while Riley
7 is in your care?
8 A No.
9 Q Okay. Do you often drink to excess now?
10 A No.
11 Q Did you drink more while you were married than you
12 do now?
13 A Yes.
14 Q Are you able to tell us why?
15 A I think at the moment in the time I -- I didn't know
16 why but I think I was -- it was a -- it was a vice to use
17 because the house was -- wasn't -- wasn't fun. It wasn't a
18 nice place to be, stressed me out. It wasn't right. I don't
19 -- I don't know how it all started.
20 Q But you -- but you drink less now than you did when
21 you -- prior to your separation in November.
22 A Yeah, it only started in -- after the first time she
23 cheated on me and then it kind of --
24 Q And -- and listen -- and, again, I -- I want to be

1 clear here. Look, when we talk about cheating, you're not --
2 there's -- we're not making that a character issue, correct?
3 A Correct.
4 Q All right. And the -- the -- but -- but that was a
5 -- a catalyst for some of your arguments, right?
6 MR. PAGE: Objection.
7 A Yes.
8 MR. PAGE: Leading. He's testifying at this point.
9 MR. BLACKHAM: Okay. It's -- it's really just
10 foundational. I just want to make it clear that nobody is
11 trying to -- to use irrelevant information to taint her
12 continue.
13 MR. PAGE: He's continuing to testify.
14 THE COURT: Overruled.
15 BY MR. BLACKHAM:
16 Q Tell us about -- tell us about that November day
17 what happened.
18 A November 5th, 2019?
19 Q Yeah.
20 A That was a day -- that's the day I left the house
21 currently.
22 Q What -- what led to that?
23 A We had another disagreement about something that --
24 again, I don't remember. What it was about but we agreed that

1 when we would argue we would do it in our master closet.
2 Q Hold on a second. When did you reach that
3 agreement?
4 A Sometime when she came back after 4th of July
5 full-time when -- if we didn't want to argue in front of Riley
6 I made that -- that we both agreed on t hat one.
7 Q Did -- did -- so -- so you both talked about the
8 fact that you had been arguing in front of Riley?
9 A Yes.
10 Q And you came to an agreement on the way to not do
11 that anymore?
12 A Yes.
13 Q And it was where that you were going to have your
14 discussions?
15 A The master bedroom closet.
16 Q Okay. Continue, please.
17 A At that point, it got more and more irate on -- I
18 recognized it. I went to put my hands on her shoulders to say
19 calm down. Let's just relax, maybe talk about it later, take
20 a break. That's when she bit me and --
21 Q She bit you where?
22 A On my arm.
23 Q Okay.
24 A And it left -- it left a good mark. It wasn't just

1 a light bite. It was a hard bite and then that's when I
2 realized the writing was on the wall and I -- I got to go
3 because this isn't working. It's just going to get worse. So
4 I --
5 Q Had she ever bit you before?
6 A Yes.
7 Q And how many times has she bit you?
8 A Maybe three.
9 Q Okay. Continue, please.
10 A That's when I left the house and basically moved in
11 to my mom's house for a short time and until I moved out of
12 there. I never went back after that and that's kind of the --
13 the -- we were -- we knew the divorce was coming.
14 Q So you had mentioned that she had broken your
15 sunglasses at one point?
16 A Yes.
17 Q When was that?
18 A That was maybe early 2019. I'm not positive on that
19 one.
20 Q Okay. But it wasn't the November incident.
21 A No.
22 Q Okay.
23 A Separate incident.
24 Q Okay. Did -- did -- in -- in the only physical

1 violence on November 5th was -- was the bit -- biting of you?
2 A Yes.
3 Q Anything else?
4 A No.
5 Q Did you hit her?
6 A No.
7 Q Did you threaten to hit her?
8 A No.
9 Q Okay. And so you're the one that decided to leave.
10 Is that your testimony?
11 A Yes.
12 Q Okay.
13 A I decided to leave that day.
14 Q Okay. Now what -- what -- you heard -- you heard
15 Stephanie's testimony that -- so you have between -- is it
16 correct that you have between two and three days a week with
17 Riley right now?
18 A Yes.
19 Q So it alternates week one, week two?
20 A Yes.
21 Q And then you also have a parenting agreement filed,
22 right?
23 A Yes, partial. Yeah.
24 Q So it's a partial parenting agreement that provides

1 for holidays, right?
2 A Correct.
3 Q It's a temporary one though, right?
4 A The holiday schedule?
5 Q Yeah.
6 A I think we were both good with it staying that way.
7 Q Well, it -- it's temporary in the sense that -- as
8 far as the transaction provision goes.
9 A Yes.
10 Q Right? So -- so we've got a -- a holiday schedule
11 -- I just want to make sure we're on the same page. So the
12 holiday schedule is in place, partial parenting agreement.
13 The only part that's temporary is the transportation
14 provision.
15 MR. PAGE: Objection --
16 A Yes.
17 MR. PAGE: -- assumes facts not in evidence.
18 THE COURT: Overruled.
19 BY MR. BLACKHAM:
20 Q Is -- is that your understanding?
21 A Correct.
22 Q Okay. And you're asking the transaction provision
23 to change to what?
24 A Receiving parent picks up.

1 Q Okay. And -- and what -- what custodial schedule
2 are you requesting today?
3 A I -- we've been sticking with Wednesday through
4 Wednesday since it started -- I think it's easier on everybody
5 to split up, who has the first half of the week, who has the
6 second half of the week, and who has the weekend. And --
7 Q Well -- well, hold on. Wednesday to Wednesday, is
8 that -- do you mean alternating weeks?
9 A Yeah, alternating weeks
10 Q Okay. And then what were you talking about
11 alternating the weekends?
12 A Well, one person's going to have one weekend. The
13 next -- we're basically trading up weekends. Then she got
14 Wednesday to Wednesday week on week off.
15 Q Okay. So you're saying by going week on week off
16 you would be trading weekends.
17 A Yeah, everybody --
18 Q Okay.
19 A -- gets the same amount of everything.
20 Q If -- if the Court were to decline to award that
21 schedule, do you have a second preference?
22 A It's the -- the three-three-two or the -- yeah, the
23 three-two-two schedule I think is what it -- I looked at a few
24 of them. And any of those other ones I'm -- I'm open with. I

1 prefer week on week off, but it -- it tends to go a different
2 route.
3 Q Do you -- do you want -- do you want more custodial
4 time than you have right now?
5 A Yes.
6 Q Why?
7 A It's -- you know, she's my daughter and I think it's
8 -- I only get to see her -- like it feels like when she gets
9 there she's gone already and -- like I don't get to be -- I
10 don't get to have dinner with her every day. I don't get to
11 -- like it's just a couple. I don't get to take her to school
12 as often. I -- I don't get to like be around to help more
13 with homework or just -- I don't get to see her. I don't get
14 -- I'm not -- I'm not seeing my daughter grow. And I like
15 that and I love my daughter and it -- I want to be around for
16 her life.
17 Q Do you -- you heard that Stephanie thinks that you
18 have too much time, right?
19 A Yes.
20 Q All right. And what -- how does -- what's -- how
21 does that make you feel?
22 A I mean, angry, I guess, because it's not true. It's
23 not fair.
24 Q Angry in a violent way?

1 A No, just like that -- that someone would spend that
2 much of their life with me, have a kid with me, and then also
3 claim to love the kid as much as I do but then also not let
4 that kid hang out with her father as much or her other family
5 members.
6 Q And do you think it would be in Riley's best
7 interest to have more custodial time with you?
8 A Yes, absolutely.
9 Q Tell us about your time with Riley now.
10 A I -- I get her on Fridays. Fridays are, you know, I
11 don't get her til 6:00. So we'll keep it low key, do
12 something at home or go to the pool, ride bikes. Lately we've
13 been practicing with a fishing pole. Saturdays -- every
14 Saturday now I just signed her up for ice skating lessons at
15 City National. So we go there every Saturday. And t hen we
16 would spend like another hour or so watching the scrimmages at
17 the other rink and -- and the hockey scrimmages at the same
18 place and then follow that up with lunch. And then it's an
19 open window after that for us to do things -- anyone of the
20 activities we love doing.
21 And then Sunday mornings we go to church and take
22 her to Sunday school every Sunday. And then we either follow
23 that up with lunch or -- or we just go home and get ready for
24 the week after that and keep it low key that day only.

1 Q Now, the -- and we're not going to go through all of
2 them, but the -- the photos that are attached as your Exhibit
3 A which has been entered as Court's exhibit. Are those --
4 some of those -- some of those were taken during the marriage
5 and some after --
6 A Yes.
7 Q -- your separation, right?
8 A Yes.
9 Q Pre-separation you're still married.
10 A Most of the ones that I'm doing --
11 Q Pre-separation and post-separation.
12 A -- a selfie because I don't have anyone else there
13 to take the picture.
14 Q Okay. Very good. All right. So the -- but this is
15 -- would you say that what's in these pictures is a fair
16 representation of -- of the time that you spend with -- with
17 Riley?
18 A Yes.
19 Q All right.
20 A Yes.
21 Q Or -- or at least fair examples.
22 A Yes.
23 MR. PAGE: Objection, relevance.
24 THE COURT: Overruled.

1 BY MR. BLACKHAM:
2 Q So what -- what is you -- what do you do for a
3 living?
4 A Electrical and data sales and project management.
5 Q All right. And do you have an office?
6 A Yes.
7 Q And are you required to work at that office all the
8 time?
9 A I'm an outside sales salary person, so I can -- I'm
10 either on the road. I can work from home. I can work at the
11 office. It's preferred to be at the office but if I don't --
12 if I have something else to, you know, I'm obligated to take
13 care of my child or -- or do something else, then I -- then I
14 can meet in the office.
15 Q Are you -- would you -- would your job allow for you
16 to exercise the week on week off timeshare that you're
17 requesting from the Court?
18 A Yes.
19 Q You would be able to take Riley to school.
20 A Yes.
21 Q You would be able to pick Riley up at least by the
22 time aftercare is over.
23 A Yes.
24 Q And that would be every day during your timeshare,

1 yes?
2 A Yes.
3 Q Okay. You heard testimony regarding the -- you
4 heard Stephanie's testimony in May that she feel -- one of the
5 reasons why she doesn't want to -- to have as much time as you
6 have is because she doesn't think she gets quality time,
7 right?
8 A Yes.
9 Q All right. Do you think that's a fair statement?
10 A No.
11 Q Do you think that she would give quality time with
12 Riley if you were to alternate weekly?
13 A Yes.
14 Q Okay. And she's off on the weekends typically?
15 A Yes.
16 Q Okay. So back to your job. How much -- how much do
17 you earn?
18 A It fluctuates every year and it's always typically
19 depending on -- I mean, it -- this is -- last couple of years
20 were right around a hundred. A hundred thousand a year. But
21 it all depends on what I build from the year before. So
22 obviously the COVID year was a little -- a little rough. And
23 it's -- it could slow down here any day for us, but it goes
24 month-by-month.

1 Q So --
2 A But the base salary has always been the same.
3 Q And when do you normally receive your bonus from the
4 prior year?
5 A I got a monthly -- or the prior one I'll get the --
6 the annual profit sharing in March or April.
7 Q Okay. So if we were to look at your pay stubs in
8 June like we have now, would that be representative of the --
9 if we were to divide that number by five, would that be a fair
10 representation of your income?
11 A No, because it --
12 MR. PAGE: Objection, foundation, speculation,
13 misstates the evidence.
14 THE COURT: Overruled.
15 THE WITNESS: And if you look at the paycheck stubs
16 for this year versus last year, you can see the profit sharing
17 already went down 50 percent from what it was a year before.
18 Commissions are never guaranteed. It just depends on your
19 month. And it's a monthly commission that you get based on
20 reaching a certain goal and --
21 BY MR. BLACKHAM:
22 Q Okay. Just so -- so the annual one is profit
23 sharing but then you get a performance based bonus monthly.
24 A Yes.

1 Q Okay. And you indicated -- and what you provided on
2 your FDF was what you make your salary, correct?
3 A Correct.
4 Q All right. But you do -- you acknowledged and we've
5 provided W-2s that there are other sources -- that -- that you
6 have additional income.
7 A Yeah.
8 Q It's just all over the place -- pardon me. Strike
9 that. It's just not -- it's not -- it's not consistent
10 month-to-month; is that fair?
11 A Yeah.
12 MR. PAGE: Objection, leading. He's testifying.
13 THE COURT: Overruled.
14 BY MR. BLACKHAM:
15 Q Is that correct?
16 A Yeah, it's -- it's never consistent.
17 Q Okay. So now also you get -- you get a -- you get
18 compen -- you get -- you receive money from your -- for your
19 employer for expenses, right?
20 A I -- they reimburse me for them. I --
21 Q You --
22 A -- submit them to get reimbursed.
23 Q Okay. Strike -- not expenses. I -- I misspoke. I
24 apologize. You -- you -- do you receive a fixed sum from your

1 employer in -- in addition to your income?
2 A Yes.
3 Q How much is that?
4 A $400.
5 Q Are you taxed on that amount?
6 A No.
7 Q What is that for?
8 A That's for car expenses, anything from payments to
9 gas to repairs to --
10 Q Okay.
11 A -- wear and tear.
12 Q But you -- you still pay -- you pay your -- for your
13 car directly.
14 A Yes.
15 Q It's just that this -- they're -- the payment you
16 receive offsets that.
17 A Yes.
18 Q Okay. Do you -- tell us about the sale of the --
19 which -- what vehicle was it that -- that you sold during --
20 A The F150.
21 Q Okay. Tell -- tell us about -- tell us about that.
22 Why did you do it and tell us about the incident.
23 A Well, we're making a big change in life and that
24 truck already had I think somewhere around a hundred and

1 eighteen, a hundred and twenty --
2 Q When was this?
3 A This was in December of 2019.
4 Q Okay. And --
5 A After I moved out.
6 Q Okay. So this was before the divorce was filed.
7 A Correct.
8 Q Okay. Please continue.
9 A I was living in my mom's house because she doesn't
10 have an extra room. She has a pull out sofa couch. And after
11 a month of that, it wasn't ideal to parent on a sofa couch.
12 And I needed to get my own place but we have quite a bit of
13 community debt and it -- I needed to free up some monthly
14 income while helping to pay for the bills at the marital
15 residence in order for me to get an apartment. So that's what
16 I sold the truck for. And I also needed a more reliable
17 vehicle with all the changes going especially with much more
18 commuting I do now to and from Stephanie's parents' house
19 across town. I -- I commute all day at work. Then that truck
20 was getting old and it was falling apart. It was having
21 mechanical issues.
22 Q What year was it? I apol -- if you said --
23 A I think it was 2014.
24 Q 2014?

1 A Yeah.
2 Q And when were you married?
3 A 2013.
4 Q 2013. All right. So -- so you sold it in 20 -- in
5 December 2019?
6 A Yes.
7 Q It's -- and the divorce was filed when?
8 A January of 2020.
9 Q All right. Was --
10 A I think January '20.
11 Q Okay. It was -- it was after you sold the car,
12 correct?
13 A Yes.
14 Q Okay. How much did you receive for it?
15 A Right around 12 grand. Or I think it was like 12
16 flat.
17 Q Where is that money now?
18 A That money went into bank account and then I used it
19 to pay off multiple credit cards and a loan to free up enough
20 monthly income to -- or money so that I could rent a place.
21 Q Have you filed your 2020 tax return?
22 A No.
23 Q Did you -- did you and Stephanie ever file jointly?
24 A Yes.

1 Q And when's the last time you filed jointly?
2 A 2018.
3 Q So have you not filed your 2019 taxes?
4 A No.
5 Q Okay. In 2018 did you receive a refund?
6 A No.
7 Q In 2017, did you receive a refund?
8 A No.
9 Q All right. Do you ever recall receiving a tax
10 refund during your marriage?
11 A Early on when I was making much less and she was
12 making much less.
13 Q Okay. But would it be fair to say at least the last
14 couple years that you filed you didn't get a refund?
15 A Correct. Yes.
16 Q All right. And you're aware that Stephanie received
17 your refund filing separately, correct?
18 A Yes.
19 Q All right. Do you -- do you believe that -- are --
20 are you asking the Court to -- to allocate some of that tax
21 refund to you?
22 A It would make it fair but it's not something I'm
23 willing to argue about.
24 Q All right. Well, what -- you heard the Court

1 earlier about the concern about the $12,000 that you received
2 for the car, right?
3 A Yes.
4 Q Okay. So if -- if you were required to pay to
5 compensate Stephanie for half of that, and I'm not saying you
6 think you should. I'm just saying if you were, would you want
7 to be compensated for the tax refund that she received?
8 A No, that would be fair since I did it so I can
9 actually get out into my own place.
10 Q And including the stimulus money as well?
11 A Yes, because it sounds like she got the full family
12 stimulus and I saw nothing of it.
13 Q But is it your testimony that you used the $12,000
14 towards community expenses?
15 A Yes. And for down payments to the apartments that I
16 went to, the initial upfront payments.
17 Q Is it you -- deposits?
18 A Yes.
19 MR. BLACKHAM: All right. The Court's indulgence.
20 Can we -- can we take a quick break?
21 THE COURT: Sure.
22 MR. BLACKHAM: Thank you. I appreciate it.
23 THE COURT: Let's take a break until 3:00 o'clock.
24 (COURT RECESSED AT 2:48 AND RESUMED AT 3:03)

1 THE CLERK: We are on the record, Your Honor.
2 THE COURT: All right. Do you have any more
3 questions?
4 MR. BLACKHAM: Yeah, I do.
5 THE COURT: Oh, okay.
6 MR. BLACKHAM: But we're -- we're winding down. I
7 promise.
8 DIRECT EXAMINATION CONTINUED
9 BY MR. BLACKHAM:
10 Q Okay. Do you recall Stephanie presented a
11 demonstrative exhibit that was a t-shirt?
12 A Yes.
13 Q And she indicated that -- that there was blood on it
14 that was yours?
15 A Yes.
16 Q All right. Have you ever seen that t-shirt before?
17 A I don't remember that t-shirt at all. No.
18 Q All right. Do you ever recall bleeding on a t-shirt
19 like that?
20 A No.
21 Q Okay. There's also a cell phone that was broken.
22 A Yes.
23 Q Did you ever break one of Stephanie's cell phones?
24 A I did.

1 Q Tell us about that.
2 A It was the first time she cheated on me.
3 Q So what year was that; do you know?
4 A 20 -- it was 2017.
5 Q Okay.
6 A And that is the first time I ever got cheated on. I
7 regret the choice now. Like I -- I believe I snapped the
8 phone on the corner of the dresser. And it just shattered the
9 whole thing right there.
10 Q Did -- did -- was it in her hands at the time?
11 A No. No. She handed it to me to show me something
12 on it that was related to the cheating and I just reacted
13 inappropriately, but that's -- that's what happened.
14 Q Do you recall the phone being in the condition that
15 we saw it in court last month?
16 A It looked a little bit more warped than -- than when
17 -- then when I saw it.
18 Q What do you recall the damage being at the time?
19 A It was completely shattered on the front end of it
20 and maybe bent a little bit but it wasn't like curved around
21 like that. It looked -- it looked a little bit more bent that
22 time or -- to me.
23 Q But you're -- you're not sure. It just how it
24 appeared to you --

1 A Yeah.
2 Q -- is that fair?
3 A Yeah, that was my initial reaction. Yeah, I broke
4 that phone, but it looks like more bent than what I remember.
5 Q And -- and do you regret that?
6 A Absolutely.
7 Q Okay. You -- you heard Stephanie say that she had
8 concerns that -- well, first of all, has there been -- has
9 there been any problem with Riley during your -- strike that.
10 Has -- has there been any reason for concern for Riley's
11 safety during your timeshare since this case started?
12 A Not at all.
13 MR. PAGE: Objection, vague, leading.
14 THE COURT: Overruled.
15 THE WITNESS: Not at all.
16 BY MR. BLACKHAM:
17 Q Okay. You heard Stephanie say that she is concerned
18 that at some point you might be -- you might endanger Riley,
19 something --
20 A Yeah, I did hear that.
21 Q -- to that effect.
22 A Yes.
23 Q Okay. Is that -- what is your response to that?
24 A Absolutely not. I think actually I'm better for her

1 separated from Stephanie now. We've got into new hobbies
2 together. We do a lot more things now that we've never used
3 to do before. And she -- to me, she looks relatively very
4 happy when she's at my house because it's our house. It's
5 just me and her. She’s got her room, I got my room. And
6 she's -- she doesn't seem stressed at all when she's with me.
7 She seems very happy.
8 Q She has her own room in your house?
9 A Yes.
10 Q And what is -- tell -- tell me what's in her room,
11 A She's got her white furniture in there, a tent.
12 I've kind of decked it out really nicely with LED lights
13 underneath the bed and got her TV and walk-in closet, her own
14 chair, and all of her toys.
15 Q Okay. Is it your understanding that she has her own
16 room at her mom's house?
17 A No.
18 Q Why is that?
19 A She always tells me that it's her --
20 MR. PAGE: Objection, hearsay.
21 BY MR. BLACKHAM:
22 Q Who's she --
23 MR. BLACKHAM: And -- and that's --
24 A Riley -- Riley was telling me --

1 MR. BLACKHAM: Okay. No. Don't, don't, don't,
2 don't, don't, don't. You can't say what Riley said. It's
3 hearsay. And I -- if it was Stephanie, it would be fine.
4 Q Okay. Has Stephanie ever acknowledged that Riley
5 doesn't have her own room at -- at her house?
6 A I don't believe so.
7 Q Okay. Is -- now her house, she lives with her
8 parents, right?
9 A Yes.
10 Q Okay. So do you know how many bedrooms it has?
11 A It -- I believe it has --
12 Q First of all, you've been inside, yes?
13 A Yeah.
14 Q Okay.
15 A Four or five.
16 Q Okay. All right. So -- so anyway, the -- let's
17 talk about school, okay?
18 A Okay.
19 Q Now, she's been going to Good Samaritan since 2018?
20 A Yes.
21 Q Okay. And you want her to stay there; is that
22 correct?
23 A Yes.
24 Q Tell us why.

1 A Well, really it's -- we always wanted her. Me and
2 Stephanie always agreed to send Riley to private school and --
3 and the main goal was to get into Faith Lutheran. This school
4 is a feeder school to Faith Lutheran. In the text from
5 Stephanie, you can see where she also says we want her in
6 private school and we can split the expenses. So being at
7 this school she'll be immediately entered into Faith Lutheran
8 where the kids leaving there, going there, excelling really
9 well. It's also her church. And it's the really -- it's the
10 only thing she's got left that's consistent in her entire
11 life.
12 She's lost her home, she's lost her parents being in
13 the same roof. Her possessions are scattered. Some are
14 probably in storage. Everything's changed for her except
15 that. So I feel like it would be detrimental to her actually
16 continuing to learn if we ripped that away form her too.
17 Q Okay.
18 A And --
19 Q To be clear, right, when you say things have been --
20 and, you know, things have been ripped away, I mean, you would
21 acknowledge that she has a good life right now, right?
22 A Yes.
23 Q And she has a good life with both of you, right?
24 A Yes.

1 Q You think Stephanie's a good mom, right?
2 A Yes.
3 Q Do you -- do you think it's important to facilitate
4 Riley's relationship with Stephanie?
5 A Yes.
6 Q Do you do that?
7 A Yes.
8 Q And you're going to continue to do that?
9 A Yes.
10 Q Do you think that Stephanie does that to -- for you?
11 A No.
12 Q Why do you -- why do you feel that way?
13 A Well, for example, she limits phone calls during the
14 week after six to five minutes even though she's doing dance
15 classes til 7:00. She -- I've figured out that she
16 purposefully -- someone has me blocked on her chat app thing
17 or whatever she talks to me on. And so certain times and then
18 she can -- then -- the she starts blowing up my phone calling
19 me. There's there's also -- I've been denied times to like,
20 you know, talk to her or I've asked multiple days to talk to
21 Riley with no response. A lot of examples of that. I have to
22 go through only knows what's seen but there's -- there's
23 plenty of they're -- they're not as frequent now as they were
24 in the beginning but it's still -- it's still a problem.

1 Q So tell -- tell us -- and we've got -- we've talked
2 about the timeshare between when you separated in November and
3 then when Judge Henderson made his first orders.
4 A Yes.
5 Q Right? Do you -- are you -- do you stand by the
6 calendar that we provided to the Court?
7 A Yes.
8 Q Okay. And the -- was there a time when you were --
9 so what -- just tell us in summary, right, basically what was
10 your custodial time after you guys separated in November.
11 A It fluctuated. It would change every week. We
12 would email back and forth, but it wasn't as limit -- it -- it
13 was more than what I have now.
14 Q Okay.
15 A Significantly.
16 Q And then -- and then at some point it stopped?
17 A Yes.
18 Q When was that?
19 A March --
20 Q And why --
21 A -- 14th?
22 Q -- was that?
23 A She used COVID as a reason to not let me see Riley
24 after that until Judge Henderson made the order.

1 Q So had you -- had you -- was there -- did you not
2 see Riley at all until that hearing?
3 A Did not see her at all until that hearing -- after
4 that hearing.
5 Q And -- and she said it was because of COVID?
6 A Yeah, I asked multiple times to let me have my
7 daughter back. We already had pre-negotiated days. I was
8 going to have her March which -- and then COVID hit and she
9 decided to not stick to that plan.
10 MR. BLACKHAM: The Court's indulgence.
11 Q And the Court -- did -- the hearing wasn't until
12 April 16th, correct?
13 A Yes.
14 Q Of 2020?
15 A Yes.
16 Q So from -- would that be fair to say then about the
17 middle of March until the middle of April?
18 A I dropped her off to Stephanie because I was in the
19 same area as where she was on the 14th and I didn't see her
20 again until the weekend after the 16th.
21 Q And how did that make you feel?
22 A Terrible. I wanted to -- like she already had grown
23 by the next time I saw her. She looked different. She looked
24 older. It -- it bothered me and I felt like I was being

1 controlled and -- and told when I can and can't see my
2 daughter. You can only do it through a FaceTime. I -- I
3 didn't like it at all.
4 Q The -- so just again does the -- circling back to
5 the school issue because there -- there's a co-parenting part
6 of that, right? I mean, at some point did she -- strike that.
7 Stephanie -- you and Stephanie together agreed to send her to
8 -- to Good Samaritan, right?
9 A Yes.
10 Q And that was in April of 2018?
11 A Yes.
12 Q And beyond that, Stephanie was still supportive of
13 having Riley attend Good Samaritan?
14 A Yes, since all this divorce hit.
15 Q And -- and so when did she first express to you that
16 she wanted her to go somewhere else?
17 A A few months ago maybe.
18 Q Okay. So that's the --
19 A It was for this upcoming school year.
20 Q Okay. Was it in 2021?
21 A Yes.
22 Q Okay. So this case has already been going on for a
23 year.
24 A Yes.

1 Q And during this case she's still maintained that --
2 that Riley should go to Good Samaritan.
3 A She wasn't -- she still was taking her there but not
4 as often. It started off normal five days and then it went to
5 like three days, then two days.
6 Q So -- so she didn't -- she didn't take her there
7 five days a week.
8 A Towards the end, no.
9 Q Okay. But -- but she agreed that that's where she
10 should go --
11 A Yes.
12 Q -- when she went to a third party caregiver.
13 A Yes.
14 Q Okay. And did -- well, did you guys have an
15 understanding that Riley was going to go to kindergarten
16 there?
17 A Yes.
18 Q Okay. And that changed this year.
19 A Yes.
20 Q Now, tell us about the process and how she notified
21 you, what your response was. Tell us about that process.
22 A She originally sent me a message on OurFamilyWizard
23 saying here are the three choices that we have. And I -- I
24 responded immediately saying absolutely not, not going to do

1 it. And then a couple more messages went back and forth, but
2 then I --
3 Q Well, hold -- hold on. Hold on. Why did you say
4 absolutely not?
5 A Because I was like this -- it goes against
6 everything we already discussed throughout our entire marriage
7 of what we -- our plan was for her and like this is -- for all
8 the same reasons I want her there like I don't want to take
9 her out.
10 Q Does she have friends there?
11 A Yes.
12 Q Does she have a lot of friends there?
13 A Yes.
14 Q And how long has she known some of these friends?
15 A Some since she's been there since she was two. Some
16 of them are new. We still stay in touch with the ones that
17 are no longer there.
18 Q Okay. So -- so you initially said no way. Then
19 what happened?
20 A Then I -- asked her for reasoning; why are we doing
21 this. And then I said like I'm not against it. I'll -- I'm
22 willing to work with you but you can't just send me a list of
23 options. We got to do this together. We got to make an
24 agreement together. We -- I should be able to have some input

1 on what school my daughter goes to and not you tell me pick
2 one from three.
3 Q What -- what bothered you about her sending the list
4 of options?
5 A Because I felt like she was telling me what we're
6 going to do with our daughter and my input meant nothing to
7 it.
8 Q Did -- did you get the impression that she was
9 telling you she's definitely going somewhere else? Is that
10 the impression you got?
11 A That's what -- yes.
12 Q And here's the three choices you have?
13 A Yes.
14 Q Okay. Did she indicate to you that she was open to
15 discussing other possibilities?
16 A No, after that she kind of just went dark on me and
17 the whole conversation.
18 Q Okay. And you still wanted her to go to Good
19 Samaritan?
20 A Yes.
21 Q Okay.
22 A I've spent quite a bit of money to secure her spot
23 and hope that that's what happens.
24 Q How -- how much -- how many -- how far is it from

1 your house?
2 A Good Samaritan?
3 Q Yeah.
4 A Maybe a few miles.
5 Q Okay. And how about this school, the -- is it a
6 magnet school or a charter school? Do you know?
7 A I believe it's a charter school.
8 Q Okay. How far -- and do you recall the name of it?
9 A What's that?
10 Q Do you recall the name of it?
11 A Tarr.
12 Q Okay. So how far is Tarr from your house?
13 A I believe it's somewhere in the 30 mile range.
14 Q Okay. So it's near her house so just about as far?
15 A Yeah. Yes.
16 MR. BLACKHAM: Okay. If I -- if I could actually
17 just -- just digress to a housekeeping matter. I actually --
18 I wasn't hearing it. I -- I think Mr. Page and I have a
19 different definition of how we're talking about accounts with
20 dividing that. And I know that we talked specifics the day of
21 the hearing, but you mentioned Gemma Fondi today. And so --
22 and I apologize. I just -- I don't -- I just don't want to
23 forget to mention this. The -- the idea is it's not going to
24 be based on the time rule per se, that it's going to be the

1 amount of time married versus the amount of time that the --
2 that the account existed. It's going to be -- there's a
3 separate property value at the time of marriage. And -- and
4 the -- there’s going to be a rate of return and then the --
5 the remainder is going to be divided.
6 MR. PAGE: I regard that as Gemma Fondi because you
7 have a --
8 MR. BLACKHAM: Okay.
9 MR. PAGE: -- we have a pre-marriage date and a
10 post-marriage date.
11 MR. BLACKHAM: Yeah. And -- and that --
12 MR. PAGE: You're going -- you're going to divide
13 the percentage, whatever it is, based upon what the total
14 value is. There's a certain -- because of that, if the --
15 MR. BLACKHAM: Yeah. Right. So that's --
16 MR. PAGE: If you have -- if you have $10 in it now
17 and fif -- and $20 later --
18 MR. BLACKHAM: What I agreed to was there's a
19 separate property value to it that gets a rate of return and
20 the community value is divided equally. I'm not -- I'm not
21 agreeing that we take the amount of time that the -- that it's
22 been -- like treat -- we're not treating it like a defined
23 benefit plan. It's a defined contribution --
24 MR. PAGE: Well, I --

1 MR. BLACKHAM: -- plan.
2 MR. PAGE: -- do know this. I do know if you have
3 something like Fidelity or T. Rowe Price they'll do -- they'll
4 do whatever the actual rates of return because that's what the
5 order dividing them says when they're created by QDRO
6 Masters --
7 MR. BLACKHAM: So --
8 MR. PAGE: -- or Shann Winesett, whatever it is.
9 MR. BLACKHAM: So -- so substantively we agreed but
10 I wanted to make that clarification since he used those cases
11 that we're not talking about the way you would divide a
12 defined benefit plan. It's for a defined -- defined
13 contribution plan. Obviously, PERS is going to be the time
14 rule as a defined benefit --
15 THE COURT: And his --
16 MR. BLACKHAM: -- plan.
17 THE COURT: -- 401(k) is 50/50. It's all during the
18 marriage.
19 MR. BLACKHAM: Yes, I believe that's true.
20 THE COURT: So --
21 MR. BLACKHAM: Yes.
22 THE COURT: -- that -- it's her T. Rowe Price --
23 MR. BLACKHAM: Yes.
24 THE COURT: -- that's a problem. If you guys don't

1 have an agreement on that today, then I'm --
2 MR. BLACKHAM: I -- I --
3 THE COURT: -- going to divide the account --
4 MR. BLACKHAM: Hold on.
5 THE COURT: -- 50/50 because the burden's on her --
6 MR. BLACKHAM: Well --
7 THE COURT: -- to prove what her -- her separate
8 property --
9 MR. PAGE: We -- we did because --
10 THE COURT: -- by clear and convincing evidence.
11 MR. PAGE: -- we -- we provided the statements. If
12 we have to go into doing that, we will.
13 MR. BLACKHAM: I'm not -- I'm not going there. I
14 think we're saying the same thing. I just -- I just think
15 we're using different terminology and I don't want the record
16 to be fuzzy on that. So Mr. Page is saying Gemma Fondi and
17 Mr. Page is saying time rule. I disagree that's what it's
18 called but it sounds to me, we substantively agree that there
19 was a value to that account at the time of marriage, that
20 there's going to be some return on that money and then there
21 was money acquired during the marriage to be divided. And
22 that's how it's going to be treated. It's not going to be
23 treated like a pension. If we -- if we agree on that in
24 substance, then I think we're good. If we don't, then I --

1 you know, I -- I mean, I guess -- then it gets divided
2 equally. But it sounds like --
3 MR. PAGE: And it's --
4 MR. BLACKHAM: -- we agree.
5 MR. PAGE: -- it's an argument about the meaning of
6 the terminology but we both understand what we intend to do.
7 We just describe it differently.
8 THE COURT: Well, no, the time rule is not
9 applicable at all --
10 MR. BLACKHAM: Thank you.
11 THE COURT: -- to defined contribution plan. So
12 there was an -- an amount she had in her T. Rowe Price at the
13 date of marriage that she has the burden of proving that.
14 MR. PAGE: And we've -- we've already stipulated
15 that that balance in her account on the date of marriage is
16 her separate property.
17 THE COURT: Right.
18 MR. PAGE: That's not a factual dispute.
19 THE COURT: It's the calcu -- well, I don't know if
20 you have the actual document to --
21 MR. PAGE: We do.
22 THE COURT: -- establish it.
23 MR. PAGE: We -- that's -- we admi -- it's been
24 stipulated. It's admitted into evidence.

1 THE COURT: Okay. So then that -- the --
2 MR. BLACKHAM: Well -- well --
3 THE COURT: -- part that you need to do is what is
4 the rate of return she received from the date of marriage to
5 now that applies to that separate property. That's the part
6 that needs calculation.
7 MR. PAGE: It's something that T. Rowe Price or
8 Fidelity, whoever the -- one of the large companies are that
9 -- they -- they all do these calculations.
10 MR. BLACKHAM: I -- I don't -- and just to be clear,
11 I don't recall seeing the -- I mean, because I asked Mr. Page
12 what the value was and I think there was a problem. No, hang
13 on. I -- the agreement's the agreement. But -- but what we
14 had said was that T. Rowe Price was going to provide that
15 information for us and that was going to be part of the
16 division I -- because he's not trying to get anything that's
17 not his. And in fact, from the stipulations that he's made,
18 he's gone above and beyond and he could have made claims, you
19 know, in debt that -- I mean, and he's not doing that. He's
20 -- he's being above and beyond.
21 So we don't want what's her money. I just -- I just
22 -- as I sit here today, I don't have -- I'm not aware of a
23 value and I didn't think Mr. Page had that information too.
24 If he does, great, let's put it on the record. But I -- I

1 wasn't aware that there was a balance because I thought that
2 we were going to consult T. Rowe Price about that. So, again,
3 I just -- I -- again, I just want to make clear what -- what
4 we know and what we don't know and if -- if it's just -- if
5 there's something out there that I just -- I didn't take note
6 of, then we can clarify that now. But I think -- I'm sorry
7 for the digression. I just wanted to make sure that we
8 weren't fighting about this later.
9 THE COURT: Okay.
10 MR. BLACKHAM: Okay. All right.
11 MR. PAGE: Okay. Exhibit 7, first page, 490,
12 stipulated for admission. Gives the event balance of the
13 month they were married to each other.
14 THE COURT: Sorry, say that -- Exhibit 7?
15 MR. PAGE: Yes.
16 (COUNSEL AND CLIENT CONFER BRIEFLY)
17 MR. BLACKHAM: So Exhibit 7 is April to June of
18 2014?
19 MR. PAGE: Yes.
20 MR. BLACKHAM: And the marriage date was what?
21 MR. PAGE: January 7th.
22 MR. BLACKHAM: Of that year?
23 MR. PAGE: Yes.
24 (COUNSEL AND CLIENT CONFER BRIEFLY)

1 MR. PAGE: So yeah, it's June 21st.
2 THE COURT: Yeah, that's what I have down.
3 MR. BLACKHAM: Okay. So then -- so the portfolio
4 value at that time was 25,376.27. When we were talking the
5 other day, it was -- we were talking about getting the amount
6 but it's rate of return then that just remains to be
7 determined.
8 THE COURT: Okay.
9 MR. BLACKHAM: Fair enough. Okay. Thank -- so I'm
10 glad it was clarified at that point. And then it is going to
11 be divided as a defined benefit plan.
12 THE COURT: So --
13 MR. BLACKHAM: Contribution plan. I'm sorry.
14 THE COURT: -- for ease -- ease of reference, the
15 agreement is that obviously what she had in there as of the
16 June 30, 2014 balance is her sole and separate property.
17 MR. BLACKHAM: That's correct.
18 THE COURT: The contributions made after that date,
19 July 1st, 2 -- 2014 to present are community deposits. It's
20 the rate of return on both portions that needs to be
21 calculated.
22 MR. BLACKHAM: Yes.
23 THE COURT: Is that --
24 MR. BLACKHAM: That -- that is correct --

1 THE COURT: Is that a correctly --
2 MR. BLACKHAM: -- Your Honor.
3 THE COURT: -- stated agreement?
4 MR. BLACKHAM: That is correct. And then they'll be
5 -- and -- and if possible if it can be offset so we can avoid
6 the number of QDROs, we've got his 401(k) which would be
7 equally divided, but --
8 THE COURT: Yeah, but his -- his FDF says he only
9 has $10,000 in it.
10 MR. BLACKHAM: It's not much. It's -- it's not --
11 THE COURT: Okay.
12 MR. BLACKHAM: It's not much. I'm just -- I'm just
13 saying.
14 THE COURT: They're probably going to need vaca --
15 based on what it looks like probably the community portion in
16 hers is almost -- or her whole thing is almost 60, right?
17 Thought that’s what I read.
18 MR. BLACKHAM: Yeah, I think that sounds right.
19 THE COURT: Yeah.
20 MR. BLACKHAM: And so anyway, that's --
21 THE COURT: So --
22 BY MR. BLACKHAM:
23 Q So -- so the -- we talked about your income. We
24 talked about -- you -- we have entered into evidence your W-2s

1 for 2019 and 2020, correct?
2 A Yes.
3 Q And were those accurate?
4 A Yes.
5 Q Okay. The -- are you asking the Court to set child
6 support?
7 A Yes.
8 Q Right? How -- how would you like the Court to set
9 child support?
10 A Jointly, however it's done jointly, you know.
11 Q Based upon the joint physical custody schedule you
12 were requesting?
13 A Correct.
14 Q Okay. All right. So let's talk about the funds in
15 escrow. Those -- those steps from the proceeds of the sale of
16 the residence, the marital residence, right?
17 A Correct.
18 Q Okay. And how much is in there right now?
19 A I want to say somewhere around 50,000. There's --
20 yeah, 50 and some change probably, but I don't know the exact
21 number.
22 Q So it's about -- it would be -- your FDF says
23 51,752.10. Do you --
24 A Yeah.

1 Q -- believe that's accurate?
2 A That's -- that's -- yes, that's accurate.
3 Q Okay. And what are you asking the Court to do with
4 that amount?
5 A Split it 50/50.
6 Q Okay. When's the first time you became aware that
7 Stephanie was trying to enforce this purported postmarital --
8 or postnuptial agreement in this case?
9 A The -- the -- oh, when we came here, when I got the
10 -- when I saw the exhibit.
11 Q So you sought the pretrial memorandum as well,
12 right?
13 A Yes.
14 Q Okay. She filed -- she filed a pretrial memorandum
15 A I'm not --
16 Q How about this? Prior to May of this year, did you
17 know that she was in -- expecting to enforce that postnuptial
18 agreement?
19 A No.
20 Q Okay. Does that come as a surprise to you?
21 A Yes.
22 Q Okay. Is there any reason why the Court shouldn't
23 equally divide for those funds?
24 MR. PAGE: Objection, ask for a legal conclusion.

1 THE COURT: Sustained.
2 BY MR. BLACKHAM:
3 Q Let's talk about your car. So, again, you clarified
4 that the -- the prior Ford -- 150?
5 A Yes.
6 Q Okay. Was sold prior to the filing of this case,
7 right?
8 A Yes.
9 Q Okay. So -- and that was spent on community
10 purposes, right?
11 A Yes.
12 MR. PAGE: Objection, leading.
13 Q And you --
14 MR. PAGE: Foundation.
15 MR. BLACKHAM: He previously testified to that.
16 THE COURT: I'm sorry. Say the question again?
17 MR. BLACKHAM: It was spent for community purposes.
18 MR. PAGE: The objection is foundation.
19 THE COURT: Okay.
20 MR. BLACKHAM: The foundation is he previously
21 testified to it. I'm just -- this is the foundation.
22 THE COURT: I'm saying is if you want to set more
23 foundation.
24 MR. BLACKHAM: He already testified to it. I -- I

1 -- so -- okay. Okay. All right.
2 BY MR. BLACKHAM:
3 Q What did you spend -- the -- you received about
4 approximately $12,000 for the car, right?
5 A Yes.
6 THE COURT: Oh, the car.
7 MR. BLACKHAM: Okay. Sorry. I -- I wasn't sure
8 where --
9 Q So -- so and -- and what did you spend that money
10 on?
11 A To free up monthly payments going to debt that was
12 made during the marriage and also to use -- to put a down
13 payment -- put down deposits to move into a separate place for
14 me and Riley to have.
15 Q All right. And -- and then you acquired your
16 current vehicle which is what?
17 A Ford Fusion. I think it's a 2017, maybe.
18 Q Was there was a down payment required for that?
19 A I -- maybe 500 bucks.
20 Q And did you use the money that you got for the --
21 for the Ford F150 for that?
22 A No, that got sent to me later. I used money I saved
23 up for that.
24 Q Okay. Then -- and your -- the FDF that you filed on

1 -- well, last -- this -- I guess it's this past -- this past
2 week, right? I think it was June 22nd?
3 A Yes.
4 Q You -- you listed the gross value as 10,132?
5 A Yes.
6 Q And you owe 16,572.90?
7 A Yes.
8 Q Are you asking that Stephanie be required to pay you
9 for the deficiency on that?
10 A No.
11 Q In the event that you have any liability on -- if
12 it's found that you have any liability on $12,000 that you
13 received, would you ask that that deficiency be shared?
14 A Yes, because it was a vehicle needed regardless.
15 That truck was falling apart.
16 Q But otherwise you just assumed each take your own
17 vehicles and go your separate way.
18 A Yes.
19 MR. BLACKHAM: All right. The Court's indulgence.
20 Q You are -- you have no objection to the cost of
21 Riley's health insurance to be shared equally, right?
22 A No.
23 Q And you're fine if that is included in the child
24 support amount?

1 A Yes.
2 Q You're currently paying child support in what
3 amount?
4 A $998.64
5 Q How about the -- the federal dependency exemption?
6 Are you asking the Court to make any ruling on that day?
7 A As far as what -- because that -- is that who's
8 claiming her?
9 Q Correct.
10 A Yeah, I think that should be split 50/50 year on
11 year off.
12 Q Okay. So you say 50 -- 50/50. Do you mean that you
13 alternate claims?
14 A Yeah, alternating years.
15 Q Okay. And Stephanie claimed her this year, right?
16 A Yes.
17 Q All right. So would you ask then to claim her next
18 year?
19 A Yes.
20 Q So that would be tax year 2020 --
21 A '22.
22 Q Well, she claimed for '21 -- so it would be '21,
23 right?
24 A '21 and --

1 Q It would be this tax year.
2 A -- yeah, and '22 to --
3 Q So then you would want --
4 A -- catch up, yeah.
5 Q -- odd numbered tax years?
6 A Yes.
7 Q Okay. Just making -- I'm just trying to expedite
8 it. I'm not trying to -- all right. Are you asking for an
9 award of your attorney's fees and costs for needing to proceed
10 to trial?
11 A Yes.
12 Q Okay. Can you turn to Proposed Exhibit E?
13 MR. BLACKHAM: I don't think -- we didn't stipulate
14 to this I don't think.
15 Q And just look at it and let me know if you recognize
16 that document.
17 A Yes.
18 Q Just go through all pages, please. Just I believe
19 there's three pages.
20 A There should be three pages. I only got one in
21 here. Oh, wait. I'm sorry. I'm sorry.
22 Q Or do I just have -- no, I have three pages.
23 A No, I got it. I got it. Yes, I recognize all this.
24 Q Okay. What -- what is this document?

1 A These were maps that I put together of what our
2 current -- or what our living situation was when we both all
3 resided in our home as far as commutes to work and to Riley's
4 school, what -- it then became and then what Stephanie is
5 proposing just to put it into perspective for everybody to
6 see.
7 Q Okay. And so did you -- did you create this
8 document by inputting information?
9 A Yes.
10 Q And this was -- what -- what website did you use for
11 this?
12 A I used Google Maps on this one.
13 Q Okay. And so what -- what do the three scenarios
14 depict? Just -- just do -- like what are they showing?
15 A The first one on 419, this shows where the current
16 situation is now, where I work, where she works -- what -- I
17 guess that's now changed. I didn't know that but she's moved
18 with -- this is what it's been for the past year, where
19 Riley's school is, where I live, and where Stephanie is now
20 located to. The next one on 420 shows both again where I
21 live, where her workplace is, where my workplace is and then
22 where Stephanie is and then her proposed school. The very
23 last one shows what our situation was when we were still
24 together as a family, where we lived, where the school was,

1 and where we both were.
2 Q Okay. So --
3 MR. BLACKHAM: All right. Move to admit Proposed
4 Exhibit E.
5 MR. PAGE: The objection is it assumes facts not in
6 evidence. My client only works face -- you know, she only
7 works at Faith -- or --
8 THE PLAINTIFF: Faiss.
9 MR. PAGE: Faiss?
10 THE PLAINTIFF: Faiss.
11 MR. PAGE: Faiss. She no longer works at Faiss
12 Middle School. It doesn't list her on here. Imagine Schools
13 at Mountainview is the charter school that she was accepted to
14 but he seems to think that's Tarr but it's not. So if the
15 information contained in here that's delineated by him is
16 incorrect which would make it any probative value being
17 outweighed by the dangers of undue prejudice.
18 THE COURT: I'm going to admit that -- over the
19 objection as a demonstrative --
20 MR. BLACKHAM: Thank you.
21 THE COURT: -- exhibit to give the Court an idea of
22 the commutes which is -- the logistics is definitely one of
23 the Arcella factors.
24 (DEFENDANT'S EXHIBIT E ADMITTED)

1 MR. BLACKHAM: And -- and -- okay. Thank you, Your
2 Honor.
3 BY MR. BLACKHAM:
4 Q Does this show -- so do you have distances recorded
5 in this exhibit?
6 A Yeah, well, it's -- yeah, it outlines the distance
7 but --
8 Q Okay. So let's --
9 A -- not the --
10 Q -- let's --
11 A -- actual miles.
12 Q -- talk about that.
13 A Okay.
14 Q So -- so does this provide the distance between your
15 home and Stephanie's home?
16 A Yes.
17 Q Okay. And how -- and so you weren't sure before.
18 So what's the distance?
19 A Thirty-two miles.
20 Q Okay. That's one way, obviously.
21 A Yes.
22 Q All right. So it would be 64 miles round trip.
23 A Yeah.
24 MR. PAGE: I'm going to object -- object. That

1 assumes facts not in evidence. There aren't mileage figures
2 listed --
3 MR. BLACKHAM: Sure.
4 MR. PAGE: -- anywhere in Exhibit E.
5 MR. BLACKHAM: Sure there is.
6 MR. PAGE: Show me.
7 MR. BLACKHAM: Sure there is. The lefthand side
8 upper left it says 32.
9 THE WITNESS: It's boxed.
10 MR. BLACKHAM: And that's the route from -- from
11 54 --
12 MR. PAGE: I see --
13 MR. BLACKHAM: -- 53 --
14 MR. PAGE: There's no -- Counsel, there -- if
15 there's a 32, I cer --
16 MR. BLACKHAM: It's been admitted. Can Your Honor
17 see it?
18 THE COURT: Well, I don't have your exhibits open.
19 Let me see. Yeah, I don't see any --
20 MR. BLACKHAM: If -- if Your Honor has the page, I
21 can show you where it is. I just -- I just want to make sure
22 that you have the exhibit.
23 THE COURT: I have it. I'm looking at it.
24 MR. BLACKHAM: Upper lefthand corner. Do you see

1 where it says --
2 THE COURT: Oh.
3 MR. BLACKHAM: -- 8712 Kendall if you look to the
4 left?
5 THE COURT: Oh, I see the little box there.
6 MR. BLACKHAM: Yeah, it's 30 -- that -- that --
7 those are the mileage. Those are the mileage indicators.
8 THE COURT: Okay.
9 MR. BLACKHAM: So if you see -- that's where her
10 parents live, 8712 Kendall. And then he's at 5453 South
11 Durango. So that distance is -- is 32 miles. That's where he
12 got that from.
13 BY MR. BLACKHAM:
14 Q So now does this provide the distance between Good
15 Samaritan, Christian Academy, and your house? Or do any of
16 these pages? Because I thought it did.
17 A I thought it did too. I knew I put them in there
18 and now I'm not seeing them. It's like only some of them went
19 in there.
20 Q Hang on. What's the address for Good Samaritan?
21 That might be the issue.
22 A It's West Windmill. Maybe the 8000 block on this
23 thing.
24 Q Okay. Hang on. So it would be the -- it should --

1 if it's here it should be on page -- on the first page.
2 A Yeah.
3 Q Right? And so -- because your -- your address is
4 here and Good Samaritan is here.
5 A Correct. I would want to redo those numbers --
6 well, actually --
7 Q Well --
8 A -- but he can -- so obviously --
9 Q It's -- it's clear. I mean, I -- I think it's
10 evident that it's not far from --
11 A And these might even be summed up numbers because at
12 the box next to my work says 13 miles. I think that's about
13 half the distance. So the --
14 Q Okay.
15 A -- the 30 may even be half. So maybe round trip
16 numbers. I know I wrote the --
17 Q No.
18 A -- notes too but I don't have them in front of me
19 and I did this quite awhile ago.
20 Q Okay. Well, in any event, the -- when you did this,
21 Imagine Schools at Mountainview, why was that included?
22 A That's where she said she was getting accepted to
23 but she changed it after that which the other school is right
24 there next to it anyway. It's like Alexander and Tenaya are

1 or something like that. It's right there.
2 Q Is Tarr near that?
3 A Yeah, it's like Alexander and Tenaya or something
4 like that. I -- I don't remember the other exact cross
5 street, but it's on Alexander.
6 MR. BLACKHAM: Okay. Very good. All right. Pass
7 the witness.
8 THE COURT: Okay.
9 MR. PAGE: I'll -- I'll be as snappy as I can, but
10 what -- and I -- I want to put this in a form that -- that
11 makes for a decent record. But the mileage that they put in
12 this particular map that they have appears to be in no way
13 accurate.
14 THE COURT: Hold on or we can do it just the way I
15 do it every day.
16 MR. BLACKHAM: Yeah. I mean, that's --
17 THE COURT: Ask -- I'll ask Google.
18 THE WITNESS: Yeah.
19 MR. BLACKHAM: Just --
20 THE COURT: How -- what --
21 MR. BLACKHAM: That's the -- and if I can get
22 online, I would --
23 THE COURT: Depend -- the 32 miles --
24 THE WITNESS: That's why I said --

1 THE COURT: -- depends on --
2 THE WITNESS: -- it might be round trip.
3 THE COURT: -- where the -- the start point is which
4 is hard to tell.
5 MR. BLACKHAM: Right.
6 MR. PAGE: Well, I -- okay. Say for example we
7 talked about you -- one Okay. The considerations you had Your
8 Honor is that how far away apart are -- are these people and
9 he's saying it's 32 miles. I can do a quick Mapquest which
10 you can take judicial notice of from 8712 Kendall Brook Drive
11 to 5453 South Durango Drive, and I can look here and I can see
12 that the one-way distance is 15.9 miles. For him to say under
13 oath in court here that it's 34 miles is -- is simply
14 perjurious --
15 MR. BLACKHAM: If it --
16 MR. PAGE: -- and is terribly misleading to this
17 Court and --
18 MR. BLACKHAM: The -- the --
19 MR. PAGE: -- it's extremely upsetting.
20 MR. BLACKHAM: The feigned outrage is a little much,
21 Your Honor. The problem --
22 MR. PAGE: No, it's not outrage --
23 THE MARSHAL: Hey.
24 MR. PAGE: -- Counsel.

1 MR. PAGE: The problem is -- he -- he said that --
2 THE MARSHAL: One at a time.
3 MR. BLACKHAM: He said initially he wasn't sure.
4 And then upon looking closer he said you know what, that might
5 be round trip distance. So to say it's perjury is -- is a
6 little rich. It's obviously not perjury. He's trying to be
7 as careful as he can. If --
8 MR. PAGE: Then he should have been --
9 MR. BLACKHAM: -- it was --
10 MR. PAGE: -- careful and -- and put the right
11 figures in --
12 MR. BLACKHAM: You --
13 MR. PAGE: -- before I have to go double check and
14 find out they're wrong.
15 MR. BLACKHAM: Before -- and before you had to
16 double check, he acknowledged it could be a round trip number.
17 He acknowledged it. So -- so you didn't do anything that
18 caused him to say that. He was trying to be accurate. And he
19 had said he thinks it's 30 miles. But when I asked him is
20 that round trip or one-way, he said I'm not sure. So he
21 didn't perjure himself, not even close.
22 THE COURT: I got your point and Mr. Page I -- I got
23 your point. And yours does sound more correct from there to
24 there. I can't tell what he was trying to measure that. But

1 you're right. If you used Google or -- or Mapquest, it will
2 give you --
3 MR. BLACKHAM: Did -- did Your Honor want to take
4 judicial notice of the distances involved? I mean, we can do
5 that now and then we can be done with the issue.
6 MR. PAGE: It should have been done before and it
7 shouldn't have --
8 MR. BLACKHAM: Oh, sorry. Well --
9 MR. PAGE: -- being attested know whether it's
10 one-way or round trip
11 THE COURT: Oh, okay. Well, to be fair, not
12 everybody knows that concept. So all right. I -- I got your
13 point that it's not -- I don't think it's 32 miles between
14 each house. That sounds more -- about the round trip.
15 MR. PAGE: Also while we're at it, when we talk
16 about -- or when he's testifying that it's 200 -- $200 for
17 transportation, we can just take a look at Mapquest here and
18 see that the estimated fuel cost is $2.19.
19 MR. BLACKHAM: Objection, Your Honor. I mean, are
20 we going to take judicial notice of everything Fred Page pulls
21 up on his -- on his -- on the computer? I -- that's --
22 MR. PAGE: I mean, I ask the question way a
23 different way. That's -- that's fine.
24 MR. BLACKHAM: I -- that wasn't a question.

1 CROSS EXAMINATION
2 BY MR. PAGE:
3 Q You have a -- you have a vehicle that -- that gets
4 how many miles per gallon?
5 A I don't know.
6 Q I'm sorry?
7 A I don't know.
8 Q You don't know. You don't know.
9 A No.
10 Q Well, assume -- if it's a Fusion, which is a small
11 car, it gets at least 25 to 30 miles a gallon, right?
12 A Possibly.
13 MR. BLACKHAM: Objection, asked and answered.
14 MR. PAGE: He -- he knows. He just won't say.
15 THE COURT: Okay.
16 MR. BLACKHAM: Your Honor, move to strike.
17 MR. PAGE: I mean, the -- the Court can assess the
18 credibility of the witness and his failure -- complete failure
19 of memory.
20 BY MR. PAGE:
21 Q Now, you testified that there was a -- you agree
22 that there was an agreement that you signed and Stephanie
23 signed.
24 A Yes.

1 Q Part of Exhibit 25. So your testimony was that you
2 had never -- you had never intended to be bound by that,
3 correct?
4 A Not after we resolved the divorce.
5 Q Now, you -- you testified that you never intended to
6 be bound -- be bound by the agreement. You never told
7 Stephanie that you never intended to be bound?
8 MR. BLACKHAM: Objection, Your Honor. Misstates the
9 testimony. He was very clear about what he meant.
10 THE COURT: Overruled.
11 BY MR. PAGE:
12 Q You never told Stephanie that you never intended to
13 be bound, did you?
14 A I believe that was the --
15 Q So listen to the question and why don't you answer
16 the question, please. The question is you never told
17 Stephanie, did you?
18 A I don't know. We talked about it.
19 Q Okay. You have no specific recollection as to
20 whether you told Stephanie hey, guess what, Stephanie, I don't
21 intend to be bound by this agreement that we signed.
22 A I don't think either one of us know.
23 Q So you never had that conversation with her, did
24 you?

1 A I don't recall. It was a long time ago.
2 MR. PAGE: Ms. Clerk, could you pull up -- open up
3 Exhibit 35 again, please?
4 THE CLERK: Yeah. It's a video, right?
5 MR. PAGE: Yes, it is.
6 Q While she's opening that up, I'm going to ask you
7 about the Mexico incident. If a person is intoxicated and
8 unable to walk, normally you'd put their arm around your
9 shoulder and help them get back to where they need to go,
10 right?
11 A Yes.
12 Q Okay. But your -- it's your contention you actually
13 grabbed Stephanie by the arms and helped her back to the room.
14 A No.
15 Q Okay. Well --
16 THE CLERK: Counsel, I'm sorry. You said 35?
17 MR. PAGE: 35.
18 THE CLERK: Okay.
19 Q Then if you weren't helping her back to the room,
20 how did she get the bruises?
21 A He arm was originally around my neck. She took it
22 off my neck and said she was fine. That's when she tripped
23 over.
24 Q Now, let's take a look here at Exhibit 35.

1 MR. PAGE: You can go ahead and play that, ma'am, --
2 Madam Clerk.
3 THE CLERK: I'm sorry?
4 MR. BLACKHAM: It's been playing.
5 MR. PAGE: You can go ahead and replay that, please.
6 THE CLERK: Okay.
7 3:45:30
8 (VIDEO PLAYED)
9 Q So you see here where Mr. Blackham is attempting to
10 leave and you're attempting to stop her, right?
11 A Not her, just my daughter.
12 Q And part of that, in order to prevent her from
13 leaving, you took her purse.
14 A Yes.
15 Q You would agree that preventing someone who's -- who
16 wants to leave and you're preventing them from leave, that's
17 false imprisonment.
18 MR. BLACKHAM: Objection, calls for a legal
19 conclusion.
20 THE COURT: Sustained.
21 MR. PAGE: I'll rephrase it.
22 BY MR. PAGE:
23 Q You're preventing Ms. Rubidoux from leaving against
24 -- by her own free will.

1 A No.
2 Q Okay. You took Ms. Rubidoux's purse to prevent her
3 from leaving.
4 A With my daughter on her lap.
5 Q I didn't ask you whether -- whose daughter -- whose
6 daughter was on whose lap or whether your daughter was with
7 her. I'm asking you, you took her purse to prevent her from
8 leaving, right?
9 A Yes.
10 Q As to the vehicle -- and if you can go to the next
11 one -- strike that. You testified that you hung onto the car,
12 right? And this is --
13 A No.
14 Q -- the other video from the neighbors.
15 MR. BLACKHAM: Objection, he answered no.
16 MR. PAGE: I --
17 THE COURT: All right.
18 BY MR. PAGE:
19 Q The other video from the neighbors show that you
20 were on the car, right?
21 A Attached to the car, yes.
22 Q Okay. It was your choice to go out to Stephanie's
23 car as she was backing out, right?
24 A Yeah.

1 Q Okay. It was your -- your choice to put your hands
2 on the vehicle right?
3 A Yes.
4 Q Okay. It was your choice to continue to have your
5 hands on the vehicle while Stephanie drove off, right?
6 A Not once she drove off. That wasn't my choice.
7 Q Could you -- let's open up Exhibit 42, please.
8 MR. BLACKHAM: That's not the right one, Fred.
9 MR. PAGE: No, this is the right one. Could you
10 stop there? No, go ahead and play it through.
11 MR. BLACKHAM: Oh, I -- I thought you wanted the
12 same day.
13 MR. PAGE: No, play it through.
14 3:47:51
15 (VIDEO PLAYED)
16 Q I'd like you to look very closely at that as you're
17 pushing her. Number one, Mr. Rubidoux, you testified that
18 Riley was sleeping. You would agree that Mr. -- that Riley
19 doesn't have pajamas on, right?
20 A Yes.
21 Q Okay. You also testified that Ms. Rubidoux broke
22 your glasses, right?
23 A Yes.
24 Q Okay. You agree in this video you're still wearing

1 your glasses. Do you see --
2 A We have --
3 Q -- your glasses on the video?
4 A I got lenses.
5 Q Yes? You're --
6 MR. BLACKHAM: Obje --
7 Q You're -- you are wearing your glasses in the video,
8 right?
9 A Yeah.
10 Q Thank you.
11 MR. PAGE: Could we open up Exhibit 41, please,
12 Madam Clerk?
13 3:49:08
14 (VIDEO PLAYED)
15 Q Mr. Rubidoux, do you agree in that video that by
16 having your truck parked where it is you're preventing Ms.
17 Rubidoux from leaving, right?
18 A Not intentionally.
19 Q No. Listen to the question. I want you to answer
20 the question. Your -- your attorney can follow up. By having
21 your vehicle parked in front of Ms. Rubidoux's vehicle, you're
22 preventing her from leaving, right?
23 A No.
24 Q You agree that your vehicle is parked in front of

her vehicle, right?

A Yes.

Q Okay. And you agree that by having her vehicle in -- your vehicle in front of her vehicle, she was unable to back out at that time, right?

A No.

Q Yes or no?

MR. BLACKHAM: He answered.

MR. PAGE: Madam Clerk, can you open up Exhibit 43, please?

3:51:10

(VIDEO PLAYED)

Q Mr. Rubidoux --

MR. PAGE: You can stop that, Ms. Clerk. Thank you.

Q Mr. Rubidoux, here at the first 10 to 15 seconds of the video that music in the background --

A Uh-huh (affirmative).

Q -- that's from Riley's stuffed animal, isn't it?

A I don't recall.

Q Okay. And you heard the last from 2:57 to 3:14 of that video you heard that same music from the stuffed animal playing again, didn't you?

A Yes. Or whatever it was. I -- I don't remember her stuffed animal.

1 Q You agree there's nothing that forced you to swear
2 like that in front of Riley, did it -- did it?
3 MR. BLACKHAM: Objection, assumes facts not in
4 evidence.
5 THE COURT: Overruled.
6 THE WITNESS: Say that again? I didn't understand
7 your question.
8 BY MR. PAGE:
9 Q There's nothing that forced you to swear like that
10 in front of Riley, was there?
11 A I -- Riley was not there.
12 Q Well, again, you heard the toy -- the toy in the
13 background playing. You heard it at the beginning and you
14 heard it at the end, right?
15 A Uh-huh (affirmative).
16 Q Okay. Stephanie wasn't playing with the toy, was
17 she?
18 A No.
19 Q And you weren't playing with a toy, were -- were
20 you?
21 A No.
22 Q Okay. I'll ask the question again. There was
23 nothing that forced you square like that in front of Riley,
24 was there?

1 A Riley wasn't there. The toy went off in my car all
2 the time.
3 Q There's no -- nothing that forced you to gun the
4 engine like that, was there?
5 A Maybe getting on the freeway.
6 Q You heard the engine. There's nothing that forced
7 you to gun the engine like that, was there?
8 A No.
9 Q Okay. You indicated in that video that you had a
10 beer earlier, right?
11 A Yes.
12 Q Okay. There's nothing that required you to drive
13 recklessly like -- like that, was there?
14 MR. BLACKHAM: Objection, assumes facts not in
15 evidence.
16 THE COURT: Sustained.
17 BY MR. PAGE:
18 Q Well, there was nothing that forced you to drink
19 that day, right?
20 A No.
21 Q You also said in the video that when we drop her
22 off, it also implies that Riley was in the vehicle with you,
23 right?
24 A No.

1 Q Isn't it also true that your boss and his daughter
2 had -- your boss's daughter had never watched Riley before.
3 A I don't know. It may have been the first time, but
4 I don't know.
5 MR. PAGE: I'd like you to open up Exhibit 44,
6 please, Madam Clerk.
7 THE CLERK: Absolutely.
8 3:57:44
9 (VIDEO PLAYED)
10 MR. PAGE: Madam Clerk, you can stop there.
11 Q Mr. Rubidoux, you agree that it is completely
12 unnecessary for you to involve Riley in an argument between
13 the two adults.
14 A Yes.
15 Q You were asked questions about whether you have made
16 statements, whether you're going to kill yourself, whether
17 you're going to drive your car into a wall or -- or into a
18 semi and things like that?
19 A Yes.
20 Q You're usually intoxicated when you make statements
21 like that, right?
22 A I don't know.
23 Q You admitted that you have caused damage to the
24 house. When you caused damage to the house, you're usually

1 intoxicated when that happens.
2 A I don't know.
3 MR. PAGE: Could you open up, Madam Clerk, Exhibit
4 37, please?
5 THE CLERK: 47?
6 MR. PAGE: 37.
7 4:00:14
8 (VIDEO PLAYED)
9 MR. PAGE: Madam Clerk, can you stop there, please?
10 Q Mr. Rubidoux, Stephanie was simply asking to be left
11 alone and not to be woken up at night. Was there any reason
12 why you could not do that?
13 A No.
14 Q As to the incident, the Clark County School District
15 when you broke the window, isn't it true that Ms. Rubidoux --
16 Stephanie told you not to come, not -- not to go to the
17 school?
18 A I don't remember.
19 Q Isn't it true that Ms. Rubidoux would always let you
20 on campus when she invited you?
21 A Yes.
22 Q Okay.
23 A Actually, I don't really remember. I don't know.
24 Q Okay. Well, isn't it true that she didn't invite

1 you there that night?
2 A I don't remember.
3 Q You recall the testimony from Principal West wherein
4 he observed an incident wherein you were at the school during
5 school hours while she was teaching.
6 A Yes.
7 Q Okay. You would agree you don't usually go into a
8 classroom and disturb a teacher while they're at work, right?
9 A Yes.
10 Q Yet, that is what you did that day.
11 A I don't remember. I've been there plenty of times
12 when her students were in there.
13 Q You agree that Principal West had concerns that you
14 were making Stephanie leave against her will.
15 A No.
16 Q Now, as to the incident whether you broke the glass
17 at the -- at the school, you agree that you ran off, right?
18 A Yes.
19 Q You agree that's by running off you're -- you're
20 acting guilty.
21 A Yes.
22 Q The Halloween where everyone was dressed up as a
23 unicorn, that was in 2018, not 2019, right?
24 A I have to double check. I don't remember.

1 Q But do you recall the May 3rd incident when
2 Stephanie went back to her parents and her father refused you
3 entry to the house?
4 A Yes.
5 Q You testified you went back in her car and slept?
6 A Yes.
7 Q Okay. You could have just gone home, couldn't you?
8 A Yes.
9 Q You knew you weren't welcome there that night,
10 right?
11 A Honestly, I don't know.
12 Q Okay.
13 A He gave me coffee the --
14 Q Well, he didn't --
15 A -- next morning.
16 Q -- he didn't let you into the house, right?
17 A He talked to me outside for awhile.
18 Q Okay. He didn't let you into the house, right?
19 A In the morning he did.
20 Q He didn't let you into the house, right?
21 A In the morning.
22 Q He didn't let you into the house that night, right?
23 A No.
24 Q You could have just gone home, right?

1 A Yes.
2 THE COURT: Mr. Page, are you about done? Because
3 we're beating around the same bush now.
4 MR. PAGE: Yeah. Yeah. Yeah. Yeah. I'll -- I'll
5 keep moving along.
6 Q You claim that Stephanie has a bipolar personality
7 disorder, right?
8 A Yes.
9 Q Okay. You agree that at no point during the past
10 year this case has been going you've asked for a psychological
11 assessment of her briefed focused assessment.
12 A Yes.
13 MR. BLACKHAM: Objection, misstates testimony. He
14 said she said it.
15 MR. PAGE: No.
16 MR. BLACKHAM: Yeah, he did.
17 THE COURT: Yes, you did. Sustained.
18 BY MR. PAGE:
19 Q You claimed that -- that Stephanie said it. You
20 never asked for a psychological evaluation of her, did you?
21 A When?
22 Q At any point during these proceedings.
23 A No.
24 Q As far as your concerned, you don't think you have a

1 drinking problem, do you?
2 A No.
3 Q Isn't it true that you have missed the last couple
4 of Sunday school sessions with Riley, haven't you?
5 A A couple.
6 Q You said -- you said that you're -- you're going to
7 be more involved in -- in Riley's life than you were before,
8 right?
9 A Huh? Say that again?
10 Q You said you're going to be more involved in Riley's
11 life?
12 A I never said that. I just want to be -- well, I
13 want to be more involved.
14 Q Okay.
15 A So it's --
16 Q Well, isn't it true that you missed Easter parade at
17 school?
18 A Yes.
19 Q Isn't it true you missed her fun run?
20 A Yes.
21 Q You alleged that Stephanie doesn't allow you to have
22 phone contact with -- with Riley. Is that your contention?
23 A No.
24 Q Well, you testified that she restricts your phone

1 calls.
2 A She chooses when I can talk to her.
3 Q Okay. You recall Ms. Rubidoux's -- Stephanie's
4 testimony that Riley has an iPad. You can talk to Riley on
5 the iPad anytime you want.
6 A Yes.
7 Q You also realize that there's Kids Messenger on that
8 iPad.
9 A Yes.
10 Q On that Kids Messenger, you can text.
11 A Yes.
12 Q Okay. There is no limitation on your ability to
13 communicate with Riley on that iPad, is there?
14 A Unless someone blocks you.
15 Q In March after the 15th, after everything was shut
16 down, wasn't there an agreement between you and Stephanie that
17 you would be able to communicate with Riley every day due to
18 COVID on the iPad?
19 A That wasn't an agreement.
20 Q Isn't it true that you and Riley talked every day?
21 A No.
22 Q Isn't it true that Stephanie's wanted to move Riley
23 from --
24 THE PLAINTIFF: Good Samaritan.

1 Q -- Good Samaritan since she's been two years old?
2 A No.
3 Q Isn't it true that they changed the teachers there
4 for every year?
5 A No.
6 Q You claim that Riley should continue going to Good
7 Samaritan because she has quote/unquote friends there.
8 A Yes.
9 Q Okay. You realize that she's five years old.
10 A Yes.
11 Q You realize that a five-year-old's friends will
12 change as time goes along.
13 A Yes.
14 Q You also agree that even though her friends are
15 going to change that Stephanie takes Riley to play days with
16 her friends from Good Samaritan.
17 A Yes.
18 Q As to the issue of what school that Riley's going to
19 go to, isn't it true that back in November of 20 that on
20 OurFamilyWizard she attempted to have a discussion with you
21 about enrolling Riley at a different school? I'm sorry, it
22 was November 16th.
23 A There was multiple discussions.
24 Q Okay. Isn't it true when she tried to open up the

1 subject with you on November 16 that you refused any options
2 and you told Stephanie that Riley was going to go to Good
3 Samaritan.
4 A If that's the initial one, then yes.
5 Q Yes or no, sir?
6 A If that's the initial one, then yes.
7 Q Isn't it true that you told Stephanie that when you
8 want to talk to Riley that she's just to do it?
9 A No.
10 (COUNSEL AND CLIENT CONFER BRIEFLY)
11 Q Isn't it true that you have sent Stephanie mess --
12 text messages saying that she's cheating on you or that you
13 are cheating on her and that you came home drunk on November
14 5th, physically restrained her, locked her in the closet until
15 she could get her phone and call the police?
16 A No.
17 Q Isn't that the last night that you and --
18 A Yes.
19 Q -- Stephanie lived together?
20 A Yes.
21 Q But that would be after you came home drunk and
22 locked her in a closet --
23 A No.
24 Q -- and she had to call the police. She -- the

1 police --
2 A She called the poli --
3 Q -- did show up.
4 A She called the police. But no, that's -- that's not
5 true.
6 Q And you're still maintaining you don't have a
7 problem with alcohol.
8 A Yes.
9 Q I'd like to talk about your income for a little bit,
10 if I may.
11 MR. PAGE: May I approach, Your Honor?
12 THE COURT: Okay.
13 MR. PAGE: I'll be -- I'll be very quick. I already
14 have it mapped out.
15 Q Mr. Page, it's true that your income's gone up every
16 year, hasn't it?
17 A Yes.
18 Q Okay. In 20 -- in Exhibit 15 on for the year 2014,
19 the household income was 95,000, right?
20 A Uh-huh (affirmative).
21 Q In Exhibit --
22 A Yes.
23 Q -- 16 for 2015 the annual household income was a
24 hundred thousand, right?

1 A Yes.
2 Q Okay. In 2016 the annual household income was a
3 hundred and forty-five thousand three hundred and ninety-four
4 dollars for 2016.
5 A Yes.
6 Q And then 2017 the annual household income was a
7 hundred and twenty-eight thousand dollars.
8 A Yes.
9 Q I'm sorry, a hundred and forty-five thousand
10 dollars.
11 A Yes.
12 Q Now for 2019 you yourself are making according to
13 your W-2 a hundred and eight thousand eight hundred
14 thirty-three dollars forty-one cents.
15 A Yes.
16 Q And then for '20, it's a hundred and sixteen
17 thousand forty-two dollars thirty-two cents.
18 A Yes.
19 Q Then through the first five months of this year
20 you're up to $62,000.
21 A Yes.
22 Q You were asked questions about whether Ms. Rubidoux
23 had received the stimulus money. Isn't it true that Ms.
24 Rubidoux pursuant to Judge Henderson's orders had -- had

1 primary custody of Riley?
2 MR. BLACKHAM: Objection, calls for a legal
3 conclusion. That was never ordered.
4 THE COURT: And it assumes facts not in evidence.
5 MR. PAGE: I'm sorry?
6 THE COURT: Your -- your -- the order you prepared
7 specifically says there was no designation.
8 MR. BLACKHAM: Exactly.
9 MR. PAGE: Okay.
10 BY MR. PAGE:
11 Q Riley was with Ms. Rubidoux most of the time, right?
12 A Yes.
13 Q You -- you want to do what's best for Riley, right?
14 A Yes.
15 Q You want to make sure she progresses as much as she
16 can educationally, right?
17 A Yes.
18 Q You agree that Ms. Rubidoux has better training and
19 experience than you have as an educator.
20 A Yes.
21 Q Where the Tann (sic) is, do you know where that's
22 located?
23 THE PLAINTIFF: Tarr.
24 Q Tarr.

1 A Somewhere off of Alexander. I forget the other
2 cross street.
3 Q Where?
4 A In the northwest.
5 Q Would you be surprised to know that it's in
6 Summerlin?
7 A Yeah, I would actually. That was never disclosed to
8 me and she never sent me an address.
9 (COUNSEL AND CLIENT CONFER BRIEFLY)
10 A Her three choices were all in the northwest. That's
11 -- that's not Summerlin.
12 Q Would you be surprised to know it's Alexander and
13 Fort Apache?
14 A No, I'm not.
15 Q 9400 West Gilmore which is about --
16 MR. BLACKHAM: Bless you.
17 Q -- which is about Alexander.
18 A Yes.
19 Q You testified that when the truck was sold you used
20 the -- the money from the truck to pay down the contract debt
21 that you had, right?
22 A Yes.
23 Q Okay. Well, now you've already agreed that
24 Stephanie can keep the credit card debt that she has and you

1 can keep the credit card debt that -- that you have.
2 MR. BLACKHAM: Objection, relevance, Your Honor.
3 This is pre-divorce. Why are we getting into this?
4 MR. PAGE: We're getting into this because he used
5 the $12,000 to pay down the credit card debt and then says
6 that he should assume the credit card debt after her --
7 MR. BLACKHAM: Existing. What does that have to do
8 with anything?
9 BY MR. PAGE:
10 Q Let met ask you this, sir.
11 MR. BLACKHAM: I'm sorry, Your Honor, is your --
12 THE COURT: Sustained.
13 MR. BLACKHAM: Thank you.
14 Q You never asked Stephanie's permission to use that
15 money to pay down any credit card debt, right?
16 A No.
17 Q If one extrapolates your income out for this year,
18 you're going to be making roughly a hundred and forty, hundred
19 and forty-five thousand dollars. Isn't it true that if you're
20 making that level of income your ability to use the tax
21 dependency exemption for Riley is going to be reduced, right?
22 MR. BLACKHAM: Obje -- objection, calls for a legal
23 conclusion, assumes facts not in evidence.
24 THE COURT: Just the -- I'm going to overrule that.

1 If he -- if he know the answer, he can --
2 THE WITNESS: I have no idea.
3 (COUNSEL AND CLIENT CONFER BRIEFLY)
4 THE COURT: Mr. Page, it's now 4 -- 4:16.
5 MR. PAGE: I'll pass the witness.
6 THE COURT: I'm going to cut you off Mr. Blackham
7 because I've heard enough of everything over two full days.
8 This is not a two full day case. It's not a two full day
9 trial. But that's what we've been here doing and we're going
10 to finish today. So I'm going to cut you off. I have one
11 question for each party and then we're going to close the
12 evidence.
13 In March 2020, your wife sent you a text message
14 with some proposed settlement terms. In those terms, she
15 stated that she wanted to make no mention of her dad but
16 wanted you to agree that only female relatives could watch
17 Riley.
18 THE WITNESS: Yes.
19 THE COURT: Do you know what she was referring to in
20 that regard?
21 THE WITNESS: I was never okay with her father
22 watching Riley and neither was she.
23 THE COURT: Why?
24 THE WITNESS: He's been -- he's relapsed I don't

1 know how many times. She's told me he leaves oxycontins and
2 stuff on the couches, on the floors. And I believe there's
3 more, but I don't know, that I was never told.
4 THE COURT: Okay. And ma'am, my one question for
5 you is how far is your parents' home in miles from the former
6 marital residence?
7 THE PLAINTIFF: Based on looking at the map, I would
8 probably say from my parents' house to the former marital
9 residence about 20 miles.
10 THE COURT: Twenty miles one way, right?
11 THE PLAINTIFF: I would say approximately, yeah.
12 THE COURT: All right. That's -- that is all I
13 needed to know. I really don't need a lot of closing
14 argument. I'm going to give you five minutes each and I would
15 like you to focus first on the legal issue on the postnuptial
16 agreement. Sir, if you want to go ahead and --
17 THE WITNESS: Thank you.
18 THE COURT: -- step down. And that means, Mr. Page,
19 you go first. When you're ready, I'll start timing you.
20 MR. PAGE: Okay. One moment, please. I need to get
21 to a certain area here. Are you ready, Your Honor?
22 THE COURT: I'm ready.
23 MR. PAGE: This case has roughly two principle
24 issues. One is child custody and -- and visitation and one is

1 what to do about the postnuptial agreement and its
2 enforceability. As to child custody, the relative statute is
3 NRS 125C.0035 (4) -- (4) and then there's some subparagraphs A
4 -- A, B, C, D, E, F, G, H, I, J, K, L. We are required to go
5 through the factors one-by-one because it's initial custody
6 determination.
7 The first are the wishes of the child. The child is
8 too young. The nomination of a guardian for the child by a
9 parent, not applicable. Which parent is more likely to allow
10 a frequent association and a continuing relationship with a
11 non-custodial parent. The evidence and testimony is going to
12 show that Stephanie's complied with all of the Court's orders.
13 The evidence or admitted testimony is that Mr. Rubidoux has
14 done things like given a check to -- the child support check
15 to the child and gone to tell her to go buy something nice
16 with her mother.
17 And we've also seen in various things and whether
18 it's the police incident report, whether it is the videos,
19 whether it's the audio recordings, that Mr. Rubidoux is
20 unwilling to allow frequent associations and continuing
21 relationships because he has significant other control issues
22 in his life. This factor should favor Mom because she has
23 none of these issues that Dad has.
24 The level of the conflict between the parents is

1 high. This amount of level of a case. We have certainly seen
2 worse, but this is in the higher end. The evidence and
3 testimony has shown that Mr. Rubidoux has committed multiple
4 acts of domestic violence which makes the level of conflict
5 higher.
6 The ability of the parents to cooperate to meet the
7 needs of -- needs of the child, the ability to cooperate is
8 limited. There is conflict between the parties. Any
9 communication that does occur should occur through some form
10 of OurFamilyWizard or Talking Parents, something along those
11 lines.
12 The mental and physical health of the parents,
13 Stephanie is mentally and physically healthy. There is no
14 cogent evidence that she is suffering from anything currently
15 now. There was an incident when she was sexually assaulted
16 back in 2003 but that's really about all.
17 As to Daniel, I have got here no less than 13 acts
18 of domestic violence. There is issues with alcohol. There is
19 issues with marijuana. There is issues with anger management
20 impulse control issues which can be seen in the various
21 videos, the police report from CCSD, his own admission that
22 he's damaged things around the house. This factor favors
23 Stephanie.
24 The physical, developmental and emotional needs of

1 Riley, she's five years old. What she needs is stability,
2 somebody who is going to be there constantly for her. The
3 person -- that one person who's been through her -- with her
4 throughout her life is Mom. Therefore because Mom is most and
5 best suited to meet Riley's developmental needs, this factor
6 favors her.
7 The nature of the relationship of the child with
8 each parent, the relationship is good.
9 The ability of a child to maintain a relationship
10 with any sibling is not applicable. Any history of parental
11 abuse or neglect of the child or a sibling of the child, it's
12 submitted a -- a photograph taken of Riley holding a weapon is
13 an act of neglect.
14 The big issue here is whether E, the parent has
15 engaged in an act of domestic violence against the child,
16 parent of the child, or any other person residing with the
17 child. I have -- the evidence will show at least 13 acts of
18 domestic violence. Testimony was given that the first time
19 was a sister's wedding at July 13 -- July 2013. Mr. Rubidoux
20 grabbed Stephanie hard on the arms, left bruise marks on the
21 arms. The time index for that testimony is 10:37. The second
22 time was in December 2015. Ms. Rubidoux went to attend some
23 classes, have him stop some drink -- stop drinking. He threw
24 her the shoulder, threw her on the couch and pinned her down

1 10:38. The third time was July 2017. Back from that -- from
2 the night out drinking. Mr. Rubidoux slams Stephanie to the
3 ground in front of Riley and then broke a bunch of glass on
4 the house. It's 10:39 of day one of the trial.
5 The fourth time was throughout 2017 and 2018 with
6 repeated incidents of Mr. Rubidoux pinning Stephanie to the
7 ground, pinning her to the ground, and now allowing her to
8 leave the house. That's false imprisonment. We have the cut
9 on the hand, the blood, that was admitted into evidence as
10 Exhibit 55. The other incident was when he broke the phone.
11 That's Exhibit 56. It was admitted at 10:53. She kept the
12 phone in case the behavior did not stop. Have evidence of the
13 behavior wanting to make the marriage work.
14 The sixth incident was a July 2018 at Clark County
15 School District where he destroyed property trying to get in.
16 You heard the testimony from Ms. May that she was terrified by
17 Mr. Rubidoux being there. He was unwanted, he was unwelcome.
18 And while he was there unwanted and unwelcome, he destroyed
19 school property. He was arrested by the Clark County School
20 District and was let out a number of hours later.
21 The seventh incident was on February of 2018. She
22 -- my client was pinned to the ground and she grabbed the
23 phone and went on Facebook Live and streamed the event live of
24 her screaming and yelling. Someone in the neighborhood saw

1 the video and called the police.
2 The eighth one is January 20, 9 -- 2019 wherein --
3 THE COURT: Mr. Page, you're out of time.
4 MR. PAGE: You've -- I'll -- I'll summarize just
5 very, very briefly. I appreciate your allowance here. I'm
6 just trying to go as quickly as I can because there's a lot of
7 evidence here to go to. The summary is there's about 13
8 evidence of domestic violence. The evi -- the summary and the
9 evidence is that there is a significant alcohol problem with
10 Mr. Rubidoux. There's also a marijuana problem that he denies
11 but the Court has also seen the video where he has violently
12 shoved my client against a garage door. It's scary.
13 Then as to the postnuptial agreement, there's
14 nothing in there about any alimony. It's signed. They admit
15 it's theirs. The fact that he didn't want to abide by it
16 doesn't matter. But in any event she found it during
17 discovery. It was produced and she would like to enforce the
18 document. It meets all the requirements. They -- of a
19 postnuptial agreement. We ask that it be enforced as written.
20 We also have concerns about the suicidal ideations
21 that Mr. Rubidoux has done and he admits to. No right -- no
22 person in their right mind jokes about suicide yet that's how
23 he tries to --
24 MR. BLACKHAM: Your Honor --

1 MR. PAGE: -- minimize it --
2 MR. BLACKHAM: -- you said he's out of time.
3 MR. PAGE: And also we have the property destruction
4 of the -- at least 10 holes in the wall by my client's father
5 and in addition the -- what should I say, the admission by Mr.
6 Rubidoux that he has caused those most -- some of those --
7 THE COURT: Mr. Page --
8 MR. BLACKHAM: Your Honor --
9 THE COURT: I -- I've let you both go a lot in this
10 -- and -- and I should have limited you to each three hours
11 because this case doesn't take all this. I understand all of
12 your best interest arguments very well. So I'm going to let
13 Mr. Blackham go ahead and make his argument and I'm limiting
14 him too.
15 MR. PAGE: If -- if I -- if I may, Your Honor, just
16 -- and -- and I know you're -- you want to get out of here,
17 it's Friday, just as --
18 THE COURT: It's not that. These people need to be
19 closure. This case has been pending a year-and-a-half. It --
20 they're --
21 MR. PAGE: Yeah.
22 THE COURT: -- need to be done one way or the other.
23 MR. PAGE: Well, and just briefly if I can as to the
24 text message that was admitted into evidence under -- and I do

1 have to make a record on this that NRS 140.105 states that
2 evidence or conduct of statements made in compromised
3 negotiations is likewise not admissible. That is something
4 that opposing Counsel didn't mention when we were talking
5 about that on May 14th. But in any event, she's testified
6 that with COVID and everything that was going on that it was a
7 terribly stressful time. She was being harassed. So
8 regardless of whether it's 48.105 or the Court's going to
9 allow that to come in, there was a tremendous amount of stress
10 and a tremendous amount of harassment that she testified to as
11 to why that -- why that exchange occurred when it did. And
12 with that, I have nothing further.
13 THE COURT: Well, if you're refer --
14 MR. PAGE: I appreciate your time. Thank you. I'm
15 sorry?
16 THE COURT: If you're referring to her March 2020
17 text messages with -- with the -- her -- her settlement terms,
18 the Court is not admitting it for consideration of those
19 settlement terms but for the other purpose of is there really
20 a concern regarding one of the grandparents that both parents
21 apparently acknowledge. And so that's why I asked him about
22 that. So that -- that -- it does come in for that purpose.
23 MR. PAGE: Okay. Thank you. All right. I
24 appreciate your time.

1 THE COURT: Thank you.
2 MR. BLACKHAM: Your Honor, I will be incredibly
3 brief. I promise. The alleged postnup, there are so many
4 reasons why it shouldn't be enforced. Number one, there was a
5 subsequent recon -- reconciliation, Your Honor, and this
6 clearly contemplated a divorce. They're saying it's a
7 postnuptial agreement because they're trying to piggyback on
8 the fact that the parties actually reconciled. Okay. But
9 it's not dated. It was made prior to the dismissal of the
10 prior divorce case.
11 And, Your Honor, I mean, we can go through -- I
12 mean, just waiver, latches, estoppel, all of these defenses
13 should prohibit Stephanie from -- from relying on this or
14 trying to enforce it, but beyond all of that Your Honor it's
15 not even an integrated contract. It -- it says she gets the
16 house but it doesn't say that she doesn't pay my client. It's
17 community interest. And then they ultimately decided to sell
18 the house anyway. And then they conducted themselves as if
19 they were going to divide it equally.
20 And so -- and -- and why allocate $10,000 to each
21 side if we weren't going to -- if -- if we weren't going to do
22 that? If she thought she got the whole thing, why are we
23 allocating $10,000? Okay. I -- it's -- it's -- frankly, it's
24 just -- it's not -- it's not a credible claim, Your Honor.

1 I would also just say if it -- if it was to be
2 enforced the way Mr. Page is interpreting it, then it's
3 unconscionable and therefore it's barred by Applebon v.
4 Applebon. So you -- you have a greater fiduciary duty in a
5 postnuptial agreement than you do in a prenuptial agreement
6 because of fiduciaries. And I don't know that this is -- that
7 there was a full disclosure here. Certainly all the terms
8 that are possible are not here. And plus it contemplates
9 again them reconciling. So I don't even know that there's
10 adequate consideration here.
11 Certainly the -- my client testified that they were
12 supposed to notarize it. That was going to be the final
13 thing. He also testified that they threw it away afterwards.
14 So there was no -- there was no intent for this to continue.
15 Certainly if -- if there even was a binding agreement which I
16 strenuously disagree with, certainly it was abandoned after
17 that fact. So this -- this agreement is not what it purports
18 to be and it should be entirely disregarded by the Court and
19 the community property that is left in dispute should be
20 equally divided, Your Honor.
21 In terms of the -- in terms -- if Your Honor had
22 anything else on that issue, I -- I'll turn to -- I don't know
23 if you had any -- okay.
24 THE COURT: No.

1 MR. BLACKHAM: Very good. You just want me to stop
2 talking. I -- I understand. But the -- so as far as custody
3 goes, Your Honor, again, I -- I don't -- I don't believe they
4 have established that an act of domestic violence under the
5 statute has occurred. I believe that the videos obviously
6 show a toxic relationship. My client is certainly culpable in
7 -- in part of it, but one of the reasons I went through the
8 exercise of dragging the Court back through those very
9 unpleasant videos is that there is more to this.
10 She does participate in this. She never sounds
11 scared. The one -- the one video, Exhibit 42, obviously
12 that's a tussle between the two of them. My client says he
13 wasn't trying to hurt her. There's -- obviously that both of
14 them are going back and forth. But yeah, I mean, he -- he
15 obviously came out and they had a tussle and he was trying to
16 prevent her from taking Riley.
17 The consistent theme here is he just doesn't want
18 her to take Riley. No matter how many times they try to
19 pretend that he's false imprisoning her or, you know, I don't
20 know (indiscernible) out of her, but the -- the -- and he's
21 not committing false imprisonment. He's trying to -- to stop
22 her from leaving with their daughter because she always uses
23 the daughter as -- as leverage against him. And, again, my
24 client has taken enough of his lumps in this case. He

1 acknowledges his fault. He acknowledges the drinking too much
2 sometimes during the marriage. That doesn't mean he's an
3 alcoholic.
4 They talk about not having a psych eval with Mom.
5 Have they had an alcohol assessment of Dad? But yet they get
6 to come here and claim that he's an alcoholic? That's
7 ridiculous. But she acknowledged her own mental illnesses.
8 We just want joint physical custody. And by the way, I don't
9 know that what they're exercising now isn't joint physical
10 custody. So I -- I -- you know, the -- the reality is that
11 since -- oh, my goodness. Why do I forget the name of the
12 case? It begins with a B.
13 THE COURT: Bluestein?
14 MR. BLACKHAM: Bluestein. Thank you. I don't -- I
15 just have a -- I -- so under Bluestein it doesn't necessarily
16 have to be a -- a 40 percent, 60 percent split. There's a
17 reason why Judge Henderson didn't make a designation here.
18 That's because there was -- he wasn't going to -- to impose a
19 characterization of the custody here. Okay. So even if it
20 were to stay the way it is, I believe that -- that my client
21 by right has joint physical custody under Bluestein, but Mom
22 wants him to have even less time and she's got no -- no
23 credible reason why. She has no reason to think he's a danger
24 to that child. He has not been a danger to that child.

1 Both of them improperly involved that child in their
2 marriage, absolutely 100 percent. It's clear that both
3 parties did that though. My client takes responsibility for
4 his. But other than a passing yeah, I'm not proud of my
5 conduct from Stephanie, you don't hear a whole lot from her.
6 And the reality is you -- she does not sound intimidated. She
7 doesn't sound like -- like she's being bullied. And she
8 acknowledges the very demeaning insults and -- and verbal
9 aggression on her own part during their exchanges. She slips
10 sometimes and her real personality comes out.
11 But it doesn't matter. The bottom line is we have a
12 statutory preference in favor of joint physical custody.
13 There has been no act of domestic violence under the statute.
14 Even if there was a act of dome -- domestic violence, we've
15 rebutted that presumption because my client is a good dad. My
16 client is -- is a -- is dedicated to giving Riley a good life.
17 He has a flexible work schedule. He can take care of her just
18 like Mom can. And Mom has nothing to articulate other than
19 speculation as to some danger that might lurk off in the
20 horizon that nobody can really articulate with any
21 specificity. And that's just not enough to overcome the
22 preference in favor of joint physical custody, Your Honor.
23 I'm asking that the Court award these parties joint
24 physical custody week on week off timeshare. Absent that,

1 we're asking for a five-two-two-five timeshare where they
2 alternate their weekends and each one gets a day during the
3 week, Your Honor.
4 As far as child support goes, we -- we present his
5 -- his income. He's acknowledged his income has gone up. But
6 it -- dividing his income for the year by five is not going to
7 get an accurate number. He had a hundred and eight thousand
8 dollars approximately in 2019, made a hundred and sixteen
9 thousand dollars in 2020. That's the reality.
10 THE COURT: I think you're up. Your time is up.
11 MR. BLACKHAM: And attorney's fees and costs,
12 please. Oh, and Arcella, they didn't apply, Your Honor. And
13 I'm sorry, but they do have joint physical custody until they
14 don't. And having not applied Arcella, she should stay in the
15 school that she's in and of course the parties should share
16 transportation obligations.
17 MR. PAGE: We (indiscernible) if we had more time.
18 THE COURT: All right. The Court has had a lot of
19 evidence here. Some of the evidence we've beaten like a dead
20 horse. All right. The Court finds that Plaintiff and
21 Defendant were married on June 21st, 2014, is now a seven year
22 marriage. Plaintiff and Defendant are both bonafide residents
23 of the state of Nevada and the Court has personal and subject
24 matter jurisdiction over this divorce. The parties are

1 incompatible in marriage and the Plaintiff is not pregnant.
2 The Plaintiff is entitled to an absolute decree of divorce
3 based on the grounds of incompatibility. The parties have one
4 minor child, a daughter named Riley born January 13, 2016.
5 Now, she's age five. Nevada is her home state and this Court
6 has jurisdiction over all matters relating to her custody,
7 care, and support.
8 The partial parenting agreement entered into on June
9 16, 2020 provides that the parties will share joint legal
10 custody and the parties agreed upon terms regarding holidays,
11 vacations, and transportation. Notably, I don't know why the
12 parties have done what they've been doing because the partial
13 parenting agreement states the receiving parent shall provide.
14 MR. BLACKHAM: And Your Honor, I can clarify that.
15 On -- on the record at the hearing in order to get the
16 parenting agreement entered so a holiday schedule would be in
17 place, we said on a temporary basis he would provide the
18 transportation. And -- and that was the --
19 THE COURT: Well, that makes no --
20 MR. BLACKHAM: -- stipulation.
21 THE COURT: That makes no sense to me.
22 MR. BLACKHAM: It's -- I agree with that, but that's
23 the only way we could get it entered.
24 THE COURT: That partial parenting agreement is

1 already an order and should be being followed by the parties
2 already. And those parties will be incorporated in total into
3 the final decree of divorce. The parties have not resolved
4 physical custody of Riley and this is the primary dispute in
5 this case. The sole consideration of the Court in determining
6 custody of Riley is what is in her best interest. NRS
7 125C.0035(4) provides a non-exhaustive list of factors that
8 this Court must consider when determine what is in Riley's
9 best interest. I think we all agree that factor A does not
10 apply because she is not old enough to form an intelligent
11 preference regarding her custody. And factor B does not apply
12 in this case regarding a nomination of a guardian.
13 Factor C, which parent is more likely to allow
14 frequent associations and a continuing relationship with the
15 other parent. This factor favors Dad. The Court has serious
16 concerns about Mom's ability to support Dad's relationship
17 with Riley in terms of both her actions, particularly prior to
18 the April 16th, 2020 hearing and in terms of her attitude, her
19 complete attitude is that she is very superior to him in all
20 respects as a parent and his wishes and ideas shouldn't be
21 considered. That's not what the evidence shows though as far
22 as her being superior. There's a lot of shortcomings in terms
23 of both of these parents.
24 That concern -- go back. On the -- the other

1 action, particularly that disturbs the Court as it relates to
2 Mom, ability to support Dad's relationship with Riley, is the
3 complete refusal to allow him to have any physical contact
4 with Riley for the month of March 2015, 2020 until the Court
5 ordered something on April 16th, 2020. That is completely
6 unacceptable and does not show any willingness to do the -- to
7 allow him to have a relationship. It's her way or the highway
8 and that does not fly.
9 It's moderated -- the concerns are moderated a
10 little bit because of the -- over the last 14 months except
11 for Mom's denial of his custodial time Christmas which that is
12 a violation of the Court's order. Other than that though over
13 the last 14 months they have shared custody with Dad having
14 35.7 percent of the time. That does help the Court in that
15 there's been 14 months with these parties' abilities to at
16 least mostly comply with the court order, to work together for
17 Riley, to not have these problems that they had when they were
18 living together.
19 I think we can all agree that the -- these parents
20 cannot be together. The level of conflict and toxicity in
21 their relationship, the amount of time that they put their
22 daughter in the middle of it. And it's so sad to hear her
23 voice in the background. That -- both of your are responsible
24 for and neither one of you are -- are superior in that regard.

1 So don't be given yourself errs on that because both of you
2 did that.
3 The level of conflict between the parents has been
4 high, more so when they were together. Thankfully they --
5 they both seem to be a lot calmer when they're not together.
6 And there has been more relative peace since there was a court
7 order put in place. But that factor does not favor either
8 parent in this case. The failure of the parents to cooperate
9 to meet the needs of the child kind of overlaps with factor C
10 in this case regarding Mom's willingness to consider and allow
11 Dad to have any input in parenting decisions. Well, that
12 factor the Court finds doesn't favor either parent in this
13 case.
14 The mental and physical health of the parents,
15 there's a lot of allegations both ways. There is some
16 indication of Mom having had some problems in the past
17 including some anxiety issues because she did have a
18 prescription for I believe a Benzodiazepine but she has
19 changed that to a -- my notes says melatonin is what she's
20 taking to help her with the sleeping and -- and the anxiety.
21 So there's not any evidence that that favors either parent in
22 this case. There's testimony about Dad abusing marijuana, but
23 even Mom's testimony was that after they reconciled in 2019
24 that was much less of a concern and a problem whereas his --

1 his use of alcohol went up. I've listened to that testimony
2 very carefully.
3 I think that Dad has abused substances and there is
4 an ongoing concern but there's nothing again that's happened
5 in the last 14 months on that. There's been no request for
6 him to wear a SCRAM bracelet, to do a Soberlink or any of
7 that. There's been no arrest. There's been no calls to the
8 police about him being impaired. So that -- the Court finds
9 that that factor does not favor either parent.
10 The physical, developmental, and emotional needs of
11 the Riley. The Court finds that she has a lot of needs but
12 needs in this case that do not favor either parent having
13 primary custody. The -- and she's five years. She needs to
14 feel safe and secure and the parents did a terrible job of
15 that when you guys were together and fighting and -- and the
16 chaos, the drama. But now that you two are not together I'm
17 sure that she is much more secure and happy that she doesn't
18 hear -- listen to her parents fighting, things she doesn't
19 understand.
20 I want to go back also -- the other thing that stood
21 out to the Court, and we've listened to that video over and
22 over again and Mom's not telling the truth about that
23 recording of the garage video with Riley there, you can
24 clearly hear her and she clearly sees that. And allow --

1 exposing her to that does not -- that's not a good decision on
2 Mom's part.
3 MR. BLACKHAM: Which factor is that, Your Honor?
4 I'm sorry.
5 THE COURT: Oh, that goes under factor C.
6 MR. BLACKHAM: Okay. Thank you.
7 THE COURT: Exposing her to -- to that which is
8 unnecessary. So factor G does not favor either parent.
9 Factor H, nature and relationship with each parent.
10 That does not favor either parent in this case. She seems to
11 have a good relationship with both. Mom admitted on -- on
12 cross examination and that she testified at her deposition
13 that Riley loves Dad and -- and looks forward to her time with
14 him. I think -- I think she's a much happier little girl now
15 that she has individual one-on-one time with each of you where
16 you're not at each other's throats.
17 It does appear -- I'll get to that one when I get to
18 the domestic violence. The ability of the child to maintain a
19 relationship with the sibling is not applicable in this case.
20 History of abuse and neglect, factor J, relates to
21 -- directly to the child. In this case, the Court finds that
22 both parties have neglected her emotional needs and stability
23 by their -- involving her and letting her observe their
24 conflict. I'm sure that the situation -- that there's no --

1 there's no audio of it, but the two incidents in January and
2 May of 2019 in the garage I'm sure were quite frightening to
3 her.
4 The Court finds though that Mom's taking Riley in
5 the car in the middle of the night on her lap and driving 20
6 miles up to her parents' house is -- is completely
7 irresponsible. There was no need she needed to take that
8 child from the house in the middle of the night. If there was
9 something going on in the house which we don't see from the
10 videos, you call the police. You don't need to drag her out
11 of bed, put her on your lap, and drive off. That's not good
12 decision making either. And neither's is Dad. I don't think
13 we need to get there because I'm going to get to the issue of
14 domestic violence.
15 There's been a lot of allegations of domestic
16 violence both ways here. The Court finds that there's been a
17 lot of inappropriate actions between the two of you as far as
18 the language you've used with each other, the language in
19 front of your child, the taking off in the middle of the
20 night, the trying to stop her, all put your child in danger.
21 But the law requires a parent to prove domestic violence by
22 clear and convincing evidence in order for it to rise to the
23 presumption that the parent should not have joint physical
24 custody or of course primary custody. In this case, the Court

1 finds that there is one act of domestic violence that Mom has
2 proven by clear and convincing evidence and that's the
3 incident in the garage in January of 2019. That was clearly
4 domestic violence. And I don't care what she was saying or
5 what she was leaving. You put her hand -- your hands on her
6 and that is unacceptable and that does rise to a level of
7 domestic violence.
8 What the Court finds that Dad has overcome the
9 presumption on him having joint physical custody in terms of
10 the fact that -- during the fact that he has been able to
11 parent her since then and Dad's right in his allegations that
12 Mom -- and none of those incidences does Mom seem afraid. In
13 fact, Mom seems to be antagonizing him and calling him -- what
14 was the word, an -- an oversensitive bitch, something of that
15 nature. I -- I do think that the behavior has been
16 inappropriate between both parents. And -- and on that
17 occasion his acts did rise to that.
18 As far as we've discussed previously the criminal
19 cases against Dad were both dismissed. So the Court cannot
20 use either of those as a basis to find clear and convincing
21 evidence on domestic violence. I'm not sure that the school
22 window would even rise to domestic violence anyway. But the
23 Court finds that there -- there has been an overcoming of that
24 presumption by Dad and that joint physical custody of Riley is

1 in the best interest of her. The Court --
2 MR. BLACKHAM: Your Honor, may I ask for a
3 clarification on those -- on those findings? Just in terms of
4 the rebuttal, is Your Honor also finding that your analysis of
5 the other factors apply to the -- to overcoming the
6 presumption, for example, subsection C, or is it just -- or is
7 it just --
8 THE COURT: It's -- it's all of those, but --
9 MR. BLACKHAM: Okay.
10 THE COURT: -- I didn't finish my thought. Was --
11 MR. BLACKHAM: I apologize.
12 THE COURT: I -- my thought on the -- the other part
13 of that overcoming the presumption is that the Court can craft
14 a custody schedule and a -- an exchange protocol that
15 minimizes the parties' contact with each other and the chances
16 of them again getting into any -- any situation of
17 inappropriate verbal arguments or physical altercations in
18 front of their daughter and protect her and as well as protect
19 Mom. Mom doesn't have to -- not going to make Mom interact
20 with him in person because we're going to setup a -- an
21 exchange protocol which minimizes that.
22 Regard to factor L, the Court finds that acts of
23 abduction are not applicable in this case.
24 Given those findings, the Court's going to order as

1 follows regarding custody. Oh, the other -- there's one other
2 finding. The Court makes as a best interest factor in
3 addition to the ones in screenshot four is that parents are
4 encouraged to share rights and responsibilities of their
5 children that that is not in Riley's best interest, that Dad
6 should have all fun time and none of the work time of
7 parenting especially with Riley now starting school. The
8 Court finds that a joint physical custody that allows Mom to
9 have weekends and weekend time with Riley is also in her best
10 interest.
11 As far as physical custody, the schedule is going to
12 be -- and when you talk about when we implemented. But the
13 schedule is going to be Dad's going to have her on Mondays and
14 Tuesdays with dropping her off Wednesday at school or daycare
15 because I think in the summer they're going to -- he's going
16 to need daycare at least and doing the exchange at daycare is
17 beneficial to Mom and Riley. So Dad will drop off Wednesday
18 morning before work at either daycare or school and then Mom
19 will have her from Wednesday either from -- she going to pick
20 her up from daycare or school?
21 Whichever -- when that -- that's going to be
22 governed by her work schedule when she does on Wednesday. And
23 then she'll have her until Friday, drop off at school or
24 daycare. And then the parties are going to alternate the

1 weekends which will be defined as from Friday as school drop
2 off until Monday at school drop off.
3 Now, given that we're in the summer and Mom's done
4 working from now until probably around the 2nd or 3rd of
5 August, then I don't know that we should implement this
6 schedule until school starts. I think we should keep the --
7 the temporary schedule in place until school starts. Because
8 Dad's going to need daycare and from according to what the
9 parents have said is that Good Samaritan is not even open
10 right now, right? That you guys haven't been using that when
11 you -- Mom's been working at summer school and Dad's been at
12 work -- paternal grandmother and paternal aunt have been
13 helping with care and --
14 THE PLAINTIFF: Yeah, but that's not needed.
15 (COUNSEL AND CLIENT CONFER BRIEFLY)
16 MR. BLACKHAM: Okay. They didn't enroll in a summer
17 program.
18 THE COURT: And okay. So I think that given the --
19 the criminal case issues in the summer because Dad's still got
20 to work all week is we keep that schedule in place until --
21 until Friday the 6th of August is when we will start this
22 schedule.
23 MR. BLACKHAM: Whose weekend will that be, Your
24 Honor?

1 THE COURT: And talk --
2 MR. BLACKHAM: Sorry.
3 THE COURT: -- about that because I'm going to have
4 to -- we're going to have to talk about that. Okay. So then
5 holidays, vacation, they've got that covered. The exchanges
6 are going to be receiving parent pick up. If there is no
7 school or daycare to do, then the receiving parent's going to
8 pick up using a text and seatbelt rule. Luckily she is now
9 five years old. Mom is currently living with her parents and
10 her residence. And Dad I believe lives in a home, not an
11 apartment building, right?
12 THE DEFENDANT: It's a single building by itself in
13 the apartment complex.
14 THE COURT: Okay. Okay. So Mom will be able to
15 pull up, text you, and you'll be able to send your daughter
16 out or --
17 THE DEFENDANT: Yeah, she comes to the door if she
18 wants --
19 MR. BLACKHAM: No, that she doesn't want --
20 THE COURT: No, she's not --
21 THE DEFENDANT: Oh, obviously --
22 THE COURT: -- going to come to the door.
23 MR. BLACKHAM: That's the whole point --
24 THE COURT: That's the point.

1 MR. BLACKHAM: -- is for her to stay in the car with
2 the seatbelt fastened --
3 THE DEFENDANT: Got it.
4 MR. BLACKHAM: -- text you and you bring the child
5 out.
6 THE DEFENDANT: Yeah.
7 MR. BLACKHAM: And it goes the other way too.
8 THE DEFENDANT: Yes.
9 THE COURT: Or you're supposed to send her out but I
10 don't want to send her out --
11 MR. BLACKHAM: But --
12 THE COURT: -- if it's in a multi family --
13 MR. BLACKHAM: Right.
14 THE DEFENDANT: No, it's good. I can take -- I
15 can --
16 MR. BLACKHAM: Don't go any closer to the car than
17 you need to --
18 THE DEFENDANT: Okay.
19 MR. BLACKHAM: -- to have Riley -- to -- to effect
20 the exchange.
21 THE DEFENDANT: Understood. Okay.
22 THE COURT: So you guys are going to have to
23 probably keep the childcare too in place that will help
24 because then obviously Mom has the ability to work with --

1 with paternal grandmother and paternal aunt to -- and helping
2 so it's -- if we need to we can do the exchanges using one of
3 them. You drop off to -- to your mom or to your sister and
4 then Mom can pick up from them so she's more comfortable or
5 your daughter is comfortable and we don't have any chance of
6 any altercations verbal or otherwise between the two of you.
7 The parties are going to continue to use
8 OurFamilyWizard except for any urgent need such as if you're
9 going to be late to an exchange or there's an emergency
10 regarding Riley. In those cases, you can text or call. I
11 mean, if you're taking her to the emergency room, you should
12 have the courtesy of calling the other parent right away so
13 that they can be there too.
14 With regard to the school issue, the parties do not
15 have an agreement where she will attend kindergarten. This is
16 also a best interest analysis. And with -- this is a second
17 in two days where I've had to make a decision regarding
18 kindergarten. It's not easy to fit kindergarten into some of
19 the Arcella factors, but we do our best here.
20 Regard to factor one under Arcella, the wishes of
21 the child, she is not of sufficient age and capacity to inform
22 an -- to form an intelligent preference.
23 The child's educational need and each school's
24 ability to meet them, and when I say each school, in this case

1 I'm considering Dad's proposal of Good Samaritan and Mom's
2 proposal of the magnet program at Sheila Tarr elementary
3 school. So those are the two that she is able to go to. And
4 considering the two of them the Court finds that the -- that
5 factor pref -- I'm sorry, that factor favors going to the
6 magnet school at Sheila Tarr given that she -- there will be
7 more opportunities for a bigger class, the bigger options in
8 terms of what -- what subject she takes, more challenging
9 subjects, more diversity in terms of it is still public school
10 but it has a superior -- when you're in the magnet program, it
11 has a superior academic program.
12 Given her age and going to kindergarten, I don't
13 think online school works at all for kindergartners. So -- so
14 that she has a full day of kindergarten in person and Sheila
15 Tarr is going to best meet her educational needs.
16 The factor regarding curriculum, method of teaching,
17 and quality of instruction at each school, the Court finds
18 that that factor also favors attend -- her attending the
19 magnet school.
20 Factor four is the one that's hard to fit in with
21 the kindergarten selection as far as the past scholastic
22 achievement. We really don't have any evidence of that
23 regarding -- regarding Riley at this time. There's no
24 evidence though that she cannot perform any school environment

1 that the -- the parents would offer at either of these
2 schools. The Court finds that factor five regarding the
3 medical needs of -- of the child does not apply to this case
4 as far as factor seven does not apply to this case because --
5 in a way I guess it does if Dad -- Dad's proposing she
6 continue at the same school. There is some theory to an
7 advantage to staying where she has friends and a familiar
8 environment. So that factor might favor Good Samaritan.
9 Factor 8, the child's ability to adapt to an
10 unfamiliar environment. There's no evidence that Riley
11 doesn't have he normal five-year-old's ability to adapt to
12 change. And it's going to be a change no matter what because
13 she's going into kindergarten. That requires much more of a
14 set schedule and more doing things that are not as much fun as
15 preschool.
16 In this case, the hardest issue is again the length
17 of the commute and the other logistical concerns. Given Dad's
18 testimony regarding his work schedule and work location and
19 the flexibility of him being a outside salesperson, the Court
20 finds that he can still make that commute to Sheila Tarr, work
21 on his custodial days. And if they work it out ahead of time,
22 Mom's flexibility and her new work may be able to help, but
23 she would have to be there early. For example, if Dad has to
24 be at the office working and he cannot get her but he needs to

1 let Mom know ahead of time, she might be able to help with
2 that or you guys also have a good family support system to
3 help with that. So the Court finds that even though that
4 factors staying at Good Samaritan that the advantages of going
5 to Sheila Tarr and in that magnet program outweigh the
6 logistical concerns. And I down do believe Dad has the
7 ability to get around those logistical concerns and make it
8 work.
9 And then factor 10, whether enrolling a child at a
10 school is likely to alienate a child from -- from a parent.
11 In this case, I don't believe either parent would be alienated
12 from either -- from her attending either school. Although Mom
13 is -- is a teacher with the Clark County School District, she
14 doesn't work at that school. So I do find that balancing all
15 the factors, it is in Riley's best interest that she attends
16 Sheila Tarr magnet school program for the 2021-2022 school
17 year.
18 With regard to the division of community property
19 and community debt, the parties stipulated to a lot of issues
20 and they have very narrow disputes that have to be resolved by
21 the Court. With regard to their stipulations, they each
22 stipulated to keep their own credit card debts at their sole
23 and separate debts. They also stipulated -- or Dad stipulated
24 to the Navy Federal Credit Union debt being his sole and

1 separate debt. They have agreed that the Plaintiff's PERS
2 will be divided by the time rule. And I believe they have
3 agreed to use Mr. Winesett's office. It doesn't matter. They
4 both charge a similar flat fee. And the Court is going to
5 order that the parties equally divide the cost of that QDRO.
6 With regard to -- the parties have also stipulated
7 that each party will keep their own bank accounts and they've
8 also stipulated that Defendant's -- I think it's a 401(k),
9 whatever retirement account with T. Rowe Price -- is that --
10 MR. BLACKHAM: That's Plaintiff's --
11 THE COURT: A 430 --
12 MR. BLACKHAM: -- I believe.
13 THE COURT: Yeah, sorry. Yeah, that's Plaintiff's
14 T. Rowe Price. That is a mixed asset with a significant
15 portion of that being her premarital sub -- sole and separate
16 property and that the community portion which is going to be
17 calculated, we're going to put a valuation date. Because of
18 Kogod it's -- and where we -- in the real -- real world here,
19 I'm going to put a valuation date of 6/30. Although the
20 parties probably are not going to get a findings of fact,
21 conclusions of law and decree of divorce to me and entered by
22 6/30. But 6/30 will be a very clean date on that one. And on
23 the Defendant's 401(k) which is a hundred percent community
24 property you -- if we use 6/30 valuation date for both of

1 those. But Dad's will be divided 50/50 since that is a
2 hundred percent community.
3 The dispute on the property -- the assets and debts
4 in this case really come down to the house proceeds. And the
5 Court finds that the Exhibit 25 is not a valid postnuptial
6 agreement for the following reasons. First of all -- and I
7 believe I didn't hear either party dispute this that the term
8 regarding custody is not -- obviously not enforceable under
9 NRS 123.080. The parties cannot make an agreement on what a
10 future custody arrangement would be. And the Court also finds
11 that being in the mix of that would make that unenforceable
12 alone.
13 Factor -- the second factor of that is that it is
14 not signed with the required formality to transfer an interest
15 in real property. It's not notarized, the parties did not
16 record it, and the statute of frauds applies to that. So --
17 as well as NRS 123.270 to say that you cannot do a transfer of
18 an interest in real property in that way.
19 Lastly the parties as a married couple have a
20 fiduciary duty to each other which the Nevada Supreme Court
21 has covered in the cases Saug vs. Nevada State Bank and -- I'm
22 going to pronounce it wrong, Buckner -- Bue -- or Buettner,
23 B-u-e-t-t-n-e-r, v. Buettner Nevada -- in 1973. The Court
24 finds that the terms of this purported postnuptial agreement

1 are so unconscionable and unfair that it should be denied
2 enforcement. It is completely one sided in that -- towards
3 Dad -- Dad a much greater share of these community debt, the
4 whole interest -- community interest in the house as well as a
5 custody award that is not there. It is clearly not
6 enforceable postnuptial agreement. As such, the house
7 proceeds will be split 50/50 as soon as possible.
8 The parties have stipulated that there's no alimony
9 going to be awarded to either party. And the Court also makes
10 a determination that the husband is responsible for his 2019,
11 2 -- 2 -- and 2020 tax returns as well as any debts owed to
12 them. And there's no reason why he's a W-2 employee why he
13 did not get those done yet. So the Court's going to find that
14 that's going to be his sole and separate debt.
15 With regard to the vehicle sales, given that -- that
16 he sold the truck in December 2019 before the parties'
17 divorce, it definitely didn't violate any JPI. The Court
18 finds that it was spent on community responsibilities
19 including his deposit paying down community debts and also the
20 Court offsets it against the community 2020 income tax refund
21 that wife received as well as the stimulus she received are
22 community property also.
23 In that regard, the Court is going to award Dad his
24 Ford Fusion as his sole and separate property and his sole and

1 separate debt. The Court agrees that it -- at best it's break
2 even on that vehicle. It might be upside down but that will
3 be his sole and separate problem. And other than splitting
4 the house proceeds equally between the parties, neither is
5 going to owe anything to the other.
6 MR. PAGE: We do have the Fidelity retirement
7 account that needs to be divided.
8 THE COURT: His -- oh, yeah. That's 50/50. Yes.
9 Okay.
10 MR. PAGE: Yeah, it just wasn't -- you mentioned T.
11 Rowe Price. You didn't mention Fidelity.
12 MR. BLACKHAM: No, she did.
13 MR. PAGE: I want to make sure we covered it.
14 THE COURT: Oh, yeah.
15 MR. BLACKHAM: She said it.
16 THE COURT: I did mention it --
17 MR. PAGE: Oh, you did?
18 THE COURT: -- in my Fidelity. But I did say his --
19 his 401(k) is clearly a hundred percent --
20 MR. BLACKHAM: 50/50.
21 THE COURT: -- community.
22 MR. PAGE: I just -- I -- I just didn't hear
23 Fidelity.
24 THE COURT: Yes.

1 MR. PAGE: I was listening (indiscernible*5:06:45).
2 THE COURT: Now on that regard on the QDROs for
3 those two, the Court's going to order Defendant to pay a
4 hundred percent of the QDRO cost for the T. Rowe Price and the
5 Plaintiff to pay a hundred percent of the QDRO for the
6 Fidelity 401(k) account. Those are to -- it's just to be
7 clean. You guys are equally dividing the cost. But as far as
8 timing and -- and who pays what first, they can each take the
9 -- the lead on that. So Defendant will pay the QD -- for the
10 QDRO that's for his benefit on the --
11 MR. BLACKHAM: Okay.
12 THE COURT: -- T. Rowe Price and the Plaintiff will
13 pay for the QDRO on the Fidelity that's for her benefit.
14 MR. BLACKHAM: The same -- same as Shann Winesett?
15 THE COURT: Yeah, you can use that. I mean, I --
16 MR. BLACKHAM: Okay.
17 THE COURT: -- don't care. If you want to -- if he
18 wants to use for the one that's for her benefit on Fidelity
19 Mr. Willick's office --
20 MR. BLACKHAM: Okay. So whoever is paying for it
21 can use who they want? Is that --
22 THE COURT: Yeah, use who you want and -- and get
23 those done. The sooner they're done the -- obviously the
24 better. And I know you both know that as -- as experienced

1 practitioners. We don't want to leave that lay for some
2 dispute later or somebody to have moved funds or something
3 like that to loss a value or -- we don't want any of those
4 problems. So the sooner you guys get those QDROs done, the
5 better.
6 With regard to child support, the Court finds that
7 Dad's gross monthly income is $9,571.07 and that is based upon
8 taking the $17,200 that he received as -- I think they called
9 it profit sharing as a -- something that was divided with 12
10 months. And I did the same thing with regard to Mom's gross
11 monthly income in that the extra pay she has received above
12 her salary I divided that by 12 also not by only four months
13 or three months. I think we only have her pay stubs through
14 March. So I didn't divide that by three but I divided it by
15 12 months. That means her gross monthly income is $6,144.02.
16 The Court also finds that Mom provides health
17 insurance for Riley through her employer and she will continue
18 to do that -- do that so long as it's available to her through
19 her employer at a reasonable cost. The current cost for the
20 health insurance of Riley is $210. And there will be an
21 upward adjustment of Dad's child support obligation for
22 one-half of that amount of 105. If in the event that changes
23 in the future, because it can always change, Mom needs to just
24 provide proof to Dad and then his child support will change

1 accordingly to reimburse her for one-half of that.
2 Given the joint physical custody and the medical
3 insurance, Dad's child support obligation to Mom effective
4 July 1, 2021 is $379. The base child support figure under NAC
5 425 is $274 those gross monthly incomes.
6 MR. PAGE: I'm sorry, you gave Dad gross monthly
7 income of 9751?
8 THE COURT: 9571.
9 MR. PAGE: 9571?
10 THE COURT: Yes.
11 MR. PAGE: And you gave Mom gross monthly income
12 of --
13 THE COURT: 6144.02. So that came up -- I use the
14 Nevada child support guidelines calculator and came up with
15 274.17. We round down to 274 plus the 105 puts him at $379.
16 As far as claiming Riley on -- as a dependent on tax
17 returns, Dad will get to claim her for 2021 and all odd
18 numbered years. Mom will get to claim for even numbered
19 years. On unreimbursed medical expenses will be divided
20 equally between the parents and that includes medical, dental,
21 vision, psychological, orthodontic expenses that are not
22 covered by insurance will have been paid 50/50 using the 30/30
23 rule. And the parties can already take advantage of the
24 OurFamilyWizard subscription they have. It's got a very good

1 feature for uploading your receipts and tracking them and
2 proving the payments and the reimbursements are paid on time
3 or if there's an objection for some reason for something it
4 tracks those very well too.
5 With regard to attorney's fees I think is the last
6 issue. The Court finds that the parties have had access to
7 the community funds in terms of the $10,000 they've already
8 received as well as their own. Dad earns more than Mom but
9 his expenses since he has rent expense exceeds hers. And I
10 think he -- he has a rent expense and a car payment that Mom
11 does not have. Mom's had a great surplus in the 14 months,
12 you know -- I'm sorry, 16 months that this has been pending
13 given her expenses are only like $2300 a month according to
14 her financial disclosure form. So the parties have had equal
15 access to community funds to pay their own attorney's fees and
16 costs and they're going to bear their own attorney's fees and
17 costs in this case.
18 I need -- who wants to prepare the findings of fact,
19 conclusions of law, and decree of divorce in this case?
20 MR. BLACKHAM: I would be happy to do that, Your
21 Honor.
22 MR. PAGE: And -- and I'll issue here it was -- Mom
23 testified as to the monies that Dad paid for his lawyer at
24 Cordell Law and then he did put it on her card but then they

1 never reimbursed her car but they paid him back. She
2 testified to that. It's $2,329.
3 THE COURT: That that was in 2014?
4 MR. PAGE: No.
5 THE COURT: or the '19.
6 MR. PAGE: 2'17.
7 THE PLAINTIFF: 2019.
8 MR. PAGE: 2019, I'm sorry. Thank you.
9 MR. BLACKHAM: He's bearing the entirety of the debt
10 of the -- what is it, I'm sorry -- Navy Federal debt which was
11 used to pay attorney's fees. So I -- I don't -- I -- I mean,
12 that's -- I think it more than compensates for that.
13 MR. PAGE: That was for the criminal incident that
14 he was responsible for. This was for the divorce -- the
15 complaint for 2019. And, again, she had to bear the cost of
16 him hiring a divorce lawyer --
17 THE COURT: Mr. Rubidoux --
18 MR. PAGE: -- for himself.
19 THE COURT: -- did you get that money back in your
20 pocket from Cordell & Cordell?
21 THE DEFENDANT: While we were married, yeah. Where
22 or when, what we used it on, I don't know.
23 MR. BLACKHAM: Prior -- prior to filing the divorce
24 decree in this case?

1 THE DEFENDANT: It was as we discussed it. Prior to
2 this one, yeah.
3 MR. BLACKHAM: Okay. So it's before the filing,
4 Your Honor. It's done. They -- they reconciled and were
5 living together.
6 MR. PAGE: They refunded money. They just didn't
7 refund it to her.
8 MR. BLACKHAM: But -- but they lived together.
9 MR. PAGE: But as for his fees. So she --
10 THE COURT: And then they -- and then she kept
11 paying her credit -- credit card debts. I mean, this cased
12 she would be much worse off if I were the one dividing the
13 debts and the --
14 MR. BLACKHAM: Just -- yeah.
15 THE COURT: -- bank accounts. So I'm not -- each
16 going to pay their own attorney's fees. Her credit card as it
17 states on her financial disclosure form is very small compared
18 to what he has as well as her bank accounts are very large
19 compared to his bank account.
20 MR. PAGE: There is also the issue of the house
21 leak. She had to pay 12 -- $1300 for that, $1360.
22 MR. BLACKHAM: I'm sorry, Your Honor.
23 THE COURT: And the Court finds that she used
24 community funds to do that. So that's not going to be a

1 reimbursable expense.
2 (COUNSEL AND CLIENT CONFER BRIEFLY)
3 MR. PAGE: Okay. We have two escrow checks, one for
4 $830.57, another one for $1,569.72. They need to be signed
5 and cashed.
6 THE COURT: Okay. They're payable to both parties,
7 I take it?
8 THE PLAINTIFF: Yes.
9 MR. PAGE: Yes.
10 THE COURT: Do you want to --
11 MR. BLACKHAM: Mr. Page, can you give me those
12 amounts again? I'm sorry.
13 MR. PAGE: $830.57, $1,569.72.
14 THE COURT: How do you guys want to do that? One --
15 one can sign it today and another can deposit it and cut a
16 check?
17 MR. BLACKHAM: Well, if she's got them, then why
18 doesn't she sign and give to Dad and -- and we'll divide them?
19 THE COURT: I don't care which way you do it.
20 MR. BLACKHAM: Well, I'm just --
21 THE COURT: Because somebody's got to cut a check --
22 MR. BLACKHAM: I made the --
23 THE COURT: -- to the other.
24 MR. BLACKHAM: -- suggestion.

1 THE COURT: I'm not being -- I'm not being mean.
2 THE PLAINTIFF: I need to look at the dates because
3 you have to cash it within a certain amount of time.
4 MR. PAGE: These are void if not cashed within a
5 hundred and twenty -- 180 days.
6 THE PLAINTIFF: 180 days.
7 MR. PAGE: This one's still good.
8 THE PLAINTIFF: Okay. Then they're both still good?
9 MR. PAGE: They're both still good. If he wants to
10 sign it, she'll deposit them and then we can cut him a check.
11 MR. BLACKHAM: When does it -- when does it again
12 become void?
13 MR. PAGE: A hundred and eighty days after 5/21.
14 What is 5/21 is January 21. We haven't reached the -- the
15 market on either one yet.
16 THE COURT: Okay.
17 MR. BLACKHAM: Jan -- January 11th. So January,
18 February, March, April, May, June -- okay, yeah. So we got
19 like a couple weeks.
20 THE COURT: All right. What -- you're paying her by
21 check for child support?
22 THE DEFENDANT: Yes.
23 THE COURT: All right. Why don't -- the -- the --
24 why don't we have the wife sign both of them, give them to

1 him, and he can cut that check the same time he cuts his July
2 child support check and get that back to her, get the -- those
3 funds should deposit unless -- unless you guys are wrong on
4 the date of -- of it --
5 MR. BLACKHAM: So -- so we want --
6 MR. PAGE: And I think --
7 MR. BLACKHAM: -- her to sign and Dad to deposit.
8 THE COURT: Yeah.
9 MR. BLACKHAM: Okay.
10 THE COURT: So you need to cut her a check for
11 one-half of that total -- total of those two checks --
12 MR. BLACKHAM: Okay.
13 THE COURT: -- and you --
14 MR. BLACKHAM: When you pay your child support.
15 THE COURT: -- need to give it to her by July 1st.
16 THE DEFENDANT: Okay. Perfect.
17 THE COURT: The same time you're going to give her a
18 check for 379 for the July child support. And actually, yeah.
19 That's what we're going to do.
20 As far as we start this new schedule on August 6th.
21 So the temporary schedule is going to remain in place until
22 that point. And then -- because I just don't want to have the
23 back and forth with the first right of refusal kind of thing
24 because she's available and he's got to work. August 6th will

1 be Dad's weekend and I'm going to order and -- that both of
2 you have truth right to be there with her on Monday morning.
3 Dad's going to tech -- technically physically take her because
4 he's going to have custody. But Mom, I -- I expect both of
5 you, it's her first day of kindergarten. I both -- both of
6 you to be there, bring the grandparents, take pictures, behave
7 yourselves. You're in public. Don't embarrass your daughter
8 in front of her new school, please, people. Behave
9 yourselves. There are no need to conversations. Wish her
10 well, take pictures like you guys did with a very cute picture
11 when she started preschool so that both of you have the right
12 to be there in the first day and not miss that out.
13 But I expect both of you to behave yourselves or
14 somebody is going -- going to be held in contempt if you don't
15 behave yourself. If you ruin your daughter's first day at
16 kindergarten, I'm not going to be happy with either one of you
17 or whoever does. So Dad -- that'll be Dad's weekend and then
18 you'll alternate the weekends so after. So Mom will get the
19 following weekend. And then you guys should be following the
20 holidays and the partial parenting agreement as well as
21 vacation time. I don't know if anybody -- nobody testified
22 today. Did anybody have vacation time already mapped out,
23 scheduled --
24 MR. PAGE: Yes.

1 THE COURT: -- noticed?
2 MR. PAGE: Mom --
3 MR. BLACKHAM: What --
4 MR. PAGE: -- has take -- Mom has take some of her
5 -- during her time she's going to be taking the child.
6 MR. BLACKHAM: Actually --
7 THE PLAINTIFF: Yeah, I'm going to use two days of
8 my vacation.
9 MR. PAGE: She -- she will use two days of vacation
10 but she'll be taking the child on a trip to Florida from June
11 29 to July 7th.
12 (COUNSEL AND CLIENT CONFER BRIEFLY)
13 MR. BLACKHAM: Your Honor, that -- that -- actually,
14 I'm so glad you brought that up, because we -- Mom has this
15 habit of just using a -- picking off a day at a time of Dad's
16 timeshare. That -- we're asking that the timeshare be seven
17 days unless otherwise agreed by the parties in writing, that
18 we can't just start picking off pieces. This is why Mom's got
19 two days. One day she testified and she acknowledged it and
20 it's been an ongoing problem and it's unreasonable.
21 MR. PAGE: And it's not a problem. It's -- we're
22 trying to --
23 MR. BLACKHAM: Not for her.
24 MR. PAGE: Trying -- trying -- he's done the same

1 thing.
2 THE COURT: It's -- it's not going to be a problem
3 going forward because they're going to have 50/50 time. If
4 you guys both want to do that to each other. But you guys
5 agreed to seven days each. So you said the dates are June
6 29th to --
7 MR. PAGE: July --
8 THE PLAINTIFF: July 7th.
9 MR. PAGE: -- 7th.
10 THE COURT: July 7th.
11 MR. PAGE: It seems -- I mean, that --
12 THE COURT: And that -- that's fine. I mean, I
13 don't know if you guys -- if that --
14 MR. BLACKHAM: I don't know whose time that's on.
15 THE COURT: Huh?
16 MR. BLACKHAM: I don't know -- I don't know -- and
17 that's before the schedule even starts. Sorry.
18 THE COURT: Right. I don't know whose 4th of July
19 it is is what I mean.
20 THE PLAINTIFF: Mine. It's my holiday.
21 THE COURT: Right. So okay. So --
22 THE PLAINTIFF: And I --
23 THE COURT: -- Mom's going to have her for -- and go
24 -- you've already got the information sir about her going to

1 Florida --
2 THE DEFENDANT: Yes.
3 THE COURT: -- in OurFamilyWizard?
4 THE DEFENDANT: Yes.
5 THE COURT: You guys put it there?
6 THE PLAINTIFF: Yep, it was just --
7 THE DEFENDANT: I don't know where exactly, but --
8 THE COURT: Okay.
9 MR. BLACKHAM: You're -- you're on notice of it.
10 THE COURT: You're on notice if the -- she's taking
11 vacation days and she's going to Florida. And if you -- if
12 you haven't already given him like the flights you're going to
13 be on or -- I assume you're flying, not --
14 THE PLAINTIFF: That wasn't stipulated in our
15 partial parenting agreement.
16 THE COURT: Okay. Well, I'm going to add that
17 you --
18 MR. BLACKHAM: Thank you.
19 THE COURT: -- both have the right to know where
20 your child's --
21 THE PLAINTIFF: Okay.
22 THE COURT: -- going to be especially if you're
23 taking her out of state somewhere. So if you can provide him
24 with the flight information and also the hotel, where you're

1 going to be staying or --
2 THE PLAINTIFF: Okay.
3 THE COURT: -- if you're staying -- or wherever --
4 if you're staying with friends or family, whatever, so he
5 knows and then I'm going to order that you both do that. If
6 you're taking her out of state, you got to provide an
7 itinerary to the other parent which includes flight
8 information or if you're driving, where you're staying, you
9 know, that -- there's -- the golden rule does work well for
10 co-parenting. So give her the information. And did you have
11 any vacation time planned in the little bit of summer left or
12 have you already taken your vacation, sir?
13 THE DEFENDANT: No, I haven't used it yet.
14 MR. BLACKHAM: Are you going to noti -- notice it?
15 THE COURT: You have not noticed it. If I hold you
16 to the 60 days that's in your parenting agreement, I guess you
17 don't get any of the summer.
18 MR. BLACKHAM: The -- can he -- can he execute -- he
19 can exercise it whenever, right?
20 THE COURT: It can't interfere with school.
21 MR. BLACKHAM: Right. Well, but he's taking her
22 anyways. So what difference does it make?
23 THE COURT: What do you mean?
24 MR. BLACKHAM: I mean, what I'm saying is he can

1 have the custodial time without leaving town is my point. He
2 can have -- he can have an additional --
3 THE COURT: Right.
4 MR. BLACKHAM: -- week --
5 THE COURT: Yes. I guess he could.
6 MR. BLACKHAM: Okay. Thank you.
7 THE COURT: They didn't put -- they didn't put a
8 limit on that. It just takes -- holidays takes precedent.
9 MR. BLACKHAM: Right. And it can't interfere with
10 school --
11 THE COURT: Right. Yes.
12 MR. BLACKHAM: -- unless --
13 THE COURT: So --
14 MR. BLACKHAM: -- agreed by the parties.
15 THE COURT: So if he wants to take a -- a staycation
16 he can use his 60 days notice and gets her to school, I guess
17 he can do that. But --
18 MR. BLACKHAM: Your Honor, are you finding that the
19 -- that the current timeshare constitutes joint physical
20 custody? The -- because we have a child -- I just -- the
21 child support issue and the -- and the effective date under --
22 under Bluestein.
23 THE COURT: Yeah -- yes.
24 MR. BLACKHAM: Thank you.

1 THE COURT: I am. It's only one month of
2 difference. I mean, if you're really going to --
3 MR. BLACKHAM: Well, I mean, because we can go the
4 other direction. He can get reimbursed for these over
5 payments for the -- for the calendar year and, I mean, for the
6 year-and-a-half that he's done. And obviously we're not
7 asking for --
8 THE COURT: No.
9 MR. BLACKHAM: -- that, but --
10 THE COURT: I mean, I'm -- since I'm not doing that
11 and since he's saving in -- on the childcare cost, I can make
12 his new child support effective August 1 and he can pay the
13 temporary amount for July.
14 MR. BLACKHAM: I wasn't trying to do that to him.
15 THE COURT: I know you weren't trying to do that to
16 him but that is probably --
17 MR. BLACKHAM: I'm --
18 THE COURT: -- the fair thing to do, Mom.
19 MR. PAGE: It is a fair thing.
20 THE COURT: So she's got -- she's going to have her
21 more in July than you that's for sure.
22 MR. BLACKHAM: Sorry about that.
23 THE COURT: So let's make that -- change that to
24 August 1st for the new child support to be effective. So for

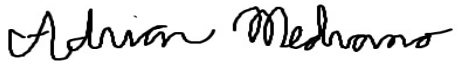
1 July he needs to pay her the temporary amount that was ordered
2 by --
3 MR. BLACKHAM: That sucks.
4 THE COURT: -- Judge --
5 MR. BLACKHAM: Oh, sorry.
6 THE COURT: -- Henderson. All right. So you're
7 going to prepare. Mr. Page going to review and sign off.
8 MR. BLACKHAM: Yeah.
9 THE COURT: I'm granting the parties an absolute
10 decree of divorce. But you are not divorced, I tell this to
11 everybody, until that decree is signed by me and file stamped.
12 So don't go out and get remarried. It won't be a valid
13 remarriage. People do that often here. So I always tell
14 everybody that. So I don't know that either of you have
15 significant others --
16 MR. BLACKHAM: That's --
17 THE COURT: -- but that's fine.
18 MR. BLACKHAM: It's void ab initio.
19 THE COURT: Huh? Yes.
20 MR. BLACKHAM: And -- and it's also a crime.
21 THE COURT: All right. That -- thank you all and --
22 MR. BLACKHAM: Thank you, Your Honor.
23 THE COURT: -- good luck.
24 MR. PAGE: Thank you for your time.

THE COURT: Thank you.

(PROCEEDINGS CONCLUDED AT 5:23:02)

* * * * * *

ATTEST: I do hereby certify that I have truly and correctly transcribed the digital proceedings in the above-entitled case to the best of my ability.



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Adrian N. Medrano

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Steven D. Grierson
CLERK OF THE COURT

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EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

STEPHANIE RUBIDOUX, Plaintiff, vs. DANIEL RUBIDOUX, Defendant.	Case No.: D-20-601936-D Dept. No.: R

NOTICE OF ENTRY OF ORDER

TO: ALL INTERESTED PARTIES:

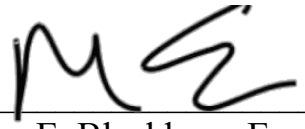
YOU ARE HEREBY NOTICED that Findings of Fact, Conclusions of Law, and Decree of Divorce was entered on the 16th day of September 2021.

/ / /

A copy of said Findings of Fact, Conclusions of Law, and Decree of Divorce is attached hereto.

Dated this _16th_ day of September, 2021.

GHANDI DEETER BLACKHAM



Brian E. Blackham, Esq.
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Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16TH day of September 2021, I served a copy of this NOTICE OF ENTRY OF ORDER upon each of the parties and addressed to those counsel of record:

☒ Electronic Service to:
☐ Via Facsimile to:
☐ Via Email to:
☐ Placing in the U.S. Mail, with postage fully prepaid, addressed to:

PAGE LAW FIRM
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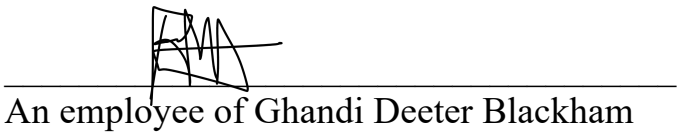
Attorney for Plaintiff



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EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

STEPHANIE RUBIDOUX, Plaintiff, vs. DANIEL RUBIDOUX, Defendant.	CASE NO.: D-20-601936-D DEPT. NO.: U

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF DIVORCE

On May 14, 2021, and June 25, 2021, this matter came on for a Non-Jury Trial, before the Honorable Dawn R. Throne, Department U of the Eighth Judicial District Court, Family Division. Plaintiff Stephanie Rubidoux (Stephanie) was present and represented by her attorney of record, Fred Page, Esq., of PAGE LAW FIRM. Defendant Daniel Rubidoux (Dan) was present and represented by his attorney of record, Brian E. Blackham, Esq., of GHANDI DEETER BLACKHAM. The Court, having read and reviewed all the papers and pleadings on file, having heard and considered testimony of the parties and witnesses, having considered the exhibits admitted at the Non-Jury Trial, and good cause

appearing therefore, makes the following Findings of Fact, Conclusions of Law, Decision and Orders.

PROCEDURAL HISTORY

1. This matter was initiated by a Complaint for Divorce, filed by Stephanie, on January 7, 2020. Dan filed his Answer and Counterclaim for Divorce on January 21, 2020, and Stephanie filed her Reply to Dan's Counterclaim on February 7, 2020.

2. Pursuant to the Order entered May 15, 2020, from the Case Management Conference and Return Hearing from FMC Mediation, held on April 16, 2020, the Court ordered, in pertinent part, that the Partial Parenting Agreement is to be executed at a later date, that there will be no custody designation at this time, and that Dan shall have alternating visitation with Riley during week one, from Friday at 6:00 p.m. until Sunday at 6:00 p.m., and during week two, from Friday at 6:00 p.m. until Monday at 10:00 a.m.[1] The Court further ordered that without prejudice, and based on the stipulation of the parties, effective May 1, 2020, Dan shall pay child support to Stephanie in the amount of $998.64 per month.[2]

3. At the September 15, 2020 status check regarding trial viability, the parties advised that a global resolution had not been reached as to child custody,

[1] *See* Order entered May 15, 2020.
[2] *Id.*

divorce, and all related matters, and Non-Jury Trial was set for February 2, 2021 and February 22, 2021. The Non-Jury Trial dates were continued via stipulation of the parties, and the Non-Jury Trial was eventually held in this matter on May 14, 2021 and June 25, 2021.

NOW THEREFORE, BASED UPON THE TESTIMONY AND EVIDENCE ADMITTED AT THE EVIDENTIARY HEARING, THIS COURT H.REBY FINDS:

FINDINGS OF FACTS

1. The parties were married on June 21, 2014. This is almost a seven year marriage.

2. There is one (1) minor child issue of this marriage, to wit: Riley Rubidoux (Riley), born January 13, 2016.

3. The parties are both bona fide residents of Nevada and the Court has personal and subject matter jurisdiction in this case.

4. Per the parties' Partial Parenting Agreement entered on June 16, 2020, the parties share joint legal custody and reached an agreement on holidays, vacations, and transportation.

5. The parties are incompatible in marriage such that there is no chance of reconciliation, Plaintiff is not now pregnant, and the parties are entitled to an absolute Decree of Divorce.

6. At the time of the Non-Jury trial, the parties stipulated that neither party would be awarded alimony and thus, that issue was not before the Court.

7. The parties have not resolved physical custody. This is the primary dispute in this case. The sole consideration is what is in Riley's best interest. The Court must consider the best interest factors in NRS 125C.0035(4).

8. The parties also do not have an agreement regarding where Riley will attend school for Kindergarten. This is also a best interest analysis.

9. As to the division of community property and debts, this Court took evidence and considered argument in the context of NRS 125.150, while also considering the stipulations of the parties as to the division of some community property and debts as further described below. In that regard, the parties stipulated to following division of specified community property and debts, which the Court adopts as its orders as to these assets and debts:

i. Each party shall be awarded any and all bank accounts in their respective names;

ii. Dan shall be awarded the Ford Fusion as his sole and separate property, subject to the loan thereon;

iii. Stephanie shall be awarded the 2009 Mercury Mariner, subject to the loan thereon, as her sole and separate property;

iv. Stephanie's Nevada PERS shall be divided in accordance

with the time rule set forth in Gemma v. Gemma as of June 30, 2021. The division shall be accomplished by a Qualified Domestic Relations Order or equivalent order (QDRO) to be prepared by Shann Winesett, Esq. at Las Vegas QDRO, with the parties equally sharing the cost thereof;

v. Dan's Fidelity 401(k) shall be equally divided as of June 30, 2021. If a QDRO is required to divide this asset, the same shall be performed by a QDRO-preparer of Stephanie's choice, and Stephanie shall be solely responsible for the cost of the QDRO;

vi. Stephanie's T-Rowe Price IRA is a mixed-character asset. The balance of the IRA at the time of marriage was $25,376.27, and the parties agree that this sum is Stephanie's sole and separate property. The remaining value as of June 30, 2021 shall be divided equally between the parties. If a QDRO is required, the same shall be prepared by Shann Winesett, Esq. at Las Vegas QDRO, with Dan being solely responsible for the cost of the same;

vii. Each party shall be solely responsible for all credit card debts in their respective names;

viii. Dan shall be solely responsible for the Navy Federal Credit Union Debt; and

ix. Each party shall be awarded all personal effects, jewelry, and clothing in their possession and/or in their respective names and any and all

bank accounts and other property in each party's name, possession, or control and not otherwise disposed of.

CONCLUSIONS OF LAW

1. Child Custody

At the outset, the Court notes that the parties have stipulated to sharing joint legal custody of Riley, subject to the terms contained in the Partial Parenting Agreement entered on June 16, 2020.

NRS 125C.001 states:

The Legislature declares that it is the policy of this State:

> 1. To ensure that minor children have frequent associations and a continuing relationship with both parents after the parents have ended their relationship, become separated or dissolved their marriage;
>
> 2. To encourage such parents to share the rights and responsibilities of child rearing; and
>
> 3. To establish that such parents have an equivalent duty to provide their minor children with necessary maintenance, health care, education and financial support. As used in this subsection, "equivalent" must not be construed to mean that both parents are responsible for providing the same amount of financial support to their children.

NRS 125C.0015 states:

> Parents have joint custody until otherwise ordered by court.

> 1. The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.
>
> 2. If a court has not made a determination regarding the custody of a child, each parent has joint legal custody and joint physical custody of the child until otherwise ordered by a court of competent jurisdiction.

NRS 125C.0025 states:

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

The Court must determine the child's "best interests" pursuant to the NRS 125C.0035(4) which states and is analyzed in the underlying matter 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 custody.

Riley is only five years old and thus, not of a sufficient age and capacity to form an intelligent preference as to her custody.

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

This factor is not applicable to the present case.

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

The Court concludes this factor favors Dan. The Court has serious concerns with Stephanie's ability to support Dan's relationship with Riley. Specifically, prior to the April 16, 2020 hearing in this matter, where the Court awarded visitation to Dan, Stephanie refused to allow Dan any visitation with Riley from March 15, 2020 until the Court ordered the same at the hearing. Likewise, Stephanie withheld Dan's visitation during Christmas, which was a violation of the Court's order. These actions demonstrate Stephanie's unwillingness to foster Riley's relationship with Dan.

(d) The level of conflict between the parents.

The Court concludes this factor is neutral. While the conflict between the parties was previously high due to the level of toxicity in their relationship and how they put Riley in the middle of it, since their separation, the level of conflict has minimized.

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

Stephanie's attitude in all respects is that she is superior to Dan as a parent, that his wishes and ideas should not be considered, and that it is "her way or the highway." Such attitudes demonstrate that Stephanie has impeded the parties' ability to cooperate to meets Riley's need. The testimony and evidence did not show that Stephanie is a superior parent and in fact, both parents have shortcomings. However, the Court's concerns as to this factor are moderated by the temporary visitation schedule, wherein Dan had custody of Riley 35.7% of the time. The parties abided by this schedule over the past fourteen months, most of which occurred without issue and with the parties working together. Thus, the Court concludes this factor is neutral.

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

Some testimony was presented that Stephanie had problems in the past with anxiety and prescriptions; however, Stephanie testified she is no longer taking anxiety medication and instead switched to melatonin to help with her sleep and anxiety. Some testimony was presented that Dan previously had issues with marijuana, but the testimony shows this was no longer an issue after the parties' reconciliation in 2019. Dad's use of alcohol did increased, but at no point in the litigation did Stephanie file anything with the Court indicating that there was an imminent, ongoing concern, such as a request for Soberlink monitoring, SCRAM

monitoring, or proof of arrests, or calls to the police that predate the filing of the present divorce action. The Court therefore concludes this factor is neutral.

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

Riley has multiple needs that do not favor either parent having primary physical custody. Riley is five years old and needs to feel safe and secure. While residing together, the parties did not provide Riley with safety and security due to their constant fighting, and the chaos, and drama in the home. Now that the parties have separated, Riley is safer, more secure, and happy because there is no longer ongoing chaos in the parties' relationship. The Court concludes this factor is neutral.

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

Riley has a good relationship with both parties, and Stephanie testified at the time of trial and at her deposition that Riley looks forward to her time with Dan. Riley is a happier child now that she has one-on-one time with each parent. The Court concludes this factor is neutral.

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

This factor is not applicable to the present case.

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

Both parties have neglected Riley's emotional needs by involving the child and in, and letting her observe, their conflict. The Court notes in particular the

incidents occurring in January 2019 and in May 2019, which were quite frightening to Riley. Stephanie's action of waking Riley up in the middle of the night, removing her from the residence, and driving with Riley in her lap 20 miles to her parents' house was completely irresponsible, as there was no need to wake Riley up and remove her from the home in the middle of the night. If something was going on in the home, Stephanie should have called the police. This was not a good decision on Stephanie's part. The Court concludes this factor is neutral.

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

NRS 125C.0035(5) requires that this Court make specific findings of fact after an evidentiary hearing is held on whether the alleged acts of domestic violence occurred.

NRS 125C.0035(5) states as follows:

> Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint physical custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:
>
> (a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

> (b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

The testimony and evidence presented demonstrate a lot of domestic violence allegations between the parties. There were multiple inappropriate actions between the parties in front of the child, such as the language used, Stephanie removing the child from the home in the middle of the night, and Dan attempting to stop Stephanie and Riley from leaving, all of which put Riley in danger. The Court finds there is one act of domestic violence that Stephanie proved by clear and convincing evidence, and that is the incident that occurred in January 2019. The Court concludes this incident was clearly domestic violence on the part of Dan, as he put his hands on Stephanie, and it does not matter what Stephanie said to antagonize the incident. However, Dan has rebutted the presumption under NRS 124C.0035(5) because he has been able to parent Riley over the past 14 months, and he has demonstrated that Stephanie did not appear afraid in any of the alleged domestic violence incidents, but in fact, antagonized him by calling him things such as an "oversensitive bitch." Both parties have engaged in inappropriate behavior, but in the January 2019 incident, Dan's actions rose to the level of domestic violence. Despite this, and because Dan rebutted the presumption that sole or joint physical custody of the child by the perpetrator of the domestic violence is not in the best interest of the child, the Court can craft a custodial

timeshare and exchange protocol (contained in the orders below) that minimizes the parties' contact with each other and the chances of further inappropriate verbal arguments or physical altercations, thereby protecting Stephanie and Riley.

The Court further notes that both criminal cases against Dan resulting from Stephanie's allegations of domestic violence were dismissed. Thus, the Court cannot use either of those cases as clear and convincing evidence of domestic violence.

(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 upon the analysis above, the Court finds that it is in Riley's best interest to award the parties joint physical custody, subject to the timeshare and protocol contained in the orders below.

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2. <u>Child Support and Health Insurance.</u>

NAC 425.115 states, in pertinent part, the following:

> 1. If the parties do not stipulate to a child support obligation pursuant to NAC 425.110, the court must determine the child support obligation in accordance with the guidelines set forth in this chapter.
>
> 2. If a party has primary physical custody of a child, he or she is deemed to be the obligee and the other party is deemed to be the obligor, and the child support obligation of the obligor must be determined.
>
> 3. If the parties have joint physical custody of a child, the child support obligation of each party must be determined. After each party's respective child support obligation is determined, the child support obligations must be offset so that the party with the higher child support obligation pays the other party the difference.
>
> …

NAC 425.140 states the following, in pertinent part:

> 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.

Commensurate with an award of joint physical custody to the parties, an award of child support should be made. Relevant to this determination, the Court

finds that Dan's gross monthly income is $9,571.07, Stephanie's gross monthly income is $6,144.02, and Stephanie provides health insurance for Riley in the total amount of $210.00 per month. The Court's child support calculation is contained in the orders below.

3. <u>The Child's School.</u>

Where parents disagree as to where a minor child should attend school, the case of *Arcella v. Arcella*, 133 Nev. 868, 407 P.3d 341 (2017) controls. In *Arcella*, the Court identified 10 factors that must be considered in determining which school a minor child should attend, which are analyzed below. These factors are illustrative rather than exhaustive; they are merely intended to serve as a starting point for a district court's analysis. *Id*. at 346-47, 872. Determining which school placement is in the best interest of a child is a broad-ranging and highly fact-specific inquiry, so a court should consider any other factors presented by the particular dispute, and it should use its discretion to decide how much weight to afford each factor. *Id*., at 347, 872.

Here, Dan asks the Court to order that Riley continue attending Good Samaritan Christian Academy (Good Samaritan), and Stephanie asks the Court to order that Riley attend Sheila Tarr Academy of International Studies (Sheila Tarr). Given the factual findings contained above, the Court makes the following analysis of the factors set forth in *Arcella*:

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

Riley is only five years old and is not of a sufficient age or capacity to form an intelligent preference as to her school.

2. The child's educational needs and each school's ability to meet them, and
3. The curriculum, method of teaching, and quality of instruction at each school.

At Sheila Tarr, there will be more opportunity for a bigger class, more options for subjects, challenging subjects, and diversity, given Riley will attend the magnet program at Sheila Tarr. Online learning does not work for Riley and at Sheila Tarr, Riley will have a full day of kindergarten in person, which will meet Riley's needs. The Court concludes that Riley's educational needs and the schools' respective abilities to meet those needs favors the magnet program at Sheila Tarr Elementary.

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

The Court cannot measure predicted scholastic achievement as Riley will only be starting kindergarten. The Court concludes this factor is neutral.

5. The child's medical needs and each school's ability to meet them.

Riley does not have any specific medical needs relevant to this factor. The Court concludes this factor is neutral.

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6. The child's extracurricular interests and each school's ability to satisfy them.

The Court makes no findings concerning this factor.

7. Whether leaving the child's current school would disrupt the child's academic progress and 8. The child's ability to adapt to an unfamiliar environment.

Although there was some testimony and theory that Riley may experience an advantage to beginning school at Good Samaritan based on her prior daycare experience at the school. This factor might favor Good Samaritan. No evidence was presented indicating Riley does not have the normal ability at her age to adapt to change and regardless, it is going to be a change as Riley is beginning kindergarten.

9. The length of commute to each school and other logistical concerns.

Given Dan's testimony as to the location of his job, work schedule, and flexibility in his work schedule as to him being an outside salesperson, the Court finds he can still make the commute to work on his custodial days if the parties are able to coordinate in advance, and Stephanie is flexible. If Dan has to be at office early, he should let Stephanie know ahead of time. Although this factor favors Good Samaritan, the advantages of going to Sheila Tarr outweigh the logistical concerns, and Dan has ability to work around logistical concerns and make it work.

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

The Court concludes that Riley will not be alienated from a parent by attending either school and therefor concludes this factor is neutral.

Based upon the above analysis, the Court concludes that Riley's best interests would be served by attending the magnet program at Sheila Tarr Elementary School beginning the 2021-22 school year.

4. Division of Community Property and Debts:

NRS 125.150(1)(b) states:

> 1. In granting a divorce, the court:
>
> . . .
>
> (b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

As previously mentioned, the parties stipulated to the disposition of much of the community property and debt at issue, leaving only a few items of community property and debt for this Court to address.

As to the net proceeds from the sale of the marital residence located at 7183 Blowing Breeze Ave, Las Vegas, Nevada 89179, Stephanie introduced Plaintiff's Exhibit 25, an alleged Postnuptial Agreement, in her request that the Court award

her the entirety of the net proceeds from the sale of the marital residence. The Court finds that Plaintiff's Exhibit 25 is not a valid Postnuptial Agreement for the following reasons:

1. The Postnuptial Agreement contains terms regarding a future custody arrangement. Said terms are not enforceable under NRS 123.080, as parties cannot make agreements as to future custody agreement. These terms alone make the Postnuptial Agreement unenforceable;
2. The Postnuptial Agreement does not comply with NRS 123.270, as it is not signed with the required formality to transfer an interest in real property, which invokes the statute of frauds. The Postnuptial Agreement is not notarized and is also not recorded against the property;
3. Finally, the parties, as married couple, have a fiduciary duty to each other as defined in *Sogg v. Nevada State Bank*, 832 P.2d 781, 782, 108 Nev. 308, 310 (Nev. 1992). Pursuant to *Buettner v. Buettner*, 505 P.2d 600, 601, 89 Nev. 39, 41 (Nev. 1973). The Court finds that the terms of the purported Postnuptial Agreement are so unconscionable and unfair, that it should be denied and not enforced because it is completely one-sided.

Dan previously sold the parties' Ford Truck in 2019 before the parties separated. The Court concludes that Dan spent the funds from the sale of the Ford Truck on community responsibilities and paid down community debts.

Stephanie received the entirety of the 2020 tax refund, in addition to stimulus payments. The Court concludes that any funds received by Dan for the sale of the Ford Truck are offset by the funds received by Stephanie from the 2020 tax refund and stimulus payments.

Dan has not filed his 2019 or 2020 tax returns. The Court concludes there is no reason why Dan should have delayed the filing of these respective taxes.

4. <u>Attorney's Fees and Costs.</u>

NRS 18.010(2) provides as follows:

> 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 or maintained without reasonable ground or to harass the prevailing party.

Furthermore, EDCR 7.60(b) states as follows:

> The court may, after notice and an opportunity to be heard, impose upon an attorney or a party any and all sanctions which may, under the facts of the case, be reasonable, including the imposition of fines, costs or attorney's fees when an attorney or a party without just cause:
>
> > (1) Presents to the court a motion or an opposition to a motion which is obviously frivolous, unnecessary or

unwarranted.

(2) Fails to prepare for a presentation.

(3) So multiplies the proceedings in a case as to increase costs unreasonably and vexatiously.

(4) Fails or refuses to comply with these rules.

(5) Fails or refuses to comply with any order of a judge of the court.

Testimony and evidence were presented that the parties have had equal access to community funds for payment of their attorney's fees and costs throughout this litigation. Likewise, although Dan has a greater gross monthly income, Dan has expenses that Stephanie does not have, such as rent and car expenses. Finally, Stephanie has had a monthly financial surplus since this matter has been pending. As such, good cause exists to order the parties to pay their own attorney's fees and costs.

Based upon the above considerations of fact and law, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the bonds of matrimony now and heretofore existing between Stephanie and Dan are hereby wholly dissolved and are forever set aside, and an absolute Decree of Divorce is hereby granted to the parties, and each of the parties is hereby restored all the rights and privileges of a single, unmarried person.

IT IS FURTHERORDERED, ADJUDGED AND DECREED that the Partial Parenting Agreement shall be adopted in full by the Court, to include the transportation provision therein that had been suspended by temporary order.

IT IS FURTHERORDERED, ADJUDGED AND DECREED that the parties are awarded joint physical custody of Riley in accordance with the following timeshare: Riley shall reside with Dan every Monday morning at daycare/school drop off until Wednesday morning at daycare/school drop off; Riley shall reside with Stephanie every Wednesday morning at daycare/school drop off until Friday at daycare/school drop off; the parties shall alternate the weekends, which shall be defined as beginning Friday at daycare/school drop off until Monday at daycare/school drop off. This custodial timeshare shall begin on August 6, 2021, which shall be deemed as Dan's weekend with Riley. Prior to August 6, 2021, the parties shall continue to abide by the temporary custodial timeshare in effect at the time of trial.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the receiving parent shall be responsible for providing transportation for the custodial exchanges in accordance with the text and seatbelt rule, unless otherwise mutually agreed upon by the parties in writing. The text and seatbelt rule shall be defined as follows: During custodial exchanges, the receiving parent shall remain in the parent's vehicle with the seatbelt fastened, the delivering parent shall remain in the

doorway of the exchange location, and the child shall exit the delivering parent's residence on his own and join the receiving parent.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall continue to communicate via Our Family Wizard, absent an emergency involving Riley or a parent's need to notify the other parent that he or she is running late to a custodial exchange.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that presently, Stephanie has and shall continue to maintain health insurance coverage for Riley, so long as it is available through her employer at a reasonable cost, with the parties sharing equally in the premium thereon via an upward deviation in Dan's child support obligation as further ordered below. Health insurance shall continue until such time as Riley reaches 18 years of age if no longer enrolled in high school, otherwise until the earlier of when Riley graduates from high school, reaches 19 years of age, dies, marries, or otherwise becomes emancipated pursuant to Nevada law.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall also be responsible for one-half (1/2) of any and all unreimbursed medical expenses incurred on behalf of Riley, including, but not limited to, optical, dental, surgical, or any psychological or psychiatric expenses. Regarding such reimbursements, the parties shall utilize the "30/30 Rule." Specifically, either

party incurring an out-of-pocket medical expense for Riley shall provide a copy of the paid invoice/receipt to the other party within 30 days of incurring such expense. If not tendered within the 30-day period, the Court may consider it as a waiver of reimbursement. The other party will have 30 days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out-of-pocket expense. If not disputed or paid within the 30-day period, the party may be subject to a finding of contempt and appropriate sanctions.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that effective August 1, 2021, Dan shall pay child support to Stephanie in the amount of $274.00 per month, plus $105.00 per month for Dan's one-half share in Riley's medical insurance premium, for a total child support obligation of $379 per month. This amount is consistent with the formula set forth in NAC 425.115(3) and NAC 425.140(1). Child support shall continue until such time as Riley reaches 18 years of age if no longer enrolled in high school, otherwise until the earlier of when Riley graduates from high school, reaches 19 years of age, dies, marries, or otherwise becomes emancipated pursuant to Nevada law. Until August 1, 2021, Dan shall continue to pay Stephanie the previously ordered child support in the amount of $998.00.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall alternate the federal dependency exemption for Riley. Specifically,

beginning in tax year 2021, Dan shall claim the federal dependency exemption for Riley in odd-numbered tax years, and Stephanie shall claim the federal dependency exemption for Riley in even-numbered tax years.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Riley shall attend the magnet program at Sheila Tarr Elementary School for the 2021-2022 academic school year.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based on the stipulation of the parties, the following community property and debts shall be divided as follows:

A. Each party shall be awarded any and all bank accounts in their respective names;

B. Dan shall be awarded the Ford Fusion as his sole and separate property, subject to the loan thereon;

C. Stephanie shall be awarded the 2009 Mercury Mariner, as her sole and separate property;

D. Stephanie's NV PERs shall be divided utilizing the "wait and see" approach set forth in Gemma v. Gemma, 105 Nev. 458, 778 P.2d 429 (1989), and divided by the "time rule" as of June 30, 2021. Pursuant to the "time rule," Dan shall be entitled to one-half of the community interest in Stephanie's NVPERS, with the community interest in such benefits being represented by a fractional

portion of the total. Pursuant to Gemma, in determining the fractional community interest, the numerator shall be the number of months that the parties were married while Stephanie was subject to NVPERS, and the denominator shall be the total number of months that Stephanie was subject to NVPERS. Subsequent to the entry of this Decree, a QDRO or equivalent Order shall direct the plan administrator to divide Stephanie's NVPERS as set forth above. The parties agree that Las Vegas QDRO shall prepare the QDRO or equivalent Order, and the parties shall equally divide the cost of the same.

E. Dan's Fidelity 401(k) shall be equally divided as of June 30, 2021. If a QDRO is required to divide this asset, the same shame be performed by a QDRO-preparer of Stephanie's choice, and Stephanie shall be solely responsible for the cost of the QDRO;

F. Stephanie's T-Rowe Price IRA is a mixed-character asset. The balance of the IRA at the time of marriage was $25,376.27, and the parties agree that this sum is Stephanie's sole and separate property. The remaining value as of June 30, 2021 shall be divided equally between the parties. If a QDRO is required, the same shall be prepared by Shann Winesett, Esq. at Las Vegas QDRO, with Dan being solely responsible for the cost of the same;

G. Each party shall be solely responsible for all credit card debts in their respective names; and

H. Dan shall be solely responsible for the Navy Federal Credit Union Debt; each party shall be awarded all personal effects, jewelry, and clothing in their possession and/or in their respective names and any and all bank accounts and other property in each party's name, possession, or control and not otherwise disposed of.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the net proceeds from the sale of the marital residence located at 7183 Blowing Breeze Ave, Las Vegas, Nevada 89179, currently held in escrow at North American Title Company, shall be divided equally between the parties and two escrow checks presented by Stephanie's attorney at the time of trial shall be deposited and divided equally between the parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dan shall file his 2019 and 2020 taxes and shall be entitled to any refund and responsible for any liability resulting therefrom.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall be solely responsible for their respective attorney's fees and costs incurred.

NOTICE IS HEREBY GIVEN that the following statutory notices relating to the custody and visitation of the minor child are applicable to the parties herein:

Pursuant to NRS 125C.0065, the parties are hereby placed on notice of the following:

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

Pursuant to NRS Chapter 125C.0045(6), the parties are hereby placed on notice of the following:

> 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 detains, conceals or removes 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 removes the child 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 193.130.

Pursuant to NRS 125C.0045, subsections (7) and (8), the parties are hereby placed on notice that the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

NOTICE IS HEREBY GIVEN that pursuant to NAC 425.170, except as otherwise provided in NAC Chapter 425, any modification or adjustment to a child support obligation must be based upon a showing of a change in circumstances.

NOTICE IS FURTHER GIVEN as follows:

> NOTICE: If you want to adjust the amount of child support established in this order, you MUST file a motion to modify the order with or submit a stipulation to the court. If a motion to modify the order is not filed or a stipulation is not submitted, the child support obligation established in this order will continue until such time as all children who are the subject of this order reach 18 years of age or, if the youngest child who is subject to this order is still in high school when he or she reaches 18 years of age, when the child graduates from high

school or reaches 19 years of age, whichever comes first. Unless the parties agree otherwise in a stipulation, any modification made pursuant to a motion to modify the order will be effective as of the date the motion was filed.

NOTICE IS FURTHER GIVEN that pursuant to NRS 31A.025 to 31A.240, inclusive, child support payments shall be subject to wage assignment by the obligor's employer should the obligor become more than 30 days delinquent in said child support payment.

IT IS FURTHER STIPULATED AND THEREFORE ORDERED, ADJUDGED AND DECREED that this Decree is the full and final resolution of this matter, and that it shall not be amended, absent further Court Order, unless in writing, and signed by both parties.

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IT IS FURTHER ORDERED that each party shall submit the information required in NRS 125B.055, NRS 125.130 and NRS 125.230 on a separate form to the Court and the Welfare Division of the Department of Human Resources within ten days from the date this Decree is filed. Such information shall be maintained by the Clerk in a confidential manner and not part of the public record. The parties shall update the information filed with the Court and the Welfare Division of the Department of Human Resources within ten days should any of that information become inaccurate.

Dated this 16th day of September, 2021

BFB 827 EBB5 80E0
Dawn R. Throne
District Court Judge

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Stephanie Rubidoux, Plaintiff	CASE NO: D-20-601936-D
vs.	DEPT. NO. Department U
Daniel Rubidoux, Defendant.	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Findings of Fact, Conclusions of Law and Judgment 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: 9/16/2021

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DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

STEPHANIE RUBIDOUX, Plaintiff, vs. DANIEL RUBIDOUX, Defendants.	Dist. Ct. No.: D-20-601936-D Dist. Ct. Dept. No.: U **NOTICE OF APPEAL**

COMES NOW Plaintiff STEPHANIE RUBIDOUX, (hereinafter referred to as "Plaintiff"), by and through her attorney of record, ALEX B. GHIBAUDO, ESQ., of the law firm of ALEX B. GHIBAUDO, P.C., and pursuant to the Nevada Rule of Appellant Procedure 3, files the following Notice of Appeal from the above-captioned Court's "Findings of Fact, Conclusions of Law and Judgment" filed on September 16, 2021. Notice of Entry of Order was filed the same day.

DATED this 4th day of October, 2021.

ALEX B. GHIBAUDO, P.C.

By: *__/s/ Alex B. Ghibaudo, Esq.__*
Alex B. Ghibaudo, Esq.
NV Bar No. 10592
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFIY that on this 4th day of October, 2021, I served a true and correct copy of the foregoing **NOTICE OF APPEAL**, via the Court designated electronic service, addressed to the following:

Nedda Ghandi, Esq.
brian@ghandilaw.com

By: __*/s/ Alex Ghibaudo*_____
An Employee of ALEX B. GHIBAUDO, P.C.