IN THE SUPREME COURT OF THE STATE OF NEVADA

Case No. 82723

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Elizabeth A. Brown
Clerk of Supreme Court

DAVID PATRICK STUCKE
Appellant

And

CHRISTIE LEEANN STUCKE
Respondent

Appeal from Order from February 25, 2021 regarding Findings of Fact, Conclusions of Law and Order and Decree of Divorce, Clark County Nevada, Eighth Judicial District Court Family Division Department F
Appellant's Appendix Volume 5

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Docket 82723 Document 2021-30623

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVID PATRICK STUCKE Appellant, vs. **CHRISTIE LEEANN STUCKE,** Respondent.	Supreme Court Case No.: **82723** **APPELLANT'S APPENDIX INDEX VOLUME 5**

TABLE OF CONTENTS

ALPHABETICAL LISTING

Appendix of Exhibits in Support of Partial Opposition to the Motion to Withdraw as Attorney of Record for Plaintiff; Notice of Perfection of Attorney's Lien on the Plaintiff for Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust and Countermotion for Reconsideration of Portions of the May 6, 2019 Order, Preservation of the Marital Estate; For an Order to Show Cause and Hold Defendant in Contempt of Court Order; and For Attorney's Fees

(June 6, 2019) …….. 0534-0609, Vol. 3

Complaint for Divorce (November 28, 2018) ……... 0001-0008, Vol. 1

Defendant's Amended Pre-Trial Memorandum

(September 11, 2020) …….… 0962-0982, Vol. 5

Defendant's Answer to Complaint For Divorce and Counterclaim

(December 13, 2018) ..... 0009-0014, Vol. 1

Defendant's Exhibit Appendix to Defendant's Reply to Plaintiff's Partial Opposition to the Motion to Withdraw as Attorney of Record for Defendant; Notice of Perfection of Attorney's Lien on the Defendant for Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust and Defendant's Opposition to the Countermotion for Reconsideration of Portions of the May 6, 2019 Order, Preservation of the Marital Estate; For an Order to Show Cause and Hold Defendant in Contempt of Court Order; and For Attorney's Fees

(June 19, 2019) ……..……. 0626-0651, Vol. 4

Defendant's Exhibit Appendix to Opposition to Plaintiff's Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief; and Countermotion for Financial Relief, Return of File Server, Attorney's Fees and Other Related Relief

(March 13, 2019) …….…….., 0226-0229, Vol. 2

Defendant's Exhibits Appendix to Opposition to Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees; and Related Relief and Countermotion for an Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and For Attorney's Fees and Costs (September 6, 2019) ……..……. 0725-0731, Vol. 4

Defendant's Opposition to Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees; and Related Relief and Countermotion for an Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and For Attorney's Fees and Costs (September 6, 2019) ……..…….. 0704-0724, Vol. 4

Defendant's Opposition to Plaintiff's Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial and for Related Relief and Countermotion for Attorney's Fees (October 30, 2020) …….……. 1005-1016, Vol. 5

Defendant's Opposition to Plaintiff's Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief; and Countermotion for Financial Relief, Return of File Server, Attorney's Fees and Other Related Relief

(March 13, 2019) ……...…..…….. 0194-0225, Vol. 1

Defendant's Reply to Plaintiff's Partial Opposition to the Motion to Withdraw as Attorney of Record for Defendant; Notice of Perfection of Attorney's Lien on the Defendant for Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust and Defendant's Opposition to the Countermotion for Reconsideration of Portions of the May 6, 2019 Order, Preservation of the Marital Estate; For an Order to Show Cause and Hold Defendant in Contempt of Court Order; and For Attorney's Fees

(June 19, 2019) ……...…. 0610-0625, Vol. 4

Findings of Fact, Conclusions of Law and Decree of Divorce From Trial

(February 15, 2021) ……...…….. 1027-1053, Vol. 5

Minute Order

(July 29, 2019) …… 0656-0658, Vol. 4

Minute Order

(May 6, 2019) ……..… 0474-0476, Vol. 3

Minute Order for August 3, 2020 Hearing …… 0910-0911, Vol. 5

Minute Order for June 11, 2020 Hearing ……... 0906-0907, Vol 5

Minute Order for June 23, 2020 Hearing ……..… 0908-0909, Vol. 5

Minute Order for March 10, 2020 Hearing ……...……. 0904-0905, Vol 5

Minute Order for November 6, 2020 Hearing …….. 1025-1026, Vol. 5

Motion to Withdraw as Attorney of Record for Plaintiff; Notice of Perfection of Retaining's Lien; And to Foreclose on Retaining's Lien on the Plaintiff For Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust

(May 21, 2019)……...…….. 0477-0504, Vol. 3

Notice of Entry of Findings of Fact, Conclusions of Law and Decree of Divorce

(February 25, 2021) …….…… 1054-1082, Vol. 6

Notice of Entry of Order After April 17, 2019 Hearing

(August 5, 2019) …….….... 0463-0473, Vol. 3

Notice of Entry of Order After Hearing of August 20, 2019

(October 3, 2019) …… 0698-0703, Vol. 4

Notice of Entry of Order After Hearing of January 30, 2020

(February 28, 2020) …….… 0852-0858, Vol. 5

Notice of Entry of Order After Hearing of January 7, 2020

(February 28, 2020)…….. 0840-0847 Vol. 5

Notice of Entry of Order After Hearing of October 7, 2019

(October 31, 2019) …….… 0827-0839, Vol. 5

Notice of Entry of Order After March 27, 2019 Hearing

(May 3, 2019) …….… 0456-0462, Vol. 3

Notice of Entry of Order Granting Judgment Against Defendant

(June 28, 2019) ……..……. 0652-0655, Vol. 4

Notice of Entry of Order to Show Cause

(January 15, 2020) ……... 0848-0851, Vol. 5

Partial Opposition to the Motion to Withdraw as Attorney of Record for Plaintiff; Notice of Perfection of Attorney's Lien on the Plaintiff for Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust and Countermotion for Reconsideration of Portions of the May 6, 2019 Order, Preservation of the Marital Estate; For an Order to Show Cause and Hold Defendant in Contempt of Court Order; and For Attorney's Fees

(June 5, 2019) ……..……..……. 0505-0533, Vol. 3

Plaintiff's Appendix of Exhibits in Support of Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and for Defendant to Vacate the Residence

(February 21, 2020) …….…… 0867-0898, Vol. 5

Plaintiff's Appendix of Exhibits in Support of Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and for Related Relief
(October 7, 2020) ……... 0997-1004, Vol. 5

Plaintiff's Appendix of Exhibits in Support of Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief
(February 15, 2019) ……...……..... 0052-0193, Vol. 1

Plaintiff's Appendix of Exhibits in Support of Plaintiff's Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and For Related Relief
(August 20, 2019) …… 0674-0697, Vol. 4

Plaintiff's Appendix of Exhibits in Support of Reply in Support of Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and for Related Relief and Opposition to Countermotion for an Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and For Attorney's Fees and Costs
(September 30, 2019) ……. 0755-0826, Vol. 4

Plaintiff's Appendix of Exhibits in Support of Reply to Opposition to Plaintiff's Motion to to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief; and Countermotion for Financial Relief, Return of File Server, Attorney's Fees and Other Related Relief

(March 22, 2019) ……..…… 0248-0333 Vol. 2

Plaintiff's Appendix of Exhibits in Support of Second Supplement to Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief

(April 16, 2019) …….…… 0393-0455, Vol. 3

Plaintiff's Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and For Defendant to Vacate the Residence

(February 21, 2020) ……. 0859-0866, Vol. 5

Plaintiff's Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; And for Related Relief

(October 7, 2020) ……...……...….. 0983-0996, Vol. 5

Plaintiff's Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and For Related Relief (August 19, 2019) ……..… 0659-0673, Vol. 4

Plaintiff's Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief (February 15, 2019) …… 0020-0051, Vol. 1

Plaintiff's Pre-Trial Memorandum (September 10, 2020) …….. 0912-0961, Vol. 5

Plaintiff's Reply in Support of Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and For Related Relief and Opposition to Countermotion for Attorney's Fees (November 6, 2020) ……..…….. 1017-1024, Vol. 5

Plaintiff's Reply in Support of Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and for Related Relief and Opposition to Countermotion for an Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and For Attorney's Fees and Costs (September 30. 2019) …….…… 0726-0754, Vol. 4

Plaintiff's Reply to Counterclaim (January 8, 2019) ……...…… 0015-0019, Vol. 1

Plaintiff's Reply to Opposition to Plaintiff's Motion to to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief; and Countermotion for Financial Relief, Return of File Server, Attorney's Fees and Other Related Relief
(March 22, 2019)…… 0230-0247, Vol. 2

Plaintiff's Second Supplement to Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief
(April 15, 2019) …….....….. 0382-0392, Vol. 2

Plaintiff's Supplement to Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief
(April 8, 2019) ……..……..…. 0334-0381, Vol. 2

Plaintiff's Supplemental Exhibit in Support of Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and for Defendant to Vacate the Residence
(February 25, 2020) ……. 0899-0903, Vol. 5

Register of Actions for Case No. D-18-580621-D……..... 1083-1095, Vol. 6

Transcript Re: Non-Jury Trial (December 10, 2020) …….. 1777-1798, Vol. 10

Transcript Re: Non-Jury Trial (December 10, 2020) …… 1673-1776, Vol. 9

Transcript Re: Non-Jury Trial (December 11, 2020) ……..… 1799-2003, Vol. 10

Transcript Re: Non-Jury Trial (December 11, 2020) …….. 2004-2128, Vol. 11

Transcript Re: Non-Jury Trial (December 17, 2020) ……..…. 2129-2230, Vol. 11

Transcript Re: Non-Jury Trial (December 17, 2020) ……. 2231-2234, Vol. 12

Transcript Re: Non-Jury Trial (December 9, 2020) …….…. 1352-1549, Vol. 8

Transcript Re: Non-Jury Trial (December 9, 2020) …….. 1550-1672, Vol. 9

Transcript Re: Non-Jury Trial (September 14, 2020) ……...…… 1323-1351, Vol. 8

Transcript Re: Non-Jury Trial (September 14, 2020) ……... 1096-1322, Vol. 7

CHRONOLOGICAL LISTING

Complaint for Divorce (November 28, 2018)…….... 0001-0008, Vol. 1

Defendant's Answer to Complaint For Divorce and Counterclaim

(December 13, 2018) ..... 0009-0014, Vol. 1

Plaintiff's Reply to Counterclaim (January 8, 2019) ……..…… 0015-0019, Vol. 1

Plaintiff's Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief

(February 15, 2019) …… 0020-0051, Vol. 1

Plaintiff's Appendix of Exhibits in Support of Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief

(February 15, 2019) ……..……..... 0052-0193, Vol. 1

Defendant's Opposition to Plaintiff's Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief; and Countermotion for Financial Relief, Return of File Server, Attorney's Fees and Other Related Relief

(March 13, 2019) ……...…..…….. 0194-0225, Vol. 1

Defendant's Exhibit Appendix to Opposition to Plaintiff's Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief; and Countermotion for Financial Relief, Return of File Server, Attorney's Fees and Other Related Relief

(March 13, 2019) …….…….., 0226-0229, Vol. 2

Plaintiff's Reply to Opposition to Plaintiff's Motion to to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For

Related Relief; and Countermotion for Financial Relief, Return of File Server, Attorney's Fees and Other Related Relief

(March 22, 2019)…… 0230-0247, Vol. 2

Plaintiff's Appendix of Exhibits in Support of Reply to Opposition to Plaintiff's Motion to to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief; and Countermotion for Financial Relief, Return of File Server, Attorney's Fees and Other Related Relief

(March 22, 2019) ……..…… 0248-0333 Vol. 2

Plaintiff's Supplement to Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief

(April 8, 2019) ……..……..…. 0334-0381, Vol. 2

Plaintiff's Second Supplement to Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief

(April 15, 2019) …….....….. 0382-0392, Vol. 2

Plaintiff's Appendix of Exhibits in Support of Second Supplement to Motion to Modify Custody; For Child Support; Payment of Marital Bills and Expenses; Exclusive Possession of the Marital Residence; Sale of the Birkland Property; Attorney's Fees and For Related Relief

(April 16, 2019) …….…… 0393-0455, Vol. 3

Notice of Entry of Order After March 27, 2019 Hearing

(May 3, 2019) …….… 0456-0462, Vol. 3

Notice of Entry of Order After April 17, 2019 Hearing

(August 5, 2019) …….….... 0463-0473, Vol. 3

Minute Order

(May 6, 2019) ……..… 0474-0476, Vol. 3

Motion to Withdraw as Attorney of Record for Plaintiff; Notice of Perfection of Retaining's Lien; And to Foreclose on Retaining's Lien on the Plaintiff For Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust

(May 21, 2019)……...…….. 0477-0504, Vol. 3

Partial Opposition to the Motion to Withdraw as Attorney of Record for Plaintiff; Notice of Perfection of Attorney's Lien on the Plaintiff for Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust and Countermotion for Reconsideration of Portions of the May 6, 2019 Order, Preservation of the Marital Estate; For an Order to Show Cause and Hold Defendant in Contempt of Court Order; and For Attorney's Fees

(June 5, 2019) ……..……..……. 0505-0533, Vol. 3

Appendix of Exhibits in Support of Partial Opposition to the Motion to Withdraw as Attorney of Record for Plaintiff; Notice of Perfection of Attorney's Lien on the Plaintiff for Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust and Countermotion for Reconsideration of Portions of the May 6, 2019 Order, Preservation of the Marital Estate; For an Order to Show Cause and Hold Defendant in Contempt of Court Order; and For Attorney's Fees

(June 6, 2019) …….. 0534-0609, Vol. 3

Defendant's Reply to Plaintiff's Partial Opposition to the Motion to Withdraw as Attorney of Record for Defendant; Notice of Perfection of Attorney's Lien on the Defendant for Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust and Defendant's Opposition to the Countermotion for Reconsideration of Portions of the May 6, 2019 Order, Preservation of the Marital Estate; For an Order to Show Cause and Hold Defendant in Contempt of Court Order; and For Attorney's Fees

(June 19, 2019) ……..…. 0610-0625, Vol. 4

Defendant's Exhibit Appendix to Defendant's Reply to Plaintiff's Partial Opposition to the Motion to Withdraw as Attorney of Record for Defendant; Notice of Perfection of Attorney's Lien on the Defendant for Unpaid Fees and Costs and Alternative Motion to Release Community Funds in Trust and Defendant's Opposition to the Countermotion for Reconsideration of Portions of the May 6, 2019 Order, Preservation of the Marital Estate; For an Order to Show Cause and Hold Defendant in Contempt of Court Order; and For Attorney's Fees

(June 19, 2019) ……..……. 0626-0651, Vol. 4

Notice of Entry of Order Granting Judgment Against Defendant

(June 28, 2019) ……..……. 0652-0655, Vol. 4

Minute Order

(July 29, 2019) …… 0656-0658, Vol. 4

Plaintiff's Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and For Related Relief

(August 19, 2019) ……..… 0659-0673, Vol. 4

Plaintiff's Appendix of Exhibits in Support of Plaintiff's Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and For Related Relief

(August 20, 2019) …… 0674-0697, Vol. 4

Notice of Entry of Order After Hearing of August 20, 2019

(October 3, 2019) …… 0698-0703, Vol. 4

Defendant's Opposition to Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees; and Related Relief and Countermotion for an Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and For Attorney's Fees and Costs

(September 6, 2019) ……..…….. 0704-0724, Vol. 4

Defendant's Exhibits Appendix to Opposition to Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees; and Related Relief and Countermotion for an Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and For Attorney's Fees and Costs
(September 6, 2019) ……..……. 0725-0731, Vol. 4

Plaintiff's Reply in Support of Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and for Related Relief and Opposition to Countermotion for an Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and For Attorney's Fees and Costs
(September 30. 2019) …….…… 0726-0754, Vol. 4

Plaintiff's Appendix of Exhibits in Support of Reply in Support of Motion to Change Custody; For Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and for Related Relief and Opposition to Countermotion for an Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and For Attorney's Fees and Costs
(September 30, 2019) ……. 0755-0826, Vol. 4

Notice of Entry of Order After Hearing of October 7, 2019

(October 31, 2019) …….… 0827-0839, Vol. 5

Notice of Entry of Order After Hearing of January 7, 2020

(February 28, 2020)…….. 0840-0847 Vol. 5

Notice of Entry of Order to Show Cause

(January 15, 2020) ……... 0848-0851, Vol. 5

Notice of Entry of Order After Hearing of January 30, 2020

(February 28, 2020) …….… 0852-0858, Vol. 5

Plaintiff's Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and For Defendant to Vacate the Residence

(February 21, 2020) ……. 0859-0866, Vol. 5

Plaintiff's Appendix of Exhibits in Support of Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and for Defendant to Vacate the Residence

(February 21, 2020) ……..…… 0867-0898, Vol. 5

Plaintiff's Supplemental Exhibit in Support of Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and for Defendant to Vacate the Residence

(February 25, 2020) ……. 0899-0903, Vol. 5

Minute Order for March 10, 2020 Hearing ……...……. 0904-0905, Vol 5

Minute Order for June 11, 2020 Hearing …….. 0906-0907, Vol 5

Minute Order for June 23, 2020 Hearing ……..… 0908-0909, Vol. 5

Minute Order for August 3, 2020 Hearing …… 0910-0911, Vol. 5

Plaintiff's Pre-Trial Memorandum

(September 10, 2020) …….. 0912-0961, Vol. 5

Defendant's Amended Pre-Trial Memorandum

(September 11, 2020) ……..… 0962-0982, Vol. 5

Plaintiff's Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; And for Related Relief

(October 7, 2020) ……...……...….. 0983-0996, Vol. 5

Plaintiff's Appendix of Exhibits in Support of Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and for Related Relief

(October 7, 2020) ……... 0997-1004, Vol. 5

Defendant's Opposition to Plaintiff's Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial and for Related Relief and Countermotion for Attorney's Fees

(October 30, 2020) …….……. 1005-1016, Vol. 5

Plaintiff's Reply in Support of Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and For Related Relief and Opposition to Countermotion for Attorney's Fees (November 6, 2020) ……..…….. 1017-1024, Vol. 5

Minute Order for November 6, 2020 Hearing …….. 1025-1026, Vol. 5

Findings of Fact, Conclusions of Law and Decree of Divorce From Trial (February 15, 2021) ……...…….. 1027-1053, Vol. 5

Notice of Entry of Findings of Fact, Conclusions of Law and Decree of Divorce (February 25, 2021) …….…… 1054-1082, Vol. 6

Register of Actions for Case No. D-18-580621-D……..... 1083-1095, Vol. 6

Transcript Re: Non-Jury Trial (September 14, 2020) ……... 1096-1322, Vol. 7

Transcript Re: Non-Jury Trial (September 14, 2020) ……...…… 1323-1351, Vol. 8

Transcript Re: Non-Jury Trial (December 9, 2020) …….…. 1352-1549, Vol. 8

Transcript Re: Non-Jury Trial (December 9, 2020) …….. 1550-1672, Vol. 9

Transcript Re: Non-Jury Trial (December 10, 2020) …… 1673-1776, Vol. 9

Transcript Re: Non-Jury Trial (December 10, 2020) …….. 1777-1798, Vol. 10

Transcript Re: Non-Jury Trial (December 11, 2020) ……..… 1799-2003, Vol. 10

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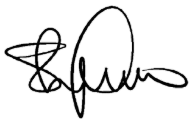
Transcript Re: Non-Jury Trial (December 17, 2020) ……. 2231-2234, Vol. 12

DATED this 22nd day of October 2021.



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10/31/2019 2:33 PM
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CLERK OF THE COURT

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Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
Plaintiff,	)	Department: F
vs.	)	
CHRISTIE LEEANN STUCKE,	)	
Defendant.	)	

NOTICE OF ENTRY OF ORDER AFTER HEARING

PLEASE TAKE NOTICE that the Order After Hearing of October 7, 2019 was duly entered in the above-referenced matter.

///

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///

A true and correct copy of said Order is attached hereto.

DATED Thursday, October 31, 2019.

Respectfully Submitted,

THE ABRAMS & MAYO LAW FIRM

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing NOTICE OF ENTRY OF ORDER AFTER HEARING was filed electronically with the Eighth Judicial District Court in the above-entitled matter on Thursday, October 31, 2019. Electronic service of the foregoing document shall be made in accordance with the Master Service List, pursuant to NEFCR 9, as follows:

Dawn Throne, Esq.
Attorney for Defendant

An Employee of The Abrams & Mayo Law Firm

Electronically Filed
10/31/2019 11:24 AM
Steven D. Grierson
CLERK OF THE COURT

ORDR
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Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
Plaintiff,	)	Department: F
vs.	)	
CHRISTIE LEEANN STUCKE,	)	Date of Hearing: October 7, 2019
	)	Time of Hearing: 10:00 a.m.
Defendant.	)	

ORDER AFTER HEARING OF OCTOBER 7, 2019

This matter coming on for hearing on the on the 7th day of October 2019, before the Honorable Denise L. Gentile, upon the (1) Plaintiff's *Motion to Change Custody; for Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and Related Relief*; (2) Defendant's *Opposition to Motion to Change Custody; for Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees*

and Related Relief and Countermotion for an Order to Show Cause Why Plaintiff Should Not be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and for Attorney's Fees and Costs; (3) Plaintiff's *Reply in Support of Motion to Change Custody; for Child Support; Exclusive Possession of the Marital Residence; Attorney's Fees and Related Relief and Opposition to Countermotion for an Order to Show Cause Why Plaintiff Should Not be Held in Contempt of Court, to Reconsider the Order Entered on August 22, 2019 and for Attorney's Fees and Costs;* (4) *Plaintiff's Motion to Compel Discovery Responses*; (5) Defendant's *Opposition to Plaintiff's Motion to Compel Discovery Responses*; (6) Plaintiff's *Reply in Support of Motion to Compel Discovery Responses*; and (7) *Pre-Trial Conference*, with Plaintiff, DAVID PATRICK STUCKE (hereinafter referred to as "David"), having appeared personally and by and through his attorney of record, VINCENT MAYO, ESQ., of THE ABRAMS & MAYO LAW FIRM, and Defendant, CHRISTIE LEEANN STUCKE (hereinafter referred to as "Christie"), having appeared personally and by and through her attorney of record, DAWN R. THRONE, ESQ., of THRONE & HAUSER, and the Court having listened to the representations and arguments of counsel, and good cause appearing:

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THE COURT HEREBY NOTES that counsel represented the parties have reached a temporary resolution relative to today's matters and placed the terms on the record.

BASED UPON THE STIPULATION OF THE PARTIES,

IT IS HEREBY ORDERED that Christie shall make her best efforts to locate and return to David his Birth Certificate, World Series of Poker bracelet, Social Security card and diplomas. David acknowledges receipt of his passport.

IT IS FURTHER ORDERED that the parties agree to attend Keisha Weiford's Co-Parenting Course. The cost of the counseling will be paid from the top of the sale proceeds received from the Grandview residence.

IT IS FURTHER ORDERED that without prejudice, the custodial schedule with the minor children shall be modified as follows. David shall have the children each week from Monday morning when school starts (or 8:00 a.m. if school is not in session) to Wednesday morning when school starts (or 8:00 a.m. if school is not in session). Christie shall have the children each week from Wednesday morning when school starts (or 8:00 a.m. if school is not in session) to Friday morning when school starts (or 8:00 a.m. if school is not in session). The weekends shall be alternated from Friday morning when school

starts to Monday morning when school starts (or 8:00 a.m. if school is not in session). As a point of reference, David's first weekend shall begin October 11, 2019. All visitation exchanges shall occur at Montessori school, unless there is no school, in which case they shall occur at the McDonald's the parties have previously exchanged at.

IT IS FURTHER ORDERED that the parties shall follow the Court's standard holiday schedule. A copy was provided to each side and attached hereto as Exhibit 1.

IT IS FURTHER ORDERED that the parties agree that until such time as any claim related to inappropriate contact with the minor child is substantiated, any claims or comments of said contact are not to be discussed with friends/family. However, the parties shall continue to cooperate with the evaluation and any CPS investigation.

IT IS FURTHER ORDERED that the parties shall continue with the Dr. Paglini's Child Custody Evaluation. Dr. Paglini has already been paid $7,500 and an additional $7,500 will be held from off the top of the sale proceeds received from the Grandview residence to be applied toward any outstanding amounts due to him. In addition, the CPS records may be released to Dr. Paglini pursuant to 432B.290(c) as the Court finds the information in the records is necessary for the determination of the custody issue. The parties also agree to execute any

authorizations/releases for their prior medical records, including, joint counseling sessions, to be released to Dr. Paglini.

IT IS FURTHER ORDERED that the parties agree to a twenty-four (24) hour right of first refusal, with 24-hours prior notice to the other side. The parties shall also be required to provide the other party with any child care information they intend to use when the children are not in their care.

IT IS FURTHER ORDERED that Sarah may begin counseling with Donna Wilburn and that this expense will be paid solely by David. Any counseling records will be provided to Dr. Paglini.

IT IS FURTHER ORDERED that the parties shall not use marijuana or alcohol in excess while the children are in their care. There is to be no use of any illegal substances at any time. Both parties shall be subject to random drug testing at the request of the other party, up to one (1) time each calendar month. The requesting party is to notify the Court's chambers and copy opposing counsel with the request. If the request is received by 10:00 a.m., the party taking the test is to report to ATI by 5:00 p.m. the same day. If the request is made after 10:00 a.m., the party taking the test is to report to ATI by 12:00 p.m. the following day.

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IT IS FURTHER ORDERED that the Grandview residence shall be sold. From off the top of the net sale proceeds from this house, the parties agree to pay for Keisha Weiford and $7,500 will be held for any additional funds requested by Dr. Paglini. The remaining funds will be split equally between the parties. It is agreed that Christie's share of the proceeds will be made payable to the Throne Hauser Trust Account. This agreement is made without prejudice and all prior claims for a separate property interest in said funds by either side will be reserved and subject to reallocation if established at trial.

IT IS FURTHER ORDERED that Attorney Throne shall release the lis pendens on the Grandview residence forthwith after entry of this Order.

IT IS FURTHER ORDERED that the W. Maule residence will be sold. The parties to mutually agree upon a realtor. If they cannot agree, Christie will provide David with three (3) names of realtors for selection by David. It is agreed that the garage will be converted back to its previous appearance. Any cost to this conversion will be Christie's responsibility.

IT IS FURTHER ORDERED that David will be permitted to go to the W. Maule residence to inventory the property/furnishings. A third party or a representative from Attorney Mayo's office will be present and

both parties may video. Christie may also have a third-party witness present. David will be permitted to take any of his personal belongings. However, any personal property in dispute is to be placed on an A/B list for selection by the other party. Furthermore, David will make his best efforts to locate and return Christie's wedding ring if in his possession.

IT IS FURTHER ORDERED that both parties reserve any and all prior claims of Joint Preliminary Injunction violations and enter into these agreements and orders without prejudice.

IT IS FURTHER ORDERED that pursuant to EDCR 5.602, counsel will have a meet and confer to discuss the outstanding discovery issues.

IT IS FURTHER ORDERED that the matter is set for a status check hearing on January 21, 2020, at 11:00 a.m. regarding Dr. Paglini's evaluation and further proceedings.

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IT IS FURTHER ORDERED that Attorney Mayo to prepare the Order from today's hearing with Attorney Throne to review and countersign.

Dated this 30th day of Oct., 2019.

V J Wolf, Senior Judge
for DISTRICT COURT JUDGE
Gentile

Respectfully Submitted:

The Abrams & Mayo Law Firm

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 S. Rainbow Boulevard
Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Email: vmgroup@theabramslawfirm.com
Attorney for Plaintiff

Approved as to form and content:

Throne & Hauser

10/15/19

Dawn R. Throne, Esq.
Nevada State Bar Number: 6145
1070 W. Horizon Ridge Parkway
Suite 100
Henderson, Nevada 89012
Tel: (702) 800-3580
Email: dawn@thronehauser.com
Attorney for Defendant

EXHIBIT 1

EXHIBIT 1

EXHIBIT 1

HOLIDAY AND VACATION PLAN

Department F

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

EXTENDED HOLIDAYS	ODD YEAR	EVEN YEAR
Thanksgiving: The holiday visitation shall begin the day school ends for Thanksgiving break (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school).	Dad	Mom
Christmas/Winter Break: Winter break shall be divided between the parents, with the first block of time commencing when school ends for the Winter Break (or 3:00 p.m. if the children are not in school), and continue until the mid-point of the Winter Break at 12:00 p.m.. The second block of time shall commence on mid-point at 12:00 p.m. and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). If the break has an odd number of days, the second half of the break shall receive the extra day.		
First Block	Mom	Dad
Second Block	Dad	Mom
EXTENDED HOLIDAYS, cont'd.	ODD YEAR	EVEN YEAR
Easter/Spring Break: The holiday visitation shall begin on the day school ends before the break (or 3:00 p.m. if the children are not in school) and continue until the day school is scheduled to resume (or 9:00 a.m. if the children are not in school).	Dad	Mom

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

Summer/Track Break Vacations
Each parent shall be entitled to one (1) vacation each year with the children for a period not to exceed two (2) consecutive weeks (unless otherwise agreed to in writing). Each parent shall designate his/her respective vacation plans by May 1st of each year. The parties shall not exercise their vacations in periods shorter than seven (7) days at a time, unless otherwise, mutually agreed in writing. If there is a conflict related to the dates designated by the parties, Mom shall have priority in even years and Dad shall have priority in odd years. Neither party shall schedule vacation time during the other party's holiday time or during time the children are scheduled to be in school.

If two holidays/special occasions overlap or conflict, Mom's holiday shall take precedence over Dad's holiday, in odd numbered years; Dad's holiday shall take precedence over Mom's holiday in even numbered years.

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2/28/2020 12:39 PM
Steven D. Grierson
CLERK OF THE COURT

NEOJ
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Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
	)	
vs.	)	
	)	
CHRISTIE LEEANN STUCKE,	)	
	)	
Defendant.	)	
	)	

NOTICE OF ENTRY OF ORDER AFTER HEARING

PLEASE TAKE NOTICE that the Order After Hearing of January 7, 2020 was duly entered in the above-referenced matter.

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A true and correct copy of said Order is attached hereto.

DATED Friday, February 28, 2020.

Respectfully Submitted,
THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.
Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Notice of Entry of Order After Hearing* was filed electronically with the Eighth Judicial District Court in the above-entitled matter. Service of the foregoing document was made on Friday, February 28, 2020 via 1st Class U.S. Mail, postage fully prepaid, addressed to:

Christie Stucke
3485 W. Maule Avenue
Las Vegas, Nevada 89118
Defendant, in proper person

And via email to:

Christie Stucke
Email: christiestucke@gmail.com

/s/ Chantel Wade
An Employee of The Abrams & Mayo Law Firm

Electronically Filed
2/27/2020 1:38 PM
Steven D. Grierson
CLERK OF THE COURT

ORDR
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Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
Plaintiff,	)	Department: F
vs.	)	
CHRISTIE LEEANN STUCKE,	)	Date of Hearing: January 7, 2020
Defendant.	)	Time of Hearing: 9:30 a.m.

ORDER AFTER HEARING OF JANUARY 7, 2020

This matter coming on for hearing on the on the 7th day of January 2020, before the Honorable Denise L. Gentile, upon (1) Defendant's *Motion and Notice of Motion for an Order to Enforce and/or For an Order to Show Cause Regarding Contempt*; (2) Plaintiff's *Opposition to Defendant's Motion and Notice of Motion for an Order to Enforce and/or for an Order to Show Cause Regarding Contempt and*

Countermotion to Hold Christie in Contempt of Court; for Return of Plaintiff's Computer Tower, WSOP Bracelet, Social Security Card and Other Personal Property; To Ensure that Defendant Timely Pays her Share of the Bills; for Attorney's Fees and Related Relief; and (3) *Defendant's Reply to Plaintiff's Partial Opposition to the Motion to for an Order to Show Cause and Hold Defendant in Contempt of Court Order; and for Attorney's Fees*, with Plaintiff, DAVID PATRICK STUCKE (hereinafter referred to as "David"), having appeared personally and by and through his attorney of record, VINCENT MAYO, ESQ., of THE ABRAMS & MAYO LAW FIRM, and Defendant, CHRISTIE LEEANN STUCKE (hereinafter referred to as "Christie"), having appeared personally in proper person, and the Court having listened to the representations and arguments of counsel, and good cause appearing:

THE COURT HEREBY NOTES that it was represented that the Grandview property is currently under contract and there is a *Lis Pendens* attached to the West Maule property, which is hindering it from being placed on the market for sale. Furthermore, while the *Lis Pendens* was removed from the Grandview property, there is now an Order recorded thereon by Defendant's prior counsel.

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THE COURT FURTHER NOTES that there was argument by Attorney Mayo regarding Christie's violations of the Court's Orders, including nonpayment of the mortgage on the W. Maule residence and the 2015 Chrysler van Christi drives and was ordered to be responsible on the payments for per the order from the April 17, 2019 hearing, and for request to release the *Lis Pendens* on the W. Maule property.

THE COURT FURTHER NOTES the statements made by Christie regarding her request to allow her girlfriend to move into the Maule residence to assist with bills until the property sells.

THE COURT FURTHER NOTES that upon inquiry, it was represented that Dr. Paglini's evaluation is still ongoing and Christie has another appointment scheduled with him this week.

THEREFORE,

IT IS HEREBY ORDERED that David's request for an Order to Show Cause against Christie is granted. An Order to Show Cause was signed and filed in open court. (Video time indexes 10:04:22 and 10:04:45) However, the date thereon was today's hearing and needs to be updated to a future date. Therefore, David's counsel shall submit an Order to Show Cause with a blank in the date for this Court to fill in and sign off on. (Video time index 10:20:55)

IT IS FURTHER ORDERED that David is to pull the amount of funds needed to bring the West Maule residence mortgage and the loan payments on Christie's 2015 Chrysler van current (which Christi was responsible for paying per the order from the April 17, 2019 hearing) from the proceeds of the parties' prior property sale, currently being held in his attorney's trust account. This amount will be reimbursed by Christie from her community interest in the proceeds from the sale of the Grandview home. (Video time indexes 10:09:44, 10:10:25 and 10:12:25)

IT IS FURTHER ORDERED that Christie is to release/lift the *Lis Pendens* on the West Maule property within ten (10) days of today's date. (Video time index 10:11:50)

IT IS FURTHER ORDERED that David is permitted to explore his options in buying out Christie's interest in the Maule property. Specifically, David can obtain a pre-qualification appraisal to be prepared by the bank. The appraiser is permitted to inspect the house and Christie can be present for same. (Video time indexes 10:14:28, 10:15:08 and 10:15:54)

IT IS FURTHER ORDERED that Christie needs to release the Order recorded on the Grandview property within ten (10) days of today's date. (Video time index 10:24:50)

IT IS FURTHER ORDERED that if the Lis Pendens and Order are not released from the Maule and Grandview properties respectively by the next hearing, then Attorney Mayo is directed to bring with him to the next hearing a proposed Order resolving these issues. (Video time indexes 10:24:00 and 10:24:50)

IT IS FURTHER ORDERED that Christie's girlfriend, Jessica, may move into the West Maule residence to assist Christie with the monthly expenses until such time as the home is sold, or she is bought out by David. (Video time index 10:13:45)

IT IS FURTHER ORDERED that this Court is not going to update the financial Orders in this case until the parties file updated Financial Disclosure Forms. (Video time index 10:25:30)

IT IS FURTHER ORDERED that all pending Motions/Oppositions will be continued to the Return Hearing currently set for January 21, 2020, at 11:00 a.m.[1]

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[1] This hearing was moved to January 30, 2020, at 10:00 a.m.

D-18-580621-D

~~**IT IS FURTHER ORDERED** that Attorney Mayo is to prepare an Order from today's hearing.~~

Dated this 25th day of February, 2020.

DISTRICT COURT JUDGE

DENISE L. GENTILE

Respectfully Submitted:
THE ABRAMS & MAYO LAW FIRM

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 S. Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Email: vmgroup@theabramslawfirm.com
Attorney for Plaintiff

Electronically Filed
1/15/2020 2:35 PM
Steven D. Grierson
CLERK OF THE COURT

NEOJ
Vincent Mayo, Esq.
Nevada State Bar Number: 8564
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Tel: (702) 222-4021
Fax: (702) 248-9750
Email: VMGroup@TheAbramsLawFirm.com
Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
	)	
vs.	)	
	)	
CHRISTIE LEEANN STUCKE,	)	
	)	
Defendant.	)	
	)	

NOTICE OF ENTRY OF ORDER TO SHOW CAUSE

PLEASE TAKE NOTICE that an Order to Show Cause was duly entered in the above-referenced matter.

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A true and correct copy of said Order is attached hereto.

DATED Wednesday, January 15, 2020.

Respectfully Submitted,
THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.
Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Notice of Entry of Order to Show Cause* was filed electronically with the Eighth Judicial District Court in the above-entitled matter, on Wednesday, January 15, 2020. Service of the foregoing document, as well as the *Ex Parte Application for an Order to Show Cause*, was made on January 15, 2020 via 1st Class U.S. Mail, postage fully prepaid, addressed to:

Christie Stucke
3485 W. Maule Avenue
Las Vegas, Nevada 89118
Defendant, in proper person

And via email to:

Christie Stucke
Email: christiestucke@gmail.com

/s/ Chantel Wade
An Employee of The Abrams & Mayo Law Firm

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1/15/2020 11:16 AM
Steven D. Grierson
CLERK OF THE COURT

OSC
Vincent Mayo, Esq.
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Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
	)	
vs.	)	
	)	
CHRISTIE LEEANN STUCKE,	)	
	)	
Defendant.	)	
	)	

ORDER TO SHOW CAUSE

Defendant, CHRISTIE LEEANN STUCKE, having failed to comply with this Court's orders without just cause, and good cause appearing,

IT IS HEREBY ORDERED that CHRISTIE LEEANN STUCKE shall appear before the Honorable Denise L. Gentile, District Court Judge, Department F, of the Family Court Division of the Eighth Judicial District Court, at 601 North Pecos Road, Las Vegas, Nevada 89101, on

January 30, 2020, at 10:00 a.m., to show cause, if any, why she should not be held in contempt for her refusal to comply with this Court's orders. Specifically, her failure to abide by this Court's *Order After Hearing of October 7, 2019*, the Court's *Order After Hearing of April 17, 2019* and the Court's *Order After Hearing of March 27, 2019*.

To further show cause, if any, why this Court should not impose additional sanctions against CHRISTIE LEEANN STUCKE for her disregard of this Court's orders.

IT IS FURTHER ORDERED that if CHRISTIE LEEANN STUCKE fails to appear at said time for said hearing, a warrant for her arrest shall issue forthwith.

DATED this 14th day of January, 2020.

DISTRICT COURT JUDGE

DENISE L. GENTILE

Respectfully Submitted:
THE ABRAMS & MAYO LAW FIRM

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
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Attorney for Plaintiff

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2/28/2020 12:39 PM
Steven D. Grierson
CLERK OF THE COURT

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Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
	)	
vs.	)	
	)	
CHRISTIE LEEANN STUCKE,	)	
	)	
Defendant.	)	
	)	

NOTICE OF ENTRY OF ORDER AFTER HEARING

PLEASE TAKE NOTICE that the Order After Hearing of January 30, 2020 was duly entered in the above-referenced matter.

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A true and correct copy of said Order is attached hereto.

DATED Friday, February 28, 2020.

Respectfully Submitted,
THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.
Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Notice of Entry of Order After Hearing* was filed electronically with the Eighth Judicial District Court in the above-entitled matter. Service of the foregoing document was made on Friday, February 28, 2020 via 1st Class U.S. Mail, postage fully prepaid, addressed to:

Christie Stucke
3485 W. Maule Avenue
Las Vegas, Nevada 89118
Defendant, in proper person

And via email to:

Christie Stucke
Email: christiestucke@gmail.com

/s/ Chantel Wade
An Employee of The Abrams & Mayo Law Firm

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Steven D. Grierson
CLERK OF THE COURT

ORDR
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Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
	)	
vs.	)	
	)	
CHRISTIE LEEANN STUCKE,	)	Date of Hearing: 1/30/2020
	)	Time of Hearing: 10:00 a.m.
Defendant.	)	
	)	

ORDER AFTER HEARING OF JANUARY 30, 2020

This matter coming on for hearing on the on the 30th day of January 2020, before the Honorable Denise L. Gentile, upon (1) Defendant's *Motion and Notice of Motion for an Order to Enforce and/or For an Order to Show Cause Regarding Contempt*; (2) Plaintiff's *Opposition to Defendant's Motion and Notice of Motion for an Order to Enforce and/or for an Order to Show Cause Regarding*

Contempt and Countermotion to Hold Christie in Contempt of Court; for Return of Plaintiff's Computer Tower, WSOP Bracelet, Social Security Card and Other Personal Property; To Ensure that Defendant Timely Pays her Share of the Bills; for Attorney's Fees and Related Relief; (3) *Defendant's Reply to Plaintiff's Partial Opposition to the Motion to for an Order to Show Cause and Hold Defendant in Contempt of Court Order; and for Attorney's Fees;* and (4) *Order to Show Cause against Christie Leeann Stucke,* with Plaintiff, DAVID PATRICK STUCKE (hereinafter referred to as "David"), having appeared personally and by and through his attorney of record, VINCENT MAYO, ESQ., of THE ABRAMS & MAYO LAW FIRM, and Defendant, CHRISTIE LEEANN STUCKE (hereinafter referred to as "Christie"), having appeared personally in proper person, and the Court having listened to the representations and arguments of counsel, and good cause appearing:

THE COURT HEREBY NOTES that the parties were sworn in and testified.

THE COURT FURTHER NOTES that it reviewed the matters on calendar.

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THE COURT FURTHER NOTES that there was discussion regarding outstanding issues and the status of the return of coins and necklace and David's request for an Order to Show Cause.

THE COURT FURTHER NOTES that there was testimony by Christie regarding the coins, birth certificate, etc.

THE COURT FURTHER NOTES that there was testimony by witness, Joseph Mesirow, regarding the computer tower and potential tampering.

THE COURT FURTHER NOTES it was represented that a report by Dr. Paglini will be ready in approximately sixty (60) days. The Court confirmed it has already received the CPS records. The Court will coordinate a return hearing with David's counsel and Christie once the report is received from Dr. Paglini.

THEREFORE,

IT IS HEREBY ORDERED that Christie is under an ongoing obligation to return any personal items of David's as they are found in the home. Any final determination as to missing items and values will be determined at trial.

IT IS FURTHER ORDERED that David's counsel will be provided the computer tower and a copy of any images copied or retrieved from the server by Joseph Mesirow.

IT IS FURTHER ORDERED that David is to provide copies of any joint tax returns/transcripts in his possession to Christie.

IT IS FURTHER ORDERED that David is to authorize the realtor to speak to Christie regarding the sale of the Grandview property by the end of the day on January 31, 2020.

IT IS FURTHER ORDERED that Christie is to file/serve her updated Detailed Financial Disclosure Form (FDF), including, a profit/loss statement, by February 7, 2020.

IT IS FURTHER ORDERED that Christie will allow a complete appraisal of the West Maule residence to allow David to proceed with a refinance of the loan and buy Christie out of her equity in the West Maule residence.

IT IS FURTHER ORDERED that David will front the February 2020 mortgage payment on the West Maule property to maintain his credit, which will be reimbursed to him from Christie's potential interest in the Grandview property.

IT IS FURTHER ORDERED that each party is entitled to telephone contact with the minor children once a day while they are in the care of the other parent.

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IT IS FURTHER ORDERED that each party is responsible for providing an itinerary to the other party for any out-of-state travel with the minor children.

IT IS FURTHER ORDERED that all of the net sales proceeds from the 3740 Grandview Place, LV NV 89118 residence are to be placed in Attorney Mayo's trust account, until further order of the Court.

IT IS FURTHER ORDERED that David's request for an Order Shortening Time on the Motion to approve the refinance of the West Maule property shall be granted, upon submission of same to the Court.

IT IS FURTHER ORDERED that Attorney Mayo is to prepare an Order from today's hearing.

Dated this 25th day of February, 2020.

DISTRICT COURT JUDGE

DENISE L. GENTILE

Respectfully Submitted:

THE ABRAMS & MAYO LAW FIRM

Vincent Mayo, Esq.
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Attorney for Plaintiff

Electronically Filed
2/21/2020 10:35 AM
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MOT

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Email: VMGroup@theabramslawfirm.com
Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
	)	
vs.	)	Date of Hearing:
	)	Time of Hearing:
CHRISTIE LEEANN STUCKE,	)	
	)	ORAL ARGUMENT REQUESTED
Defendant.	)	__X__ YES _____ NO

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

EMERGENCY MOTION TO ALLOW PLAINTIFF TO COMPLETE THE REFINANCE OF THE MAULE RESIDENCE AND FOR DEFENDANT TO VACATE THE RESIDENCE

NOW INTO COURT comes Plaintiff, DAVID PATRICK STUCKE, by and through his attorney of record, VINCENT MAYO, ESQ., of THE

ABRAMS & MAYO LAW FIRM, and hereby submits his *Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and for the Defendant to Vacate the Residence.*

This Motion is made and based upon the attached Points and Authorities, the Declaration of Plaintiff attached hereto, the Appendix of Exhibits in support, all papers and pleadings on file herein, and any oral argument adduced at the hearing of this matter.

Dated: Friday, February 21, 2020.

Respectfully Submitted:

THE ABRAMS & MAYO LAW FIRM

Vincent Mayo, Esq.
Nevada State Bar: 8564
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL BACKRGROUNG

At the hearing on January 7, 2020, this Court allowed Plaintiff, David Patrick Stucke (hereinafter referred to as "David"), to explore his options on buying Defendant, Christie Leeann Stucke (hereinafter referred to as "Christie") out of her interest in the Maule property. Specifically, the Court stated the following:

> David is permitted to explore his options in buying out Christie's interest in the Maule property. Specifically, David can obtain a pre-qualification appraisal to be prepared by the bank. The appraiser is permitted to inspect the house and Christie can be present for same. (Video time indexes 10:14:28, 10:15:08 and 10:15:54)[1]

The Court went on to further order at the January 30, 2020 hearing as follows based on the stipulations placed on the record:

> IT IS FURTHER ORDERED that Christie will allow a complete appraisal of the West Maule residence to allow David to proceed with a refinance of the loan and buy Christie out of her equity in the West Maule residence.[2]
>
> ***
>
> IT IS FURTHER ORDERED that David's request for an Order Shortening Time on the Motion to approve the refinance of the West Maule property shall be granted, upon submission of same to the Court.[3]

Accordingly, the Maule residence was appraised, and the value came in at $500,000.[4] The current loan on the residence is approximately $238,000, with the equity equaling approximately $262,000.

David was approved to receive a loan in the amount of $361,000.[5] After payment of the mortgage and closing costs, there's approximately $117,000 that will be received as the result of the refinance.

---

[1] The Order After Hearing is still pending.
[2] The Order After Hearing is still pending. Please see video record and Court Minutes form the January 30, 2020 hearing.
[3] Id.
[4] Please see appraisal report attached hereto as Exhibit 1.
[5] Please see Conditions – Borrower Outstanding with Requirements attached hereto as Exhibit 2 and Loan Quote attached hereto as Exhibit 3.

David is making a separate property claim to the W. Maule home. Specifically, this home was purchased almost a year before the parties married and is titled in just David's name. The $30,000 down payment, closing costs and the $6,000 to repair the failing stucco and paint the exterior of the home when it was purchased all came from David's sole and separate property. With the bare minimum of David receiving credit for these payments (although he plans on pursuing his separate property interest), the refinance is more than enough to cover Christie's interest in the home. Further, and if need be, David's interest in the Brickfield and Grandview properties is also available to cover any funds that are needed in addition to the $117,000.

II. LAW AND ARGUMENT

Accordingly, David is requesting permission from this Court to proceed with the refinance of the Maule residence. Additionally, David will need to move into the home as soon as possible, with Christie moving out. The remainder of the refinance proceeds should be placed in David's attorney's trust account until Trial in this matter and evidence is presented regarding David's separate property claims and this Court decides on same.

///

///

III. CONCLUSION

Based upon the foregoing, the Court should grant Plaintiff, DAVID PATRICK STUCKE'S Motion in its entirety.

Dated Friday, February 21, 2020.

Respectfully Submitted,

THE ABRAMS & MAYO LAW FIRM

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff

DECLARATION OF DAVID PATRICK STUCKE

1. I, DAVID PATRICK STUCKE, do solemnly swear to testify herein to the truth, the whole truth and nothing but the truth:

2. That I am the Plaintiff in the above-entitled mater.

3. That I make this declaration in support of the foregoing *Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and for the Defendant to Vacate the Residence.*

4. That I have read said Motion and hereby certify that the facts set forth in the Points and Authorities attached thereto are true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters, I believe them to be true. I incorporate said facts into this Declaration as if set forth in full herein.

5. I declare under penalty of perjury under the law of the State of Nevada, pursuant to NRS 53.045, that the foregoing is true and correct.

Dated this 21st day of February, 2020.

DAVID PATRICK STUCKE

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and for the Defendant to Vacate the Residence* was filed electronically with the Eighth Judicial District Court in the above-entitled matter, on Friday, February 21, 2020. Service of the foregoing document was made via 1st Class U.S. Mail, postage fully prepaid, addressed to:

Christie Stucke
3485 W. Maule Avenue
Las Vegas, Nevada 89118
Defendant, in proper person

And via email to:

Christie Stucke
Email: christiestucke@gmail.com

/s/ Chantel Wade
An Employee of The Abrams & Mayo Law Firm

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

DAVID PATRICK STUCKE, Plaintiff/Petitioner v. CHRISTIE LEEANN STUCKE, Defendant/Respondent	Case No. D-18-580621-D Dept. F **MOTION/OPPOSITION FEE INFORMATION SHEET**

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

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

☐ **$25** The Motion/Opposition being filed with this form is subject to the $25 reopen fee.

-OR-

☑ **$0** The Motion/Opposition being filed with this form is not subject to the $25 reopen fee because:

- ☑ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
- ☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
- ☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.
- ☐ Other Excluded Motion (must specify) _____.

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

☑ **$0** The Motion/Opposition being filed with this form is not subject to the $129 or the $57 fee because:

- ☑ The Motion/Opposition is being filed in a case that was not initiated by joint petition.
- ☐ The party filing the Motion/Opposition previously paid a fee of $129 or $57.

-OR-

☐ **$129** The Motion being filed with this form is subject to the $129 fee because it is a motion to modify, adjust or enforce a final order.

-OR-

☐ **$57** The Motion/Opposition being filing with this form is subject to the $57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of $129.

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

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

Party filing Motion/Opposition: Plaintiff/Petitioner Date 02/21/2020

Signature of Party or Preparer _____

Electronically Filed
2/21/2020 10:35 AM
Steven D. Grierson
CLERK OF THE COURT

EXH

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: VMGroup@TheAbramsLawFirm.com
Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
vs.	)	
	)	
	)	
CHRISTIE LEEANN STUCKE,	)	
	)	
Defendant.	)	
	)	

APPENDIX OF EXHIBITS IN SUPPORT OF EMERGENCY MOTION TO ALLOW PLAINTIFF TO COMPLETE THE REFINANCE OF THE MAULE RESIDENCE AND FOR DEFENDANT TO VACATE THE RESIDENCE

Exhibit	Description
1	Appraisal Report
2	Conditions – Borrower outstanding with requirements

3	Loan Quote

Dated this 21st day of February, 2020.

Respectfully Submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.
Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Appendix of Exhibits in Support of Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and for the Defendant to Vacate the Residence* was filed electronically with the Eighth Judicial District Court in the above-entitled matter, on Friday, February 21, 2020. Service of the foregoing document was made via 1st Class U.S. Mail, postage fully prepaid, addressed to:

Christie Stucke
3485 W. Maule Avenue
Las Vegas, Nevada 89118
Defendant, in proper person

And via email to:

Christie Stucke
Email: christiestucke@gmail.com

/s/ Chantel Wade
An Employee of The Abrams & Mayo Law Firm

EXHIBIT 1

EXHIBIT 1

EXHIBIT 1

APPRAISELV
92 PETTSWOOD DR
HENDERSON, NV 89002
(702) 823-4499
http://WWW.IVALUEVEGAS.COM

02/11/2020

David Stucke
3485 W Maule Ave
Las Vegas, NV 89120

Re:	Property:	3485 W Maule Ave Las Vegas, NV 89118
	Borrower:	David Stucke
	File No.:	0009658

Opinion of Value: $	500,000
Effective Date:	01/28/2020

In accordance with your request, I have appraised the above referenced property. The report of that appraisal is attached.

The purpose of the appraisal is to develop an opinion of market value for the property described in this appraisal report, as improved, in unencumbered fee simple title of ownership.

This report is based on a physical analysis of the site and improvements, a vocational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

The opinion of value reported above is as of the stated effective date and is contingent upon the certification and limiting conditions attached.

It has been a pleasure to assist you. Please do not hesitate to contact me or any of my staff if we can be of additional service to you.

Sincerely,

VANCE RANDALL
CERTIFIED RESIDENTIAL APPRAISER
License or Certification #: A.0007808-CR
State: NV Expires: 04/30/2020
APPRAISELASVEGAS@GMAIL.COM

3485 W MAULE AVENUE

EFFECTIVE DATE

01/28/2020

APPRAISAL OF REAL PROPERTY

3485 W Maule Ave
PARCEL MAP FILE 10 PAGE 87 LOT 4
Las Vegas, NV 89118

CLIENT

David Stucke
3485 W Maule Ave, Las Vegas, NV 89120

Letter of Transmittal 1
GP Residential 2
GP Residential 3
Additional Comparables 4-6 4
Supplemental Addendum w/sig block 5
Property History 6
GP Residential 7
Market Conditions Addendum to the Appraisal Report 8
Market Conditions Charts 1-3 9
Market Conditions Charts 4-6 10
Building Sketch 11
Aerial Map 12
Location Map 13
Comparable Sales Map 14
Subject Photos 15
Photograph Addendum 16
Photograph Addendum 17
Photograph Addendum 18
Photograph Addendum 19
Comparable Photos 1-3 20
Comparable Photos 4-6 21
LICENSE 22

REPORT COMPLETED BY: APPRAISELV (702)823-4499 FAX (702)586-0411
Form TCN - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

0011121

RESIDENTIAL APPRAISAL REPORT

File No.: 0011121

SUBJECT

Property Address: 3485 W Maule Ave | City: Las Vegas | State: NV | Zip Code: 89118
County: Clark | Legal Description: PARCEL MAP FILE 10 PAGE 87 LOT 4
Assessor's Parcel #: 177-05-302-003
Tax Year: 2020 | R.E. Taxes: $ 2,297 | Special Assessments: $ 0 | Borrower (if applicable): David Stucke
Current Owner of Record: Stucke, David | Occupant: ☒ Owner ☐ Tenant ☐ Vacant | ☐ Manufactured Housing
Project Type: ☐ PUD ☐ Condominium ☐ Cooperative ☐ Other (describe) | HOA: $ 0 ☐ per year ☐ per month
Market Area Name: Custom | Map Reference: 74-C2 | Census Tract: 0029.79

ASSIGNMENT

The purpose of this appraisal is to develop an opinion of: ☒ Market Value (as defined), or ☐ other type of value (describe)
This report reflects the following value (if not Current, see comments): ☒ Current (the Inspection Date is the Effective Date) ☐ Retrospective ☐ Prospective
Approaches developed for this appraisal: ☒ Sales Comparison Approach ☐ Cost Approach ☐ Income Approach (See Reconciliation Comments and Scope of Work)
Property Rights Appraised: ☒ Fee Simple ☐ Leasehold ☐ Leased Fee ☐ Other (describe)
Intended Use: THE INTENDED USE OF THIS APPRAISAL REPORT IS TO DETERMINE THE FAIR MARKET VALUE FOR A DIVORCE SETTLEMENT
Intended User(s) (by name or type): David Stucke & Appraisals 2 U, LLC
Client: David Stucke | Address: 3485 W Maule Ave, Las Vegas, NV 89120
Appraiser: VANCE RANDALL | Address: 92 PETTSWOOD DR, HENDERSON, NV 89002

MARKET AREA DESCRIPTION

Location:	☐ Urban	☒ Suburban	☐ Rural
Built up:	☒ Over 75%	☐ 25-75%	☐ Under 25%
Growth rate:	☐ Rapid	☒ Stable	☐ Slow
Property values:	☐ Increasing	☒ Stable	☐ Declining
Demand/supply:	☐ Shortage	☒ In Balance	☐ Over Supply
Marketing time:	☒ Under 3 Mos.	☐ 3-6 Mos.	☐ Over 6 Mos.

Predominant Occupancy: ☐ Owner ☐ Tenant ☐ Vacant (0-5%) ☐ Vacant (>5%)

One-Unit Housing	PRICE $(000)	AGE (yrs)
Low	60	1
High	3,328	63
Pred	250	16

Present Land Use	
One-Unit	75 %
2-4 Unit	0 %
Multi-Unit	10 %
Comm'l	10 %
	5 %

Change in Land Use: ☐ Not Likely ☐ Likely * ☐ In Process * * To:

Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends): SEE ATTACHED MARKET CONDITIONS ADDENDUM.
5% "OTHER" UNDER LAND USE ABOVE REFERS TO THE VACANT LOTS IN THE AREA.
ASSUMING A COMPETITIVE AND OPEN MARKET, THE EXPOSURE TIME FOR THE SUBJECT PROPERTY IS BETWEEN 20-50 DAYS.

SITE DESCRIPTION

Dimensions: APPROXIMATELY 145' X 147.2' | Site Area: 21,344 SqFt
Zoning Classification: R-E | Description: RURAL ESATES RESIDENTIAL
Zoning Compliance: ☒ Legal ☐ Legal nonconforming (grandfathered) ☐ Illegal ☐ No zoning
Are CC&Rs applicable? ☒ Yes ☐ No ☐ Unknown | Have the documents been reviewed? ☒ Yes ☐ No | Ground Rent (if applicable) $ /
Highest & Best Use as improved: ☒ Present use, or ☐ Other use (explain)
Actual Use as of Effective Date: SINGLE FAMILY RESIDENCE | Use as appraised in this report: SINGLE FAMILY RESIDENCE
Summary of Highest & Best Use: THE SUBJECT'S CURRENT USE AS A SINGLE FAMILY RESIDENTIAL STRUCTURE IS THE HIGHEST AND BEST USE OF THE PROPERTY. THE SUBJECT'S USE IS LEGALLY PERMISSABLE AND THE RESIDENTIAL STRUCTURE IS THE MOST FEASIBLE OPTION. THE RESIDENTIAL NATURE ALSO CONFORMS TO ALL THE PROPERTIES SURROUNDING IT AS THEY ARE ALL RESIDENTIAL TOO.

Utilities	Public	Other	Provider/Description
Electricity	☒	☐	CITY
Gas	☒	☐	CITY
Water	☒	☐	CITY
Sanitary Sewer	☐	☒	SEPTIC
Storm Sewer	☐	☐	

Off-site Improvements	Type	Public	Private
Street	ASPHALT	☒	☐
Curb/Gutter	NONE	☒	☐
Sidewalk	NONE	☒	☐
Street Lights	INCANDESCENT	☒	☐
Alley	NONE	☐	☐

Topography	LEVEL
Size	TYPICAL
Shape	IRREGULAR
Drainage	ADEQUATE
View	RESIDENTIAL

Other site elements: ☐ Inside Lot ☐ Corner Lot ☒ Cul de Sac ☐ Underground Utilities ☐ Other (describe)
FEMA Spec'l Flood Hazard Area ☐ Yes ☒ No | FEMA Flood Zone X | FEMA Map # 32003C2560F | FEMA Map Date 11/16/2011
Site Comments: IT SHOULD BE NOTED THAT THE SUBJECT IS IN CLOSE PROXIMITY TO THE 215 AND I-15 FREEWAYS. HOWEVER, THE NOISE IS VERY MINIMAL AND THERE IS PRIVACY WALLS THAT PROVIDE SECLUSION AND ACT AS A SOUND BARRIER. THERE IS NO NEGATIVE IMPACT ON THE SUBJECT'S VALUE OR MARKETABILITY.

DESCRIPTION OF THE IMPROVEMENTS

General Description
# of Units 1 ☐ Acc.Unit
# of Stories 2
Type ☒ Det. ☐ Att. ☐
Design (Style) DT2;Southwest
☒ Existing ☐ Proposed ☐ Und.Cons.
Actual Age (Yrs.) 43
Effective Age (Yrs.) 30

Exterior Description

Foundation	CONCRETE/AVG
Exterior Walls	FRM STUCCO/AVG
Roof Surface	CONC TILE/AVG
Gutters & Dwnspts.	OVER HANGS/AVG
Window Type	DUAL PANE/AVG
Storm/Screens	YES/AVG

Foundation: Slab | Crawl Space | Basement | Sump Pump ☐ | Dampness ☐ | Settlement | Infestation

Basement ☐ None: Area Sq. Ft. 0 | % Finished 0 | Ceiling | Walls | Floor | Outside Entry

Heating: Type FWA | Fuel ELECTRIC
Cooling: Central X | Other

Interior Description

Floors	TILE/LAMINATE/AVG
Walls	PAINTED DRYWALL/AVG
Trim/Finish	PAINTED WOOD/AVG
Bath Floor	TILE/AVG
Bath Wainscot	FIBERGLASS/AVG
Doors	HOLLOW CORE/AVG

Appliances: Refrigerator ☐ | Range/Oven ☒ | Disposal ☒ | Dishwasher ☒ | Fan/Hood ☒ | Microwave ☐ | Washer/Dryer ☐

Attic ☒ None: Stairs ☐ | Drop Stair ☐ | Scuttle ☐ | Doorway ☐ | Floor ☐ | Heated ☐ | Finished ☐

Amenities: Fireplace(s) # 1 | Woodstove(s) # 0
Patio COVERED | Deck NONE | Porch COVERED | Fence BLOCK | Pool POOL

Car Storage ☐ None
Garage # of cars (8 Tot.)
Attach. 0 | Detach. 3 | Blt.-In 0 | Carport 1 | Driveway 4
Surface CONCRETE/GRAVEL

Finished area above grade contains: 7 Rooms | 3 Bedrooms | 2.1 Bath(s) | 3,324 Square Feet of Gross Living Area Above Grade
Additional features: THE SUBJECT HAS ENERGY EFFICIENT APPLIANCES, DUAL PANE WINDOWS, 1 FIREPLACE AND SOLID CORE DOORS AT EXTERIOR. (SEE ADDITIONAL FEATURES ON PAGE 3) GRANITE COUNTER TOPS, DOUBLE OVENS, CEILING FANS, ETC.
Describe the condition of the property (including physical, functional and external obsolescence): PHYSICAL DEPRECIATION IS LESS TYPICAL FOR A HOME OF THIS AGE . NO FUNCTIONAL OBSOLESCENCE NOTED. NO EXTERNAL OBSOLESCENCE NOTED AT THE TIME OF INSPECTION. PHYSICAL DEPRECIATION WAS CALCULATED USING THE AGE LIFE METHOD AND INCLUDES THE APPRAISERS OBSERVATIONS. THE PROPERTY APPEARS TO BE IN AVERAGE CONDITION FOR THE NEIGHBORHOOD. AT THE TIME OF INSPECTION ALL UTILITIES WERE ON. THE KITCHEN AND BATHROOMS WERE UPDATED ~5 YEARS AGO.

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RESIDENTIAL APPRAISAL REPORT

File No.: 0011121

TRANSFER HISTORY

My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.

Data Source(s): Realist

1st Prior Subject Sale/Transfer	Analysis of sale/transfer history and/or any current agreement of sale/listing: THE SUBJECT'S SALES/COMPARABLES SALES HISTORY ANALYSIS REVEALED NOTHING OUT OF THE ORDINARY. SEE ATTACHED PROPERTY HISTORY ADDENDUM.
Date:	
Price:	
Source(s):	
2nd Prior Subject Sale/Transfer	
Date:	
Price:	
Source(s):	

SALES COMPARISON APPROACH

SALES COMPARISON APPROACH TO VALUE (if developed) ☐ The Sales Comparison Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3	
Address	3485 W Maule Ave Las Vegas, NV 89118	9456 Polaris Ave Las Vegas, NV 89139-8311		4025 W Mardon Ave Las Vegas, NV 89139-5817		3165 W Torino Ave Las Vegas, NV 89139-7856	
Proximity to Subject		3.20 miles S		0.75 miles SW		2.38 miles S	
Sale Price	$		$ 450,000		$ 575,000		$ 480,500
Sale Price/GLA	$ /sq.ft.	$ 150.91 /sq.ft.		$ 144.40 /sq.ft.		$ 160.06 /sq.ft.	
Data Source(s)	GLVAR #N/A	GLVAR #2096416;DOM 44		GLVAR #2072163;DOM 89		GLVAR #2091898;DOM 3	
Verification Source(s)	PHYSICAL INSPECT.	Doc #190807002955;Realist		Doc #190628002488;Realist		Doc #190603003101;Realist	
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.
Sales or Financing Concessions		ArmLth Conv;0		ArmLth Conv;0		ArmLth Conv;0	
Date of Sale/Time		08/07/2019		06/28/2019		06/03/2019	
Rights Appraised	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Location	N;Res;	N;Res;		N;Res;		N;Res;	
Site	21,344 SqFt	33,977 SqFt	-25,300	22,651 SqFt	-2,600	20,473 SqFt	
View	RESIDENTIAL	RESIDENTIAL		CITY	-25,000	RESIDENTIAL	
Design (Style)	DT2;Southwest	DT1;SWR	0	DT2;Southwest		DT1;SWR	0
Quality of Construction	Average	Average		Average		Average	
Age	43	41		38		30	
Condition	Average	Average		Average		Average	
Above Grade Room Count (Total / Bdrms / Baths)	7 / 3 / 2.1	8 / 4 / 2.1		10 / 3 / 2.1		8 / 4 / 3.0	
Gross Living Area	3,324 sq.ft.	2,982 sq.ft.	+25,650	3,982 sq.ft.	-49,350	3,002 sq.ft.	+24,150
Basement & Finished Rooms Below Grade	0sf	0sf		0sf		0sf	
Functional Utility	Average	Average		Average		Average	
Heating/Cooling	FWA;CAC	FWA;CAC		FWA;CAC		FWA;CAC	
Energy Efficient Items	Assorted	Assorted		Assorted		Assorted	
Garage/Carport	3 Garage;1 Carport	3 Garage		3 Garage		5 Garage	-10,000
Porch/Patio/Deck	CovPch;CovPat	CovPch;Pat		CovPch;Pat		CovPch;EnclPat	
Built-Ins/Upgrades	Good	Inferior	+20,000	Good		Good	
Pool Features	Pool	None	+25,000	Pool		None	+25,000
Exterior Features	Typical	Inferior L/S	+10,000	Superior L/S	-10,000	Typical	
Net Adjustment (Total)		☒ + ☐ -	$ 55,350	☐ + ☒ -	$ -86,950	☒ + ☐ -	$ 39,150
Adjusted Sale Price of Comparables		Net 12.3 % Gross 23.5 %	$ 505,350	Net 15.1 % Gross 15.1 %	$ 488,050	Net 8.1 % Gross 12.3 %	$ 519,650

Summary of Sales Comparison Approach ALL SALES ARE LOCATED WITHIN THE SUBJECT'S COMPETITIVE MARKET AREA AND ARE SIMILAR IN FUNCTION AND UTILITY. POSITIVE AND NEGATIVE ADJUSTMENTS FOR THE COMPARABLE SALES WERE REQUIRED IN AREAS OF DISSIMILARITY TO PRODUCE THE BEST INDICATED VALUE FOR THE SUBJECT. THE SUBJECT COMPETES WELL WITH SIMILAR SIZED, AGED HOMES IN ITS COMPETITIVE MARKET AREA. THE COMPARABLES UTILIZED WERE THE BEST AVAILABLE AT THE TIME OF INSPECTION.

LINEAR REGRESSION STUDIES DID NOT SHOW SUPPORT FOR INDIVIDUAL BEDROOM OR BATHROOM ADJUSTMENTS AND TYPICALLY THESE DIFFERENCES ARE ACCOUNTED FOR IN THE OVERALL GLA ADJUSTMENTS

THE APPRAISER'S FEE FOR THIS ASSIGNMENT IS $500. THE AMC'S REGISTRATION # IS AMC.0000010.

I HAVE PERFORMED NO SERVICES, AS AN APPRAISER OR IN ANY OTHER CAPACITY, REGARDING THE PROPERTY THAT IS THE SUBJECT OF THIS REPORT WITHIN THE THREE YEAR PERIOD IMMEDIATELY PRECEDING ACCEPTANCE OF THIS ASSIGNMENT.

Indicated Value by Sales Comparison Approach $ 500,000

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ADDITIONAL COMPARABLE SALES

File No.: 0011121

FEATURE	SUBJECT	COMPARABLE SALE # 4		COMPARABLE SALE # 5		COMPARABLE SALE # 6	
Address	3485 W Maule Ave Las Vegas, NV 89118	5970 Sobb Ave Las Vegas, NV 89118-3427		198 Ebb Tide Cir Las Vegas, NV 89123-1132			
Proximity to Subject		2.17 miles NW		1.42 miles SE			
Sale Price	$		$ 525,000		$ 408,000		$
Sale Price/GLA	$ /sq.ft.	$ 162.99 /sq.ft.		$ 139.06 /sq.ft.		$ /sq.ft.	
Data Source(s)	GLVAR #N/A	GLVAR #2064803;DOM 39		GLVAR #2069307;DOM 17			
Verification Source(s)	PHYSICAL INSPECT.	Doc #190426001968;Realist		Doc #190401001159;Realist			
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.	DESCRIPTION	+(-) $ Adjust.
Sales or Financing Concessions		ArmLth Conv;0		ArmLth Conv;0			
Date of Sale/Time		04/26/2019		04/01/2019			
Rights Appraised	Fee Simple	Fee Simple		Fee Simple			
Location	N;Res;	N;Res;		N;Res;			
Site	21,344 SqFt	25,265 SqFt	-7,800	19,166 SqFt	+4,400		
View	RESIDENTIAL	RESIDENTIAL		RESIDENTIAL			
Design (Style)	DT2;Southwest	DT1;SWR	0	DT2;Southwest			
Quality of Construction	Average	Average		Average			
Age	43	26		37			
Condition	Average	Average		Fair	+25,000		
Above Grade Room Count (Total / Bdrms / Baths)	7 / 3 / 2.1	7 / 4 / 3.0		7 / 3 / 3.1		/ /	
Gross Living Area	3,324 sq.ft.	3,221 sq.ft.	+7,725	2,934 sq.ft.	+29,250	sq.ft.	
Basement & Finished Rooms Below Grade	0sf	0sf		0sf			
Functional Utility	Average	Average		Average			
Heating/Cooling	FWA;CAC	FWA;CAC		FWA;CAC			
Energy Efficient Items	Assorted	Assorted		Assorted			
Garage/Carport	3 Garage;1 Carport	2 Garage	+5,000	2 Garage	+5,000		
Porch/Patio/Deck	CovPch;CovPat	CovPch;CovPat		Balc;CovPat;RfTpDeck			
Built-Ins/Upgrades	Good	Good		Inferior	+20,000		
Pool Features	Pool	None	+25,000	Pool			
Exterior Features	Typical	Typical		Typical			
Net Adjustment (Total)		☒ + ☐ -	$ 29,925	☒ + ☐ -	$ 83,650	☐ + ☐ -	$
Adjusted Sale Price of Comparables		Net 5.7 % Gross 8.7 %	$ 554,925	Net 20.5 % Gross 20.5 %	$ 491,650	Net % Gross %	$

SALES COMPARISON APPROACH

Summary of Sales Comparison Approach

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Form GPRES2.(AC) - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE 3/2007

Supplemental Addendum

File No. 0011121

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

An area's predominant value is an estimate of the most common market sales price for a general category of home within a defined market area. The overall price range is reflected in the high and low prevailing prices of residential properties that are comparable to the property being appraised. When a home's value exceeds the upper price range or is less than the lower range, the home may be considered an over improvement or under improvement within the market area. In some instances, the improvements can represent an over improvement for the neighborhood but are still within the market area upper price range. While the subject's value exceeds the area's predominant price, it does not exceed the upper limit reflected within the price range, nor is it considered to be over improved for its neighborhood. The subject conforms to neighboring properties for overall construction, amenities and features. The area properties exceeding the predominant value do appeal to a current and active market along with buyers' needs and financing qualifications. Within a market of this type, a sale price that exceeds the appraised value or loan amount is not uncommon. Neither the subject's value nor improvements are considered negative within the subject market area.

Highest and Best Use:

The subject's HBU is a single-family residential property. It is legal and permissible to be used as such, it is the most feasible use, and it is surrounded by other single-family residential properties. Economically and functionally it makes the most sense, due to the site zoning and site size.

Signature	Vance Randall	Signature	
Name	VANCE RANDALL	Name	
Date Signed	02/11/2020	Date Signed	
State Certification #	A.0007808-CR	State Certification #	
State	NV	State	
Or State License #		Or State License #	
State		State	

STUCKE-0876

PROPERTY HISTORY

File No. 0011121

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

* SUBJECT 36-MONTH PRIOR TRANSFER HISTORY *

3485 W Maule Ave
-No transfer history.

* COMPARABLE 12-MONTH PRIOR TRANSFER HISTORY *
(may include properties that were considered but not utilized as comparables)

9456 Polaris Ave
-Transferred on 08/23/2018 for $0. It transferred from Garza Arthur Jr and Patricia A to Garza Family Trust and was a Bargain and Sale Deed (Document #180823000203).

4025 Mardon Ave
-No transfer history.

3165 W Torino Ave
-No transfer history.

5970 Sobb Ave
-No transfer history.

198 Ebb Tide Cir
-No transfer history.

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RESIDENTIAL APPRAISAL REPORT

File No.: 0011121

COST APPROACH

COST APPROACH TO VALUE (if developed) ☒ The Cost Approach was not developed for this appraisal.

Provide adequate information for replication of the following cost figures and calculations.

Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value): DUE TO THE AGE AND PHYSICAL DEPRECIATION OF THE HOME, THE COST APPROACH WOULD NOT BE AN ACCURATE INDICATOR OF MARKET VALUE FOR THE SUBJECT.

ESTIMATED ☐ REPRODUCTION OR ☐ REPLACEMENT COST NEW	OPINION OF SITE VALUE =$
Source of cost data:	DWELLING Sq.Ft. @ $ =$
Quality rating from cost service: Effective date of cost data:	Sq.Ft. @ $ =$
Comments on Cost Approach (gross living area calculations, depreciation, etc.):	Sq.Ft. @ $ =$
	Sq.Ft. @ $ =$
	Sq.Ft. @ $ =$
	=$
	Garage/Carport Sq.Ft. @ $ =$
	Total Estimate of Cost-New =$
	Less Physical / Functional / External
	Depreciation =$( )
	Depreciated Cost of Improvements =$
	"As-is" Value of Site Improvements =$
	=$
	=$
Estimated Remaining Economic Life (if required): 40 Years	**INDICATED VALUE BY COST APPROACH** =$

INCOME APPROACH

INCOME APPROACH TO VALUE (if developed) ☒ The Income Approach was not developed for this appraisal.

Estimated Monthly Market Rent $ X Gross Rent Multiplier = $ **Indicated Value by Income Approach**

Summary of Income Approach (including support for market rent and GRM): PER CLIENT REQUEST THE INCOME APPROACH WAS NOT INCLUDED IN THE SCOPE OF WORK AND THEREFORE NOT PERFORMED FOR THIS ASSIGNMENT.

PUD

PROJECT INFORMATION FOR PUDs (if applicable) ☐ The Subject is part of a Planned Unit Development.

Legal Name of Project:

Describe common elements and recreational facilities:

RECONCILIATION

Indicated Value by: Sales Comparison Approach $ 500,000 **Cost Approach (if developed) $** **Income Approach (if developed) $**

Final Reconciliation THE SALES COMPARISON IS WEIGHED MOST AS THIS APPROACH IS CONSIDERED TO BE THE MOST RELIABLE INDICATOR OF VALUE AS IT TENDS TO REFLECT THE ACTIONS OF BUYERS AND SELLERS IN THE OPEN MARKET.

This appraisal is made ☒ "as is", ☐ subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, ☐ subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, ☐ subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair:

☐ This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.

Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: $ 500,000 **, as of:** 01/28/2020 **, which is the effective date of this appraisal. If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.**

ATTACHMENTS

A true and complete copy of this report contains 22 pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.

Attached Exhibits:

☒ Scope of Work	☒ Limiting Cond./Certifications	☒ Narrative Addendum	☒ Photograph Addenda	☒ Sketch Addendum
☒ Map Addenda	☒ Additional Sales	☒ Cost Addendum	☒ Flood Addendum	☐ Manuf. House Addendum
☐ Hypothetical Conditions	☐ Extraordinary Assumptions	☐	☐	☐

Client Contact: Client Name: David Stucke

E-Mail: Address: 3485 W Maule Ave, Las Vegas, NV 89120

SIGNATURES

APPRAISER	SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)
Appraiser Name: VANCE RANDALL	Supervisory or Co-Appraiser Name:
Company: APPRAISELV	Company:
Phone: (702) 823-4499 Fax: (702) 586-0411	Phone: Fax:
E-Mail: APPRAISELASVEGAS@GMAIL.COM	E-Mail:
Date of Report (Signature): 02/11/2020	Date of Report (Signature):
License or Certification #: A.0007808-CR State: NV	License or Certification #: State:
Designation: CERTIFIED RESIDENTIAL APPRAISER	Designation:
Expiration Date of License or Certification: 04/30/2020	Expiration Date of License or Certification:
Inspection of Subject: ☒ Interior & Exterior ☐ Exterior Only ☐ None	Inspection of Subject: ☐ Interior & Exterior ☐ Exterior Only ☐ None
Date of Inspection: 01/28/2020	Date of Inspection:

STUCKE-0878

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Market Conditions Addendum to the Appraisal Report

0011121
File No. 0011121

The purpose of this addendum is to provide the lender/client with a clear and accurate understanding of the market trends and conditions prevalent in the subject neighborhood. This is a required addendum for all appraisal reports with an effective date on or after April 1, 2009.

Property Address 3485 W Maule Ave City Las Vegas State NV ZIP Code 89118

Borrower David Stucke

Instructions: The appraiser must use the information required on this form as the basis for his/her conclusions, and must provide support for those conclusions, regarding housing trends and overall market conditions as reported in the Neighborhood section of the appraisal report form. The appraiser must fill in all the information to the extent it is available and reliable and must provide analysis as indicated below. If any required data is unavailable or is considered unreliable, the appraiser must provide an explanation. It is recognized that not all data sources will be able to provide data for the shaded areas below; if it is available, however, the appraiser must include the data in the analysis. If data sources provide the required information as an average instead of the median, the appraiser should report the available figure and identify it as an average. Sales and listings must be properties that compete with the subject property, determined by applying the criteria that would be used by a prospective buyer of the subject property. The appraiser must explain any anomalies in the data, such as seasonal markets, new construction, foreclosures, etc.

MARKET RESEARCH & ANALYSIS

Inventory Analysis	Prior 7–12 Months	Prior 4–6 Months	Current – 3 Months	Overall Trend		
Total # of Comparable Sales (Settled)	10	3	4	☐ Increasing	☒ Stable	☐ Declining
Absorption Rate (Total Sales/Months)	1.67	1.00	1.33	☐ Increasing	☒ Stable	☐ Declining
Total # of Comparable Active Listings	15	16	12	☐ Declining	☒ Stable	☐ Increasing
Months of Housing Supply (Total Listings/Ab.Rate)	9.0	16.0	9.0	☐ Declining	☒ Stable	☐ Increasing

Median Sale & List Price, DOM, Sale/List %	Prior 7–12 Months	Prior 4–6 Months	Current – 3 Months	Overall Trend		
Median Comparable Sale Price	$500,250	$450,000	$577,500	☐ Increasing	☒ Stable	☐ Declining
Median Comparable Sales Days on Market	44	44	54	☐ Declining	☒ Stable	☐ Increasing
Median Comparable List Price	$649,000	$629,500	$659,000	☐ Increasing	☒ Stable	☐ Declining
Median Comparable Listings Days on Market	142	77	131	☐ Declining	☒ Stable	☐ Increasing
Median Sale Price as % of List Price	98%	96%	97%	☐ Increasing	☒ Stable	☐ Declining
Seller-(developer, builder, etc.)paid financial assistance prevalent? ☐ Yes ☒ No				☐ Declining	☒ Stable	☐ Increasing

Explain in detail the seller concessions trends for the past 12 months (e.g., seller contributions increased from 3% to 5%, increasing use of buydowns, closing costs, condo fees, options, etc.). An analysis was performed on 17 competing sales over the past 12 months. For those sales, a total of 35.3% were reported to have seller concessions. This analysis shows a change of +48.2% per month.

Are foreclosure sales (REO sales) a factor in the market? ☐ Yes ☒ No If yes, explain (including the trends in listings and sales of foreclosed properties).

An analysis was performed on 17 competing sales over the past 12 months. For those sales, a total of 0.0% were reported to be REO.

Cite data sources for above information. Information reported in the GLVAR system (using an effective date of 01/28/2020) was utilized to arrive at the results noted on this addendum. Any percent change results noted in these comments are based on simple regression.

Summarize the above information as support for your conclusions in the Neighborhood section of the appraisal report form. If you used any additional information, such as an analysis of pending sales and/or expired and withdrawn listings, to formulate your conclusions, provide both an explanation and support for your conclusions.

An analysis was performed on 17 competing sales over the past 12 months. The sales within this group had a median sale price of $500,000. This analysis shows a change of +3.3% per month. Based on all sales in this same group, there is a 8.5 month supply. This analysis shows a change of -1.4% per month. These sales had a median DOM of 44. This analysis shows a change of +3.7% per month.

CONDO/CO-OP PROJECTS

If the subject is a unit in a condominium or cooperative project , complete the following: **Project Name:**

Subject Project Data	Prior 7–12 Months	Prior 4–6 Months	Current – 3 Months	Overall Trend		
Total # of Comparable Sales (Settled)				☐ Increasing	☐ Stable	☐ Declining
Absorption Rate (Total Sales/Months)				☐ Increasing	☐ Stable	☐ Declining
Total # of Active Comparable Listings				☐ Declining	☐ Stable	☐ Increasing
Months of Unit Supply (Total Listings/Ab.Rate)				☐ Declining	☐ Stable	☐ Increasing

Are foreclosure sales (REO sales) a factor in the project? ☐ Yes ☐ No If yes, indicate the number of REO listings and explain the trends in listings and sales of foreclosed properties.

Summarize the above trends and address the impact on the subject unit and project.

APPRAISER

Signature	Signature
Appraiser Name VANCE RANDALL	Supervisory Appraiser Name
Company Name APPRAISELV	Company Name
Company Address 92 PETTSWOOD DR, HENDERSON, NV 89002	Company Address
State License/Certification # A.0007808-CR State NV	State License/Certification # State
Email Address APPRAISELASVEGAS@GMAIL.COM	Email Address

STUCKE-0879

Form 1004MC2 - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

Market Conditions Charts - Page 1

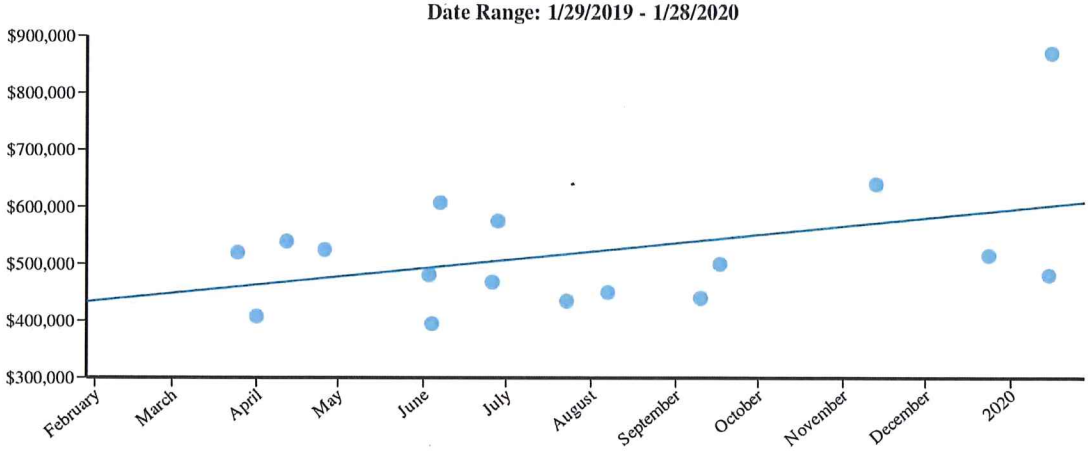
Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

Competing Med Sale $

Total: $500,000 y = 482.07x + 432267.69

Simple Regression Per Month: +3.3%

Date Range: 1/29/2019 - 1/28/2020



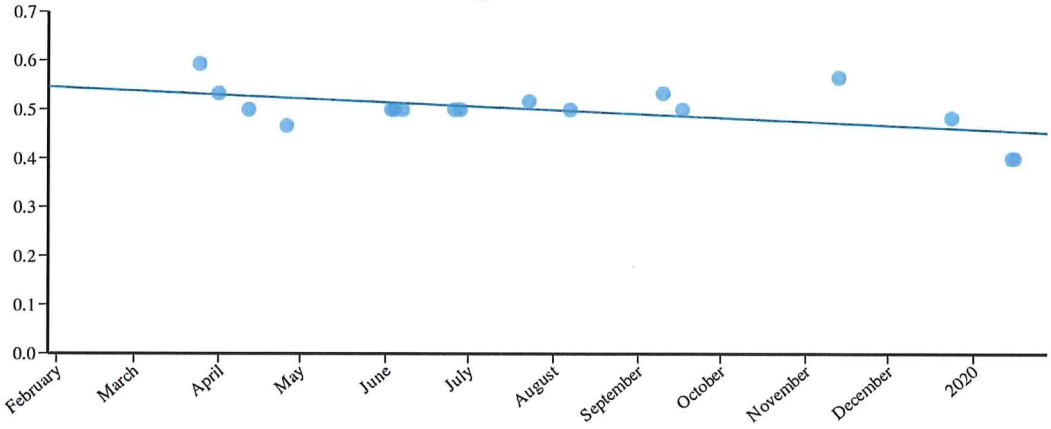
Median $

Competing Housing Supply (Months of)

Total: 8.5 y = -0.0003x + 0.55

Simple Regression Per Month: -1.4%

Date Range: 1/29/2019 - 1/28/2020



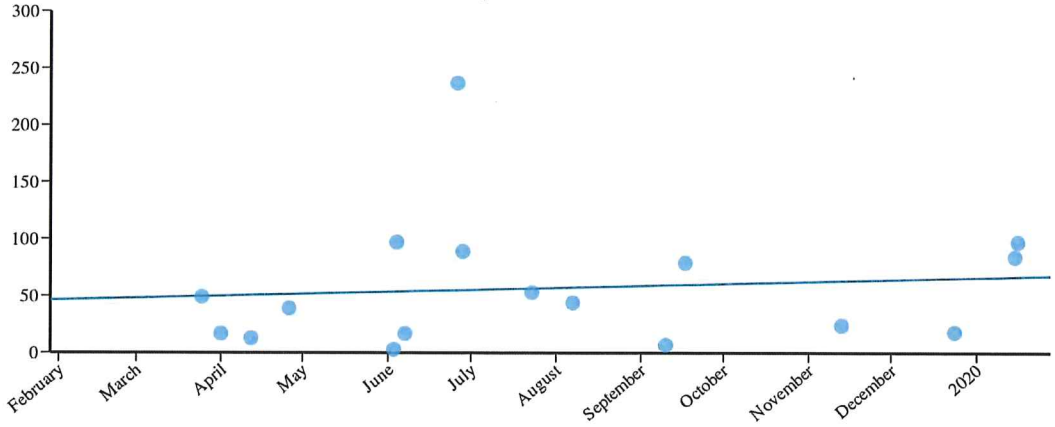
Housing Supply

Competing Med DOM (Sales)

Total: 44 y = 0.0582x + 46.22

Simple Regression Per Month: +3.7%

Date Range: 1/29/2019 - 1/28/2020



Sales DOM

STUCKE-0880

Market Conditions Charts - Page 2

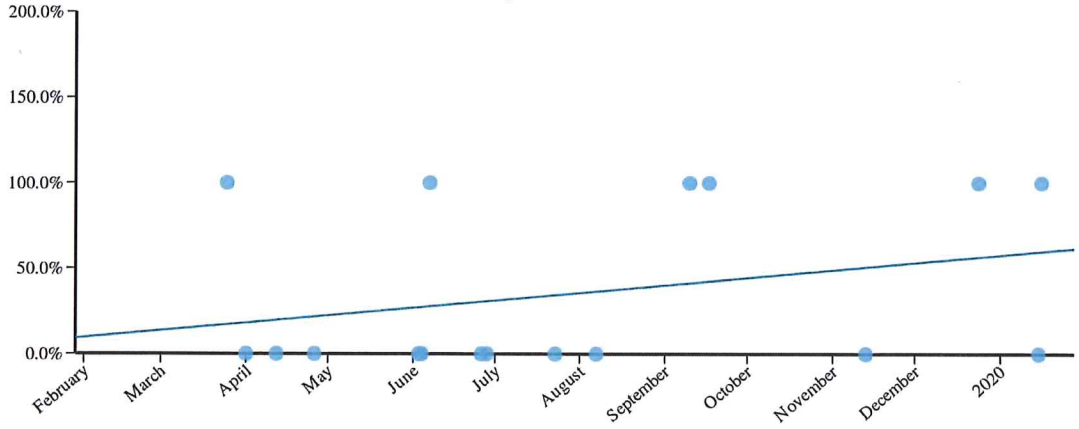
Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

Competing Concession %

Total: 35.3% y = 0.1446x + 8.83

Simple Regression Per Month: +48.2%

Date Range: 1/29/2019 - 1/28/2020



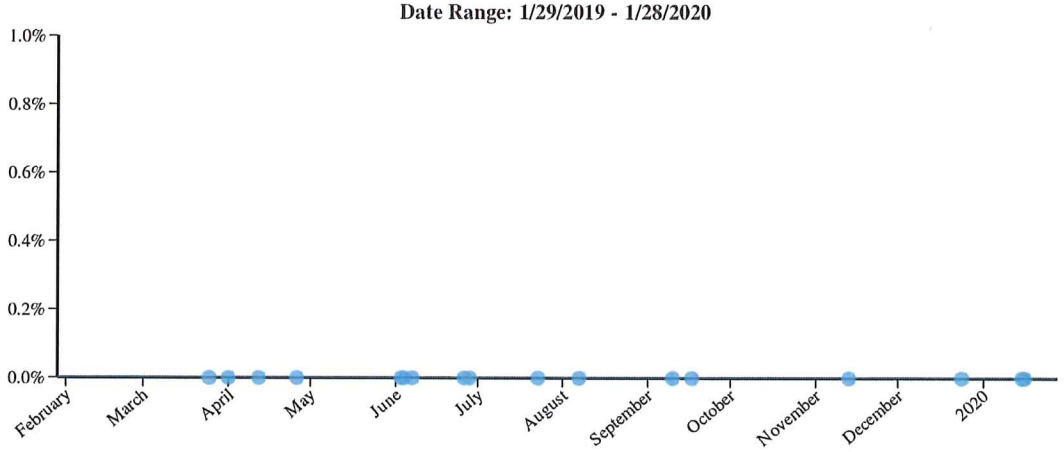
Concession %

Competing REO % (Sales)

Total: 0.0%

Simple Regression Per Month: N/A

Date Range: 1/29/2019 - 1/28/2020



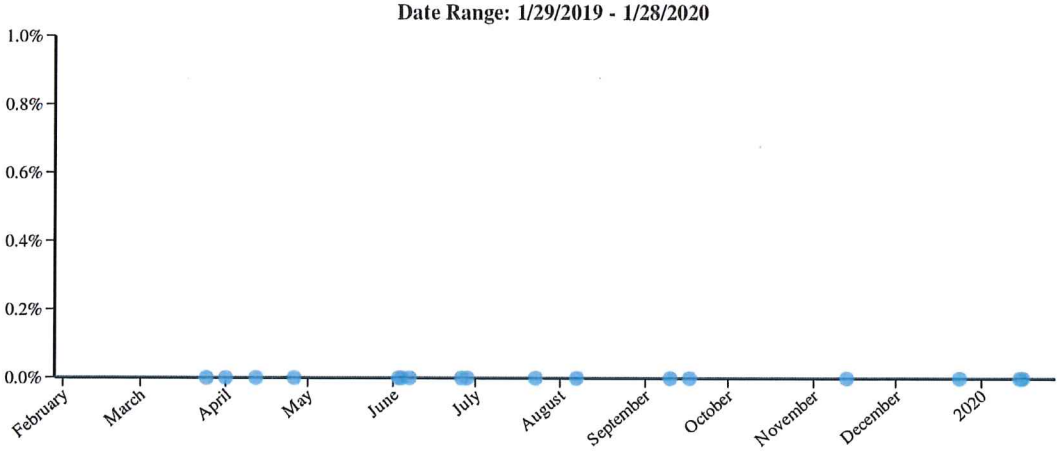
Foreclosure Analysis

Competing Short % (Sales)

Total: 0.0%

Simple Regression Per Month: N/A

Date Range: 1/29/2019 - 1/28/2020

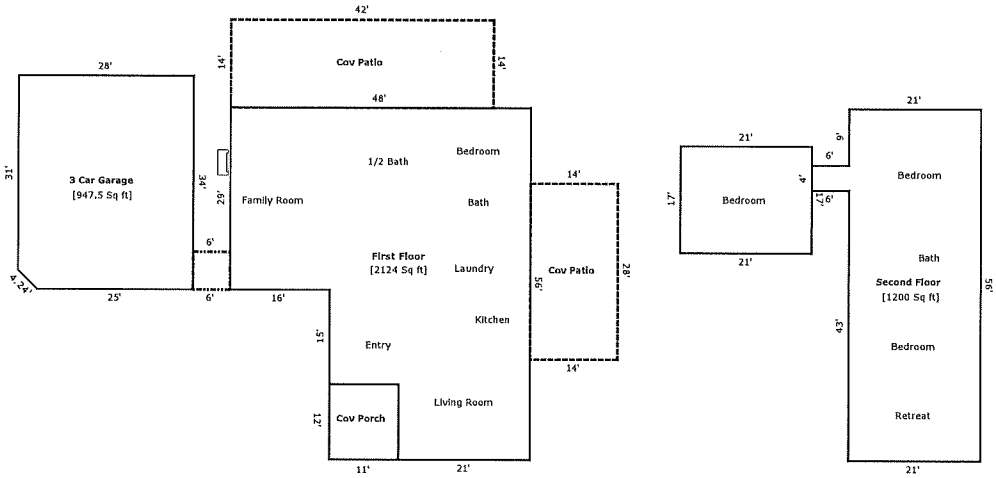


STUCKE-0881

Short Sale Analysis

Building Sketch

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						



DRAWING NOT TO SCALE
PERIMETER SKETCH AND DRAWING

TOTAL Sketch by a la mode, Inc.

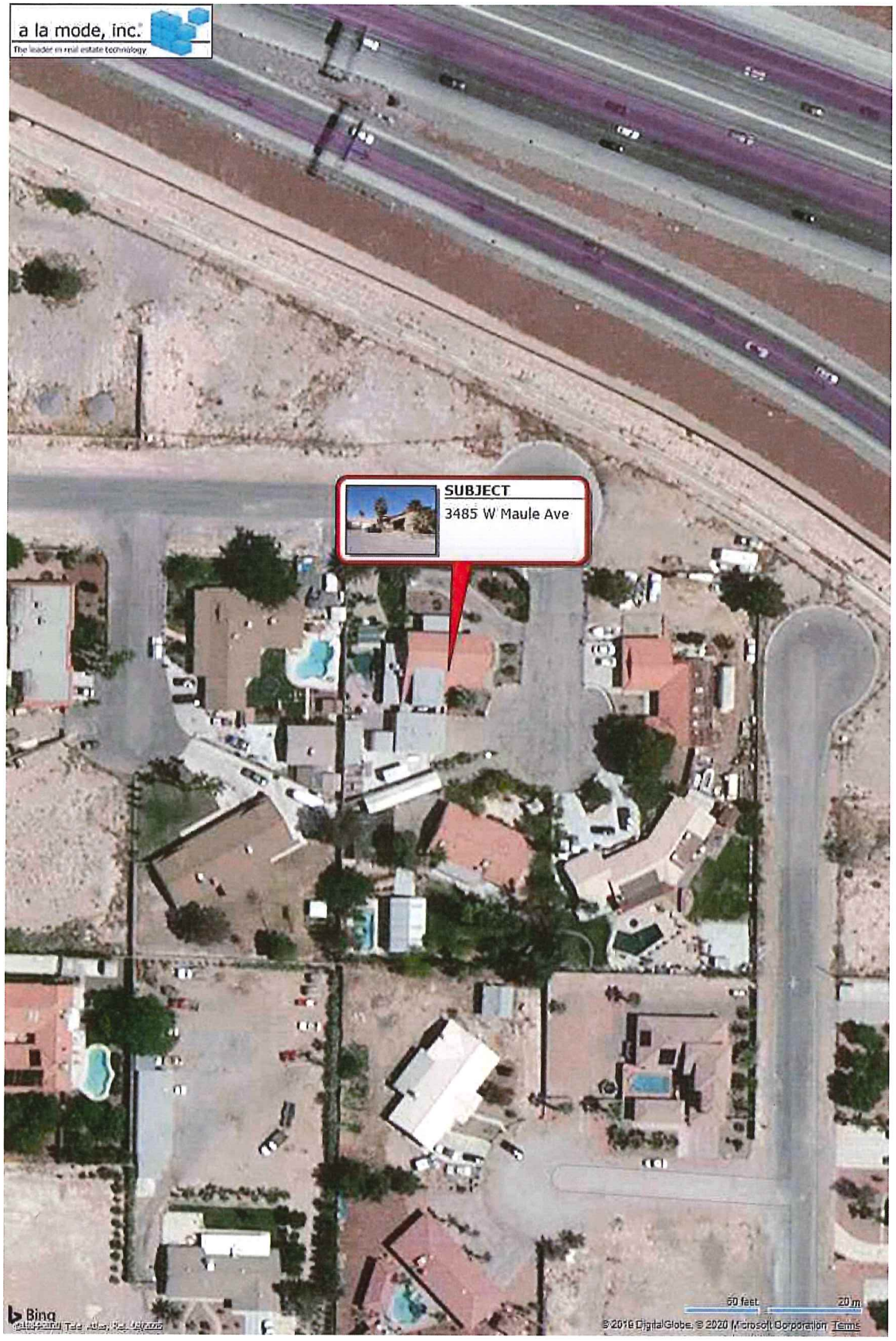
Area Calculations Summary

Living Area		**Calculation Details**	
First Floor	2124 Sq ft	48 × 29	= 1392
		27 × 21	= 567
		11 × 15	= 165
Second Floor	1200 Sq ft	56 × 21	= 1176
		4 × 6	= 24
Total Living Area (Rounded):	**3324 Sq ft**		
Non-living Area			
Cov Patio	392 Sq ft	28 × 14	= 392
Cov Porch	132 Sq ft	11 × 12	= 132
Cov Patio	588 Sq ft	42 × 14	= 588
Cov Porch	36 Sq ft	6 × 6	= 36
3 Car Garage	947.5 Sq ft	28 × 31	= 868
		3 × 25	= 75
		0.5 × 3 × 3	= 4.5
Storage	357 Sq ft	21 × 17	= 357

STUCKE-0882

Aerial Map

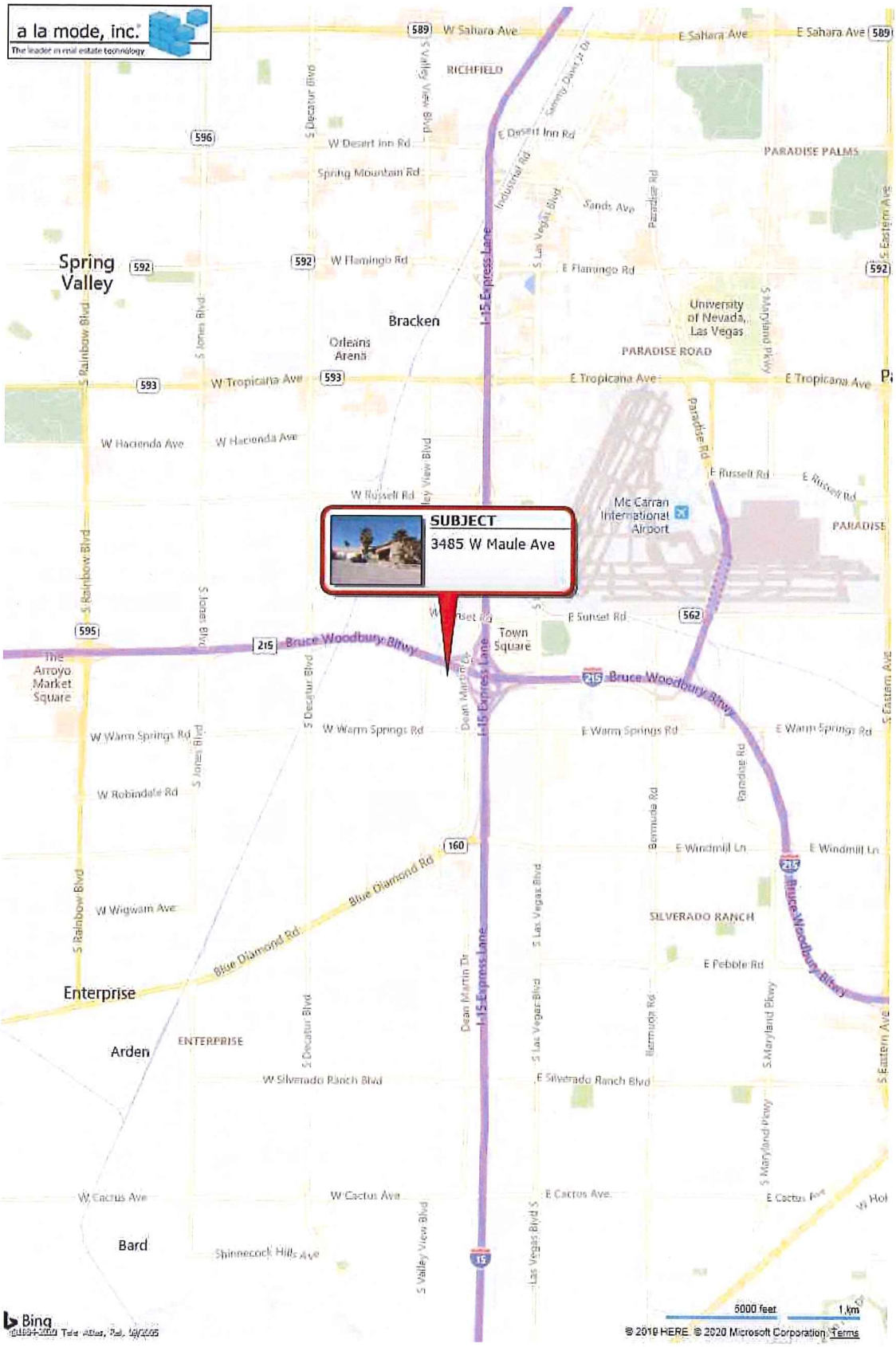
Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						



STUCKE-0883

Location Map

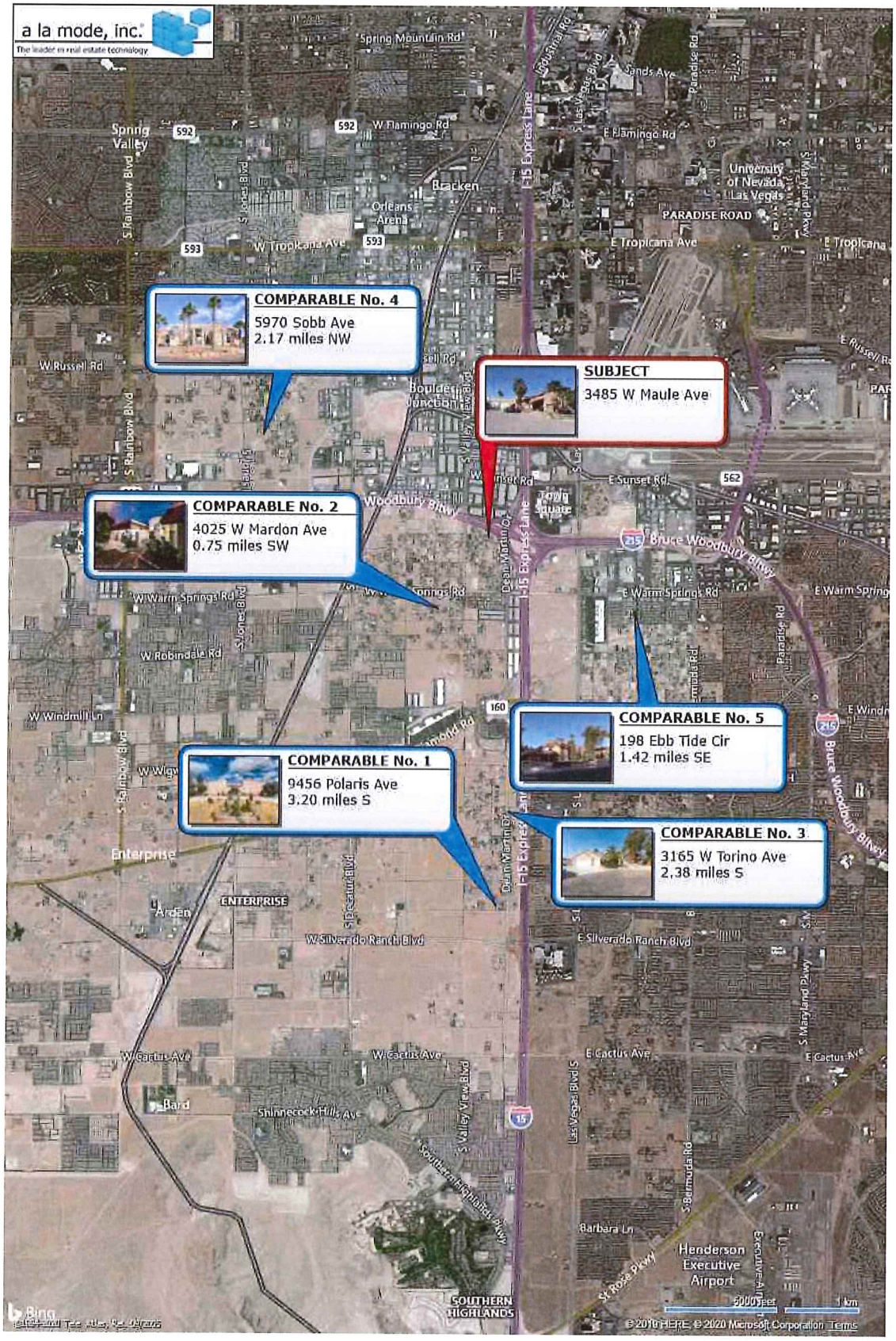
Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						



Form MAP.LOC - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

Comparable Sales Map

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						



STUCKE-0885

Subject Photo Page

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

Subject Front

3485 W Maule Ave

Sales Price	
Gross Living Area	3,324
Total Rooms	7
Total Bedrooms	3
Total Bathrooms	2.1
Location	N;Res;
View	RESIDENTIAL
Site	21,344 SqFt
Quality	Average
Age	43

Subject Rear

Subject Street

STUCKE-0886

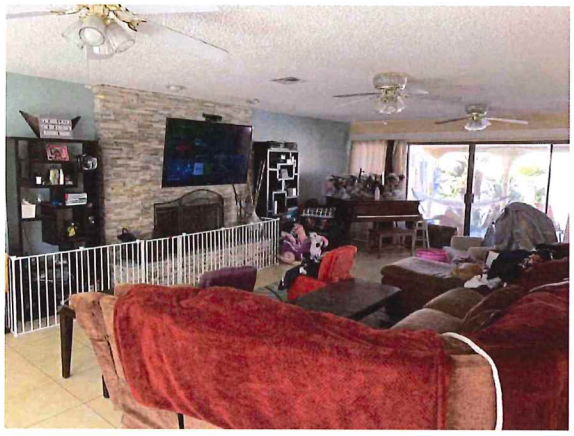
Photograph Addendum

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

Subject Living Room

Subject Kitchen

Subject Laundry



Subject Family Room

Subject Half Bathroom

Subject Bedroom

STUCKE-0887

Photograph Addendum

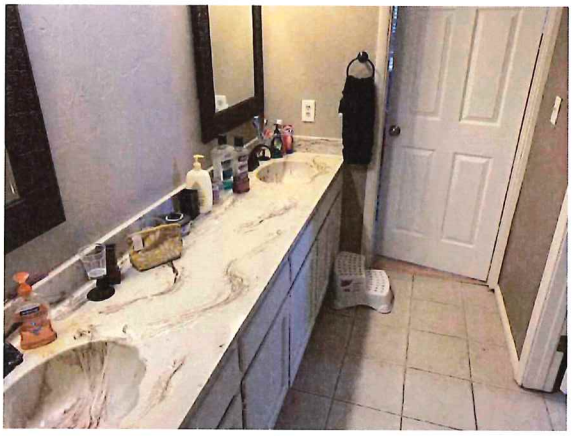
Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

Subject Bathroom

Subject Bedroom

Subject Bedroom

Subject Bathroom



Subject Bathroom

Subject Master Bedroom

STUCKE-0888

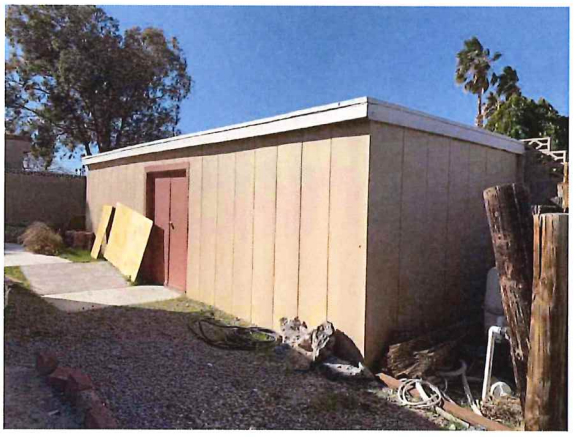
Photograph Addendum

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

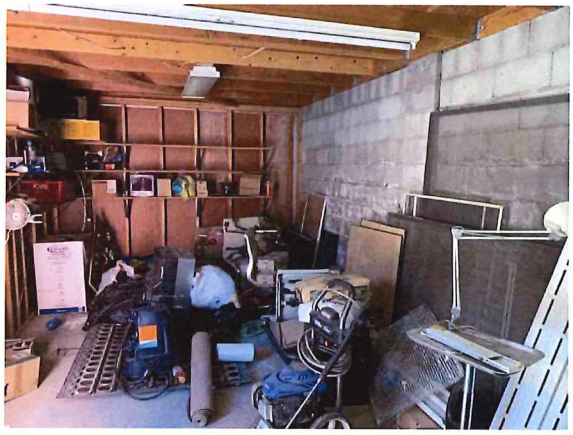
Subject Master Retreat

Subject Pool

Subject Pool Equipment



Subject Storage Shed



Subject Storage Shed

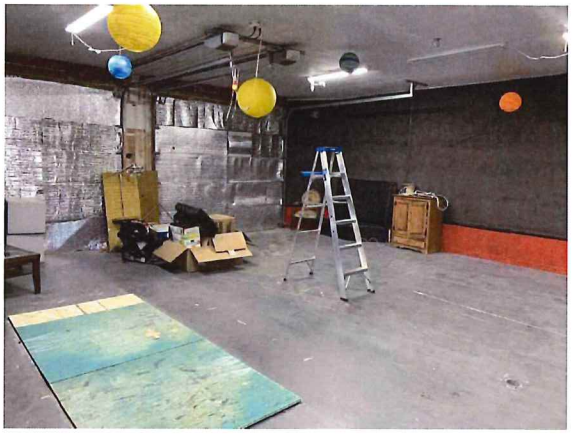
Subject Rear Yard

STUCKE-0889

Photograph Addendum

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

Subject Side View



Subject Garage

Subject Side View

Subject Garage

Form PICSIX2 - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

Comparable Photo Page

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

Comparable 1

9456 Polaris Ave

Prox. to Subject	3.20 miles S
Sales Price	450,000
Gross Living Area	2,982
Total Rooms	8
Total Bedrooms	4
Total Bathrooms	2.1
Location	N;Res;
View	RESIDENTIAL
Site	33,977 SqFt
Quality	Average
Age	41

MLS PHOTO

Comparable 2

4025 W Mardon Ave

Prox. to Subject	0.75 miles SW
Sales Price	575,000
Gross Living Area	3,982
Total Rooms	10
Total Bedrooms	3
Total Bathrooms	2.1
Location	N;Res;
View	CITY
Site	22,651 SqFt
Quality	Average
Age	38

MLS PHOTO

Comparable 3

3165 W Torino Ave

Prox. to Subject	2.38 miles S
Sales Price	480,500
Gross Living Area	3,002
Total Rooms	8
Total Bedrooms	4
Total Bathrooms	3.0
Location	N;Res;
View	RESIDENTIAL
Site	20,473 SqFt
Quality	Average
Age	30

MLS PHOTO

Form PIC3x5.CR - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

Comparable Photo Page

Borrower	David Stucke						
Property Address	3485 W Maule Ave						
City	Las Vegas	County	Clark	State	NV	Zip Code	89118
Lender/Client	David Stucke						

Comparable 4

5970 Sobb Ave

Prox. to Subject	2.17 miles NW
Sales Price	525,000
Gross Living Area	3,221
Total Rooms	7
Total Bedrooms	4
Total Bathrooms	3.0
Location	N;Res;
View	RESIDENTIAL
Site	25,265 SqFt
Quality	Average
Age	26

MLS PHOTO

Comparable5

198 Ebb Tide Cir

Prox. to Subject	1.42 miles SE
Sales Price	408,000
Gross Living Area	2,934
Total Rooms	7
Total Bedrooms	3
Total Bathrooms	3.1
Location	N;Res;
View	RESIDENTIAL
Site	19,166 SqFt
Quality	Average
Age	37

MLS PHOTO

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Prox. to Subject	
Sales Price	
Gross Living Area	
Total Rooms	
Total Bedrooms	
Total Bathrooms	
Location	
View	
Site	
Quality	
Age	

Form PIC3x5.CR - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

LICENSE

APPRAISER CERTIFICATE

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY

NOT TRANSFERABLE — REAL ESTATE DIVISION — NOT TRANSFERABLE

This is to Certify That : VANCE D RANDALL **Certificate Number:** A.0007808-CR

Is duly authorized to act as a CERTIFIED RESIDENTIAL APPRAISER **from the issue date to the expiration date at the business address stated here in, unless the certificate is sooner revoked, cancelled, withdrawn, or invalidated.**

Issue Date: March 6, 2018 **Expire Date:** April 30, 2020

In witness whereof, THE DEPARTMENT OF BUSINESS AND INDUSTRY, REAL ESTATE DIVISION, by virtue of the authority vested in it by Chapter 645C of the Nevada Revised Statues, has caused this Certificate to be issued with its Seal printed thereon. This certificate must be conspicuously displayed in place of business.

FOR: APPRAISELV LLC
228 PIONEERS PEAK AVE
HENDERSON, NV 89002

REAL ESTATE DIVISION

SHARATH CHANDRA
Administrator

THE GREAT SEAL OF THE STATE OF NEVADA

STUCKE-0893

EXHIBIT 2

EXHIBIT 2

EXHIBIT 2

Conditions - Borrower Outstanding with Requirements

Date Issued	02/19/20	**Loan No.**	1400477296
Borrowers	David P Stucke	**Property**	3485 W Maule Avenue Las Vegas, NV 89118 Clark County
Lender	Cardinal Financial Company, Limited Partnership NMLS ID: 66247 State Lic: 3968		
Originator	Mike Dean NMLS ID: 162919 State MLO ID: 997		

Below is a list of borrower-provided documents pending receipt or approval. We require these documents to support the information provided on the loan application.

Loan Purpose	Loan Amount	Rate	Product	Est. Fund
Cash-out	**$361,000**	**5.125%**	**Conventional 30 Year, Fixed Rate**	**02/20/20**

Required Prior to Approval

Credit	Decision
☐ Divorce Decree or Separation Agreement for David P. Stucke	
• Ensure all pages of the divorce agreement, separation agreement, or other notarized agreement as dictated by local custom, including any modifications, are provided.	Unreceived

Required Prior to Funding

Credit	Decision
☐ Settlement Statement | Sale of Property Concurrent Closing for 3740 Grandview Place, Las Vegas, NV	
• Ensure borrower(s) in our system of record match name of sellers.	Pending
• Ensure document indicates date of sale.	Pending
• Ensure document is final settlement statement (HUD or Closing Disclosure format). *[Please provide final executed settlement statement]*	Rejected

EXHIBIT 3

EXHIBIT 3

EXHIBIT 3

Cardinal Financial Company, Limited Partnership
3145 St Rose Parkway, Suite 201 • Henderson, NV 89052

Loan Quote | Closing Disclosur

Your actual rate, payment and costs could be higher. Get an official Loan Estimate before choosing the loan.

Prepared For	
Borrowers	David P Stucke
Date Issued	2/19/20
Notes	

Prepared By	
Loan Officer	Mike Dean
Phone	(702) 303-1333
Email	mike.dean@cardinalfinancial.com
NMLS ID	162919

Loan Terms	
Purpose	Refinance
Property	3485 W Maule Avenue, Las Vegas, NV 89118
Property Use	Primary Residence
Est. Property Value	$525,000
Loan Amount	$361,000
Product	Conventional 30 Year, Fixed Rate
Interest Rate	5.125%
Annual Percentage Rate (APR)	5.212%

Estimated Monthly Payments	
Mortgage Payment	
Principal & Interest	$1,965.60
Mortgage Insurance	$0.00
Property Taxes	$191.53
Hazard Insurance	$101.45
Total Mortgage Payment	**$2,258.58**

Estimated Closing Costs	
Loan Costs	
Lock Extension Fee	$1,010.80
Processing Fee	$695.00
Underwriting Fee	$995.00
Appraisal Fee	$490.00
Title - Closing Protection Letter Fee	$25.00
Title - Electronic Recording Fee	$13.50
Title - Endorsement 9	$100.00
Title - Lender's Title Insurance	$813.75
Title - Notary Fee	$175.00
Title - Settlement Fee	$250.00
Total	**$4,568.05**
Taxes and Other Government Fees	
Recording Fees	$120.00
Total	**$120.00**

STUCKE-0897

Estimated Closing Costs

Prepaids	
Prepaid Interest ($50.69 per day for 10 days)	$506.90
County Property Tax (3 months)	$574.15
Total	**$1,081.05**
Initial Escrow Payment at Closing	
Homeowner's Insurance ($101.45 per mo. for 8 mo.)	$811.60
Aggregate Adjustment	- $483.25
Total	**$328.35**
Other	
Lender Credits	-$704.59
Total	**-$704.59**
Total Estimated Closing Costs	**$5,392.86**

Estimated Cash to Close

Loan Amount	$361,000.00
Total Estimated Closing Costs	-$5,392.86
Estimated Total Payoffs and Payments	-$238,490.39
Estimated Cash To Borrower	**$117,606.75**
Estimated Closing Costs Financed (Paid from your Loan Amount)	$4,902.86

Electronically Filed
2/25/2020 10:15 AM
Steven D. Grierson
CLERK OF THE COURT

EXH

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
THE ABRAMS & MAYO LAW FIRM
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: VMGroup@TheAbramsLawFirm.com
Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
vs.	)	
	)	
	)	
CHRISTIE LEEANN STUCKE,	)	
	)	
Defendant.	)	
	)	

SUPPLEMENTAL EXHIBIT IN SUPPORT OF EMERGENCY MOTION TO ALLOW PLAINTIFF TO COMPLETE THE REFINANCE OF THE MAULE RESIDENCE AND FOR DEFENDANT TO VACATE THE RESIDENCE

NOW INTO COURT comes Plaintiff, DAVID PATRICK STUCKE, by and through his attorney of record, VINCENT MAYO, ESQ., of THE ABRAMS & MAYO LAW FIRM, and hereby submits the following supplemental exhibit in support of his *Emergency Motion to Allow*

Plaintiff to Complete the Refinance of the Maule Residence and for the Defendant to Vacate the Residence.

Exhibit	Description
4	Conditional approval letter for refinance of the Maul residence

Dated this 24th day of February, 2020.

Respectfully Submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.
Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Supplemental Exhibit in Support of Emergency Motion to Allow Plaintiff to Complete the Refinance of the Maule Residence and for the Defendant to Vacate the Residence* was filed electronically with the Eighth Judicial District Court in the above-entitled matter, on ~~Monday~~ Tuesday C.W., February ~~24~~ 25 C.W., 2020. Service of the foregoing document was made via 1st Class U.S. Mail, postage fully prepaid, addressed to:

Christie Stucke
3485 W. Maule Avenue
Las Vegas, Nevada 89118
Defendant, in proper person

And via email to:

Christie Stucke
Email: christiestucke@gmail.com

/s/ Chantel Wade
An Employee of The Abrams & Mayo Law Firm

EXHIBIT 4

EXHIBIT 4

EXHIBIT 4

CARDINAL
FINANCIAL COMPANY | LIMITED PARTNERSHIP

February 23, 2020

Mr. Stucke,

This letter is to confirm that we have completed the underwriting of your loan file and have determined you have met all Fannie Mae loan parameters. Only two remaining underwriting conditions are outstanding and must be satisfied before Cardinal Financial can draft your closing documents.

- Quit Claim Deed signed by spouse or finalized divorce decree.
- Court order/decree showing Bank of America auto loan #6301004118322 is the sole responsibility of your spouse.

Once we obtain these two items you will be able to sign closing documents and finalize this refinance transaction.

Thank you,

Michael Dean

Mike Dean
Branch Manager
702.938.7602

D-18-580621-D David Patrick Stucke, Plaintiff
vs.
Christie LeeAnn Stucke, Defendant.

March 10, 2020 09:30 AM Motion

HEARD BY: Gentile, Denise L COURTROOM: Courtroom 03

COURT CLERK: McCulloch, Melissa

PARTIES PRESENT:

David Patrick Stucke, Counter Defendant, Plaintiff, Present **Vincent Mayo, Attorney, Present**

Christie LeeAnn Stucke, Counter Claimant, Defendant, Present **Pro Se**

Sarah Laura Stucke, Subject Minor, Not Present

David Orion Stucke, Subject Minor, Not Present

JOURNAL ENTRIES

PLAINTIFF'S EMERGENCY MOTION TO ALLOW PLAINTIFF TO COMPLETE THE REFINANCE OF THE MAULE RESIDENCE AND FOR DEFENDANT TO VACATE THE RESIDENCE

Parties SWORN and TESTIFIED.

Statements by Attorney Mayo regarding Plaintiff's refinance of the W. Maule residence, pay-off of the van through escrow and preservation of the funds until a stipulation is reached or further order of the Court. Statements by Defendant regarding need for disbursement of funds to allow her the ability to relocate from the residence. Argument by Attorney mayo regarding alleged under claiming of income by Defendant. Discussion regarding alternatives for Defendant until such time as the matter is adjudicated or heard at a settlement conference. Further discussion regarding how much time is needed to complete discovery. Court NOTES, Defendant provided Plaintiff with several coins, keys and his wedding ring IN OPEN COURT.

Following discussion COURT ORDERED as follows:

1. SENIOR JUDGE SETTLEMENT CONFERENCE set on 5/6/20 at 1:30 p.m. Each Party shall submit a brief for the Senior Judge at least seven (7) days prior to the settlement conference, as well as file/serve an updated Financial Disclosure Form (FDF), if necessary, with courtesy copies delivered to the department drop box. Order referring to Senior Judge Settlement Program provided to the parties and FILED IN OPEN COURT.

2. In the interim, Plaintiff is permitted to complete the RE-FINANCE of the W. Maule residence. Defendant is to cooperate and execute a Quit Claim Deed, if it is needed, with the understanding that she is not waiving her community interest in the residence. Should she fail to do so, the Clerk of the Court, Steve Grierson, will be permitted to execute a deed on her behalf. The pay-off of the parties' van will be permitted through escrow as part of the re-finance. Pursuant to the 1/30/20 Order, the community equity funds are to placed in Counsel's Trust Account until stipulation or further order of the Court.

Notice: Journal Entries are prepared by the courtroom clerk and are not the official record of the Court.

3. Defendant will be permitted to stay in the W. Maule residence for another four (4) weeks while she lines up alternative living arrangements for her and the children. Parties are to discuss and Plaintiff is to consider assisting Defendant with reasonable funds to assist in her relocation, including moving fees and deposits on a new residence, by agreeing to the release of community funds, as opposed to this matter returning back to Court.

Attorney Mayo will prepare an Order from today's hearing.

4. The W. Maule furniture/furnishings are to be divided via an A/B List.

INTERIM CONDITIONS:

FUTURE HEARINGS:

May 06, 2020 1:30PM Settlement Conference
Courtroom 03 Gentile, Denise L

Notice: Journal Entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint **COURT MINUTES** June 11, 2020

D-18-580621-D David Patrick Stucke, Plaintiff
vs.
Christie LeeAnn Stucke, Defendant.

June 11, 2020 **8:00 AM** **Minute Order**

HEARD BY: Gentile, Denise L **COURTROOM:** Chambers

COURT CLERK: Melissa McCulloch

PARTIES:
Christie Stucke, Defendant, Counter Claimant, not present Pro Se
David Stucke, Plaintiff, Counter Defendant, not present Vincent Mayo, Attorney, not present
David Stucke, Subject Minor, not present
Sarah Stucke, Subject Minor, not present

JOURNAL ENTRIES

- NRCP 1 and EDCR 1.10 state the procedure in district courts shall be administered to secure efficient, speedy, and inexpensive determinations in every action.

COURT FINDS on June 8, 2020 Plaintiff requested a drug test referral for Defendant, pursuant to the Order from the October 7, 2019 hearing, entered on October 31, 2019. COURT FINDS Defendant was referred to American Toxicology, Inc., and results were reported to the Court on June 11, 2020.

COURT FINDS that Defendant's sample provided on June 8, 2020 returned results of THC Metabolite Positive 225ng/ml in Urine; and Negative in Hair.

COURT FINDS that the American Toxicology, Inc. results reported herein shall remain confidential pursuant to EDCR 5.301 and EDCR 5.304.

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

CLERK'S NOTE: On 6/11/20 a copy of the Court's Minute Order was provided to Defendant and to Plaintiff's Attorney of record. (mm)

FUTURE HEARINGS:

June 23, 2020 10:00 AM Motion to Set Aside
Gentile, Denise L
Courtroom 03
McCulloch, Melissa

June 23, 2020 10:00 AM Opposition & Countermotion
Gentile, Denise L
Courtroom 03
McCulloch, Melissa

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint | **COURT MINUTES** | **June 23, 2020**

D-18-580621-D David Patrick Stucke, Plaintiff
vs.
Christie LeeAnn Stucke, Defendant.

June 23, 2020 10:00 AM All Pending Motions

HEARD BY: Gentile, Denise L COURTROOM: Courtroom 03

COURT CLERK: McCulloch, Melissa

PARTIES PRESENT:

David Patrick Stucke, Counter Defendant, Plaintiff, Present — **Vincent Mayo, Attorney, Present**

Christie LeeAnn Stucke, Counter Claimant, Defendant, Present — **Pro Se**

Sarah Laura Stucke, Subject Minor, Not Present

David Orion Stucke, Subject Minor, Not Present

JOURNAL ENTRIES

MOTION TO SET ASIDE ORDER, JUDGEMENT, AND/OR DEFAULT... PLAINTIFF'S OPPOSITION TO MOTION AND MOTION TO SET ASIDE ORDER, JUDGEMENT AND/OR ORDER AND COUNTERMOTION TO ORDER DEFENDANT TO STOP TRYING TO INFLUENCE THE COURT ON AN EX PARTE BASIS, FOR ATTORNEY'S FEES AND RELATED RELIEF

Both parties and Attorney Mayo participated TELEPHONICALLY.

Statements by the Plaintiff regarding Defendant not closing on the property or completing the refinance on purpose. Argument by Attorney Mayo. Discussion regarding status of discovery and the Court setting the matter for trial. Statements by Defendant regarding the need for a copy of her file and lack of documentation in her possession. Court stated all discovery disputes need to be heard before the Discovery Commissioner. Upon inquiry, Defendant represented she was in communication with Dr. Paglini and he is waiting her release and should have the report in the next thirty (30) days.

COURT ORDERED:

1. Defendant to provide Dr. Paglini with the signed release by the end of the day today.

2. NON-JURY TRIAL set for 9/14/20 at 9:00 a.m. regarding custody (Day 1); and 9/17/20 at 9:00 a.m. regarding financials/divorce (Day 2).

3. Discovery will close thirty (30) days prior to trial. Court to issue a TRIAL MANAGEMENT ORDER, which will be electronically provided to each side.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Notice: Journal Entries are prepared by the courtroom clerk and are not the official record of the Court.

Sep 14, 2020 9:00AM Non-Jury Trial
Courtroom 03 Gentile, Denise L

Sep 17, 2020 9:00AM Non-Jury Trial
Courtroom 03 Gentile, Denise L

Notice: Journal Entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint **COURT MINUTES** August 03, 2020

D-18-580621-D David Patrick Stucke, Plaintiff
vs.
Christie LeeAnn Stucke, Defendant.

August 03, 2020 **8:00 AM** **Minute Order**

HEARD BY: Gentile, Denise L **COURTROOM:** Chambers

COURT CLERK: Melissa McCulloch

PARTIES:
Christie Stucke, Defendant, Counter Claimant, not present — Fred Page, Attorney, not present
David Stucke, Plaintiff, Counter Defendant, not present — Vincent Mayo, Attorney, not present
David Stucke, Subject Minor, not present
Sarah Stucke, Subject Minor, not present

JOURNAL ENTRIES

- NRCP 1 and EDCR 1.10 state the procedure in district courts shall be administered to secure efficient, speedy, and inexpensive determinations in every action.

COURT FINDS that on July 27, 2020, Plaintiff, David Stucke, was referred to American Toxicology Institute (ATI) for testing. COURT FINDS the results for ATI have been returned to the Court, with a report of URINE DRUGS: THC Metabolite Positive 118 ng/ml and Amphetamine Positive 5228 ng/ml; and HAIR DRUGS: Amphetamine Positive 8885 pg/mg and Amphetamine Positive 9560 pg/ml. COURT FINDS the ATI results include additional notes as follows: Report Notes: The donor indicated a currently prescribed medication which is consistent for a positive finding for Amphetamine. The prescription has been verified by the laboratory. COURT FINDS ATI reports the Plaintiff s sample was collected on 7/27/2020.

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

COURT FINDS that on July 27, 2020, Defendant, Christie Stucke, was referred to ATI for testing. COURT FINDS the results for ATI have been returned to the Court, with a report of THC Metabolite Positive 112 ng/ml URINE DRUGS; and Negative for HAIR DRUGS. COURT FINDS ATI reports the Defendant s sample was collected on 7/27/2020.

CLERK'S NOTE: On 8/3/20 a copy of the Court's Minute Order was provided to each Attorney via email, if an email address is on record with the Court; if no email address is available then the Minute Order was mailed to the physical address of record. (mm)

FUTURE HEARINGS:

September 14, 2020 9:00 AM Non-Jury Trial
Gentile, Denise L
Courtroom 03
McCulloch, Melissa

September 17, 2020 9:00 AM Non-Jury Trial
Gentile, Denise L
Courtroom 03
McCulloch, Melissa

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

Electronically Filed
9/10/2020 5:24 PM
Steven D. Grierson
CLERK OF THE COURT

PTM
Vincent Mayo, Esq.
Nevada State Bar Number: 8564
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Email: VMGroup@tamlf.com
Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
	)	
vs.	)	
	)	
CHRISTIE LEEANN STUCKE,	)	
	)	
Defendant.	)	
	)	

PLAINTIFF'S PRE-TRIAL MEMORANDUM

COMES NOW, Plaintiff, DAVID PATRICK STUCKE, by and through his attorney of record, VINCENT MAYO, ESQ., of THE ABRAMS & MAYO LAW FIRM, and hereby submits his Pre-Trial Memorandum.

I. STATEMENTS OF FACTS

A. NAMES AND AGES OF THE PARTIES:

1. Plaintiff, David P. Stucke ("David"), age 46.

2. Defendant, Christie LeeAnn Stucke ("Christie"), age 42.

B. DATE OF MARRIAGE:

The parties were married four (4) years ago, on May 28, 2016, in Las Vegas, Nevada.

C. RESOLVED ISSUES, INCLUDING AGREED RESOLUTION:

1. The parties are incompatible, with no possibility of reconciliation.
2. That the State of Nevada, County of Clark, has jurisdiction over these proceedings.
3. The parties should be equally responsible for any medical, dental (including orthodontic), psychological, optical, and prescription expenses of the minor children, not covered by insurance. The parties should utilize the "30/30 rule" in regard to payment of any such unreimbursed medical expenses of the minor children.

D. STATEMENT OF UNRESOLVED ISSUES:

1. Physical custody of the minor children, to wit: Sarah Stucke, DOB: May 22, 2016 (4-years-old); and David Stucke (Jr.), DOB: March 30, 2018 (2-years-old).
2. Child support.

3. Distribution of Assets.

4. Distribution of Debts.

5. Confirmation of Plaintiff's sole and separate premarital / property.

6. Waste / dissipation by Defendant.

7. Attorney's fees.

II. DAVID SHOULD BE AWARDED PRIMARY PHYSICAL CUSTODY

This Court is well aware of the struggle David has undergone in attempting to co-parent with Christie and obtain some stability for the parties' young children. Unfortunately, Christie has sabotaged these efforts and made co-parenting a nightmare for David. Dr. Paglini, who conducted a child custody evaluation in this matter, found Christie cannot regulate her negative thoughts towards David and that her children have been exposed to her negativity towards David on a number of occasions. Dr. Paglini found this behavior is a major hinderance to co-parenting and that Christie needs to undergo intense counseling to address same.

This destructive, pathological misconduct is fueled by Christie's hate for David and her "significant, emotional dysregulation"–a condition that has existed throughout her life, as Dr. Paglini found in his report. Christie herself admitted to her psychological issues, telling Dr.

Paglini she informed a prior counselor and David both that she suffers from borderline personality disorder.

It is of note that Dr. Paglini found David to be stable psychologically and fit to care for the children. Christie herself admitted that David is very loving and caring towards both children, playing and spending time with them while he involves them in creative experiences. David also focuses on the children's educational need, helping them interactively with reading and math. Also, and unlike Christie, David is careful not to involve the children in the litigation. Dr. Paglini also noted that David is attentive to the children's needs and they have a close relationship with David.

While Dr. Paglini has major concerns in regard to Christie's ability to facilitate and encourage the relationship between David and the children, he recommended a 60/40 joint physical custody with David having the children four days a week (60%) and Christie having the children three days of week (40%). This is contingent on Christie undergoing counseling and the parties completing an extensive co-parenting class. That being said, Dr. Paglini found that if Christie does not complete the requirements of the Court and/or continues in her behavior, the Court should consider David having primary physical custody.

However, and most importantly, Christie made false claims of rape by David and abuse towards the parties' daughter Sarah. *Dr. Paglini strongly recommended in his report that if Christie is lying and made the claims for gain in this divorce, such conduct would be an ultimate act of parental alienation and the Court should award David primary physical custody with restrictions on Christie*.

Unfortunately, this is exactly what occurred in this case. Christie's own conduct and admissions evidence she intentionally lied about the rape allegations, as well as the abuse claims against Sarah.

Christie's false claims of rape

Christie's false allegation of rape is best understood after some background is provided. Unfortunately, Christie is an emotionally disturbed individual as she has severe psychological problems. Christie is a very violent woman and is prone to fits of rage over insignificant or irrational issues, resulting in her cursing at David, throwing objects and even striking him. During one incident on August 25, 2018, Christie was screaming at David, accusing him of cheating and calling him an asshole and repeating "Fuck you!" while literally holding a crying Sarah. Christie had a history of denying such events so David decided to video record her. Christie later rose, chased after David while holding Sarah, throwing a car seat in David's direction and hitting him several times in the

process. During another incident, Christie literally grabbed two chairs in the kitchen and smashed them while swinging them in David's direction. Christie admitted to hitting David in a text from later that day. Christie attacked David again a week later. David would often retreat to a bedroom once he had Sarah and the baby to protect them while Christie calmed down.

After a fight, Christie would get severally depressed and distant, stating she was leaving. Christie did so on a number of occasions, being gone for a few days while David cared for the children. Christie wouldn't tell David where she was going or when she was coming home. Christie would eventually return, asking David to take her back. It was times like these that David, against his better judgment, took Christie back.

Christie became increasingly irrational, paranoid and self-centered over the fall of 2018, resulting in her erratic and violent behavior worsening. She attacked David on October 30, 2018, over her accusation David was having an affair on her (which he wasn't). David tried to defend himself and in fact, he was the one who called the police (as 911 recordings will evidence and Christie admits in text messages). When the police arrived, David said Christie attacked him while Christi lied and stated David started the fight. David was trying to get the car seats so he could care for the kids while she abandoned the family for another

day. The police stated someone had to go to jail and although they believed Christie to be the aggressor, Christie suggested she had some bruises under her clothes (although they were not shown to the police). The officer told David that he could take David to jail or both Christie and David to jail. Since someone needed to be there for the children and pick Sarah up from school, David agreed to be arrested.

The truth immediately came out as Christie, who did not want David to go to actually go to jail, instantly tried to change her story but the police reiterated protocol required them to take someone in. ***Christie did not file for a TPO and not only did she put up bail for David but also picked him up from the police station and went to lunch with him at the Peppermill***. Christie stated she was sorry and did not want them to divorce. Christie was pushing for David to send his mother, whom is very ill, back to Pennsylvania and re-commit to the marriage. She asked David to "basically disown your parents". More telling is the fact Christie finally admitted in a text message dated November 28th that she hit David that day, thereby initiating the incident. Christie also admitted she hit David in an audio recording of a conversation with David. Dr. Paglini concluded David had not attacked Christie that day.

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A month later on November 26th, David attended a concert with his friend Dan. Christie was upset because she alleged David did not go to the concert and accused him of cheating (even though David did go to the concert with his friend Dan). Christie, who was in a fit by that point, stated:

> "Fuck you, you are a liar! Fuck you, you are cheating on me! Fuck you, you are done! We are fucking done! Cheating, fucking liar! You are out tomorrow!"

Christie, infuriated, called the police, trying to use as an excuse that David was drunk. David was not drunk (as the police confirmed), and in fact had not drank that night. The police stated David did not have to leave his home but it would be wise for the parties to sleep in different rooms.

As usual, Christie apologized the next morning on November 27, 2018. Christie found out that David filed for divorce later that morning. Christie responds by filing an application for a TPO on November 27, 2018. The TPO was denied the following day. Christie later after retaining counsel filed a second TPO on December 6, claiming that she was raped early in the morning of November 28th. Christie clearly is leveraging the system designed to protect real victims to gain control of the house and David's property. This is clear from the fact Christie does not mention anything about any nonconsensual sex in the parties' texts

the next day on November 28th. In fact, the very first text David has from Christie the next morning starts with the following:

> "So your biggest complaint about me being upset and yelling and I am telling you I am willing to go to counseling with you for the yelling and I'm even willing to consider medication..."

She makes absolutely no mention in the text, or in any text thereafter, of any alleged rape. Christie also did not call the police. Most telling, Christie asked David two days later if he wanted to go to rope sex instruction class with her. David went (trying to keep the peace) on November 30th and there are photos of Christie, smiling and tied up from that class. At the party, Christie requested that David use a flogger on her. Due to the Christie's erratic behavior and lies David refused to. On November 28th, Christie told David (in recordings) to "Pack your bags David...I'm done trying to give you a fair shake, you're going to have to do what the judge says now and it ain't gonna be as good as I would have given ya...I was willing to give you a fair shake, now I'm not. You'll suffer whatever consequences happen...You won't have any more chances. You will be out of this house. I guarantee you.... You're the one that's going to pay the price." These statements were right after Christie's friends told her to "fight back, fight dirty" in response to her complaining about David's divorce filing.

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David knew the parties could not remain together though, especially after the parties' counselor stated she did not believe Christie would ever change if she was BPD. David therefore filed for divorce on November 28, 2018.

Once Christie was served with papers, Christie became erratic, often apologetic and full of self-pity on top of her extreme vengeful threats. David has audio from November 29th in which Christie states she wants to reconcile ("you need to choose me over this divorce") and that the parties should exercise joint physical custody. ***This was one day after the alleged rape.*** David also has audio from December 4th during which Christie tells David he needs to "pull his paperwork" and choose their marriage. Christie then threatened to harm herself, saying she couldn't go through another divorce and she's going to "go to sleep soon in the van" due to having taken too much insulin that she had left over from her pregnancy—implying she would kill herself. David immediately told Christie to "stop talking like that." Shortly after Christie's son Joel sent a text message to David stating that "mom may do self-harm". Christie adds that David is trying to take the children from her by asking for primary custody. David responds that he is just trying to protect them and that she needs help.

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Christie then sends David a text on November 29, 2018, with an attachment showing a man and a woman together that reads:

> "I need you. I need your body against mine. Your warmth. Your smell. The taste of your kiss. Your hands wrapped around my curves."

Christie follows this with a text message a few days later on December 4th telling David she loves him and stating she wants to reconcile with David and have him dismiss the divorce:

> "The only way that I can see our marriage being able to go on after everything is for you to cancel the divorce and for us to try to start over from scratch and have a burial ceremony for the past and that you and I both recommit to this marriage and family...you can be assured that if we can manage to do this I would be willing to let go the past and you have to do the same."

It was only after David wasn't willing to reconcile that Christie got angry and decided to use the prior alleged incidents against David to gain leverage in the divorce case. This is evident from the fact Christie applied for a TPO on November 27, 2018 but remained living with David until she decided to file another one, this time with worse fabrications, once she realized the parties would not reconcile. Clearly, Christie is lying.

Therefore, it is clear Christie is lying. NRS 125C.0035(5) states that claims of domestic violence by one parent towards another must be proven by clear and convincing evidence. There is no doubt that in this matter, David did not rape Christie and Christie cannot prove her claim,

much less by clear and convincing evidence. Dr. Paglini recommended that if Christie lied about these accusations, it would have a direct effect on custody and should result in David having primary custody.

It must be remembered that such false claims regarding domestic violence are Christie's MO. Christie did so before in regard to the October 30, 2018 incident (when she stated David assaulted her), only to recant and tell the parties' counselor, Ms. Di Lauro, on November 17, 2018, that the altercation was an accident. Ms. Di Lauro also noted that Christie all of a sudden started referencing "painful sexual memories" involving David at a December 17, 2018 session (which was after David was not willing to reconcile and filed for divorce). Ms. Di Lauro was suspicious, stating that was the first time Christie had ever made such a claim to her. Ms. Di Lauro also commented that said behavior was contrary to the fact it was Christie who constantly complained David didn't do enough for her in BDSM or sexually and David was the one who was emotionally unavailable due to the parties' issues. Perhaps most notably, Christie told David's mother that if David dropped the divorce, she would drop her TPO and the request for the DA to prosecute David.

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Christie's false claims of David sexually abusing Sarah

Christie claimed in July 31, 2019 that David had sexually molested Sarah by touching Sarah's vagina. Based on the evidence in this matter, it is clear Christie lied about this, done solely in an attempt to use her lie as leverage in this case:

- Christie's initial reaction to supposedly finding out that her daughter was being molested was (as she told Dr. Paglini) "I didn't want to get too excited." She then decides to call her girlfriend Jessica, not to call the police or immediately call CPS. CPS saw the initial video and concluded that David was just taking Sarah out of the car seat and it didn't appear that any inappropriate touching occurred.
- Christie took Sarah to see the medical staff at Anthem Pediatrics. When the staff said hello to Sarah, the child immediately stated that her father had "touched her pee and stirred it up." This unsolicited statement was considered suspicious;
- When the nurse practitioner next asked Sarah to get on the weight scale, Sarah continued to ***repeat her statement over and over (5-10 times).*** The nurse practitioner found this strange as well;

- When the doctor saw Sarah, Sarah appeared fine and it took Christie asking Sarah, "Don't you want to tell the doctor something?", to speak, as if Sarah had forgotten about the statement and rather, was being told what to say;
- The medical exam of Sarah came out normal with no signs of trauma, no redness, rash or other indicators;
- Christie refused for Sarah to have a SANE exam;
- Christie stated she never had any prior concerns regarding inappropriate touching by David towards Sarah;
- Christie complained in court that David refused to put vaginal cream on Sarah after she supposedly believes David is a pedophile molesting his own daughter.
- Ms. Wilburn, Sarah's counselor, observed Sarah with David and concluded the two are very bonded. Of greater note is the fact that in all of her appointments with Ms. Wilburn over a ten-month period, Sarah never once disclosed anything indicating any sexual abuse nor that she was in any way uncomfortable or anxious around her father;
- LVMPD investigated the matter, found no evidence of anything criminal and closed the case;

- Dr. Paglini's reports that there is no evidence that the sex abuse allegations are true;
- CPS found Christie's allegations unsubstantiated. The investigator spoke to David and Sarah and found nothing indicating anything inappropriate, with Sarah even telling the investigator that her father was "good to her";
- Ms. Di Lauro, the parties' counselor, reported neither party ever reported any inappropriate behavior between David and Sarah;
- Christie attempted to make another claim that David molested Sarah in September 2019. The detective decided not to follow-up believing it was a divorce related issue.
- David has a recording from August 27, 2019, in which Sarah tells David she is going to tell the doctor "the truth." When David asked what that is, Sarah said that "mommy touched my pee pee." David, not wanting Sarah to lie about either parent, told Sarah her mother does not do that. Sarah then waits a second and states David touched her pee pee. David told Sarah he does not do that. Sarah then states that her brother (who is 2-years-old old) touches her pee pee followed by Mommy kisses my pee pee, with David again correcting Sarah. It must be noted that Dr. Paglini found David did not prompt this conversation

with Sarah and that David started recording Sarah after she had voluntarily brought up the issue.

Despite all this demonstrable proof that David did nothing inappropriate towards Sarah, Christie continued claiming David had abused Sarah. This issue was dropped until Dr. Paglini was in the process of completing his evaluation. Then, all of a sudden and not coincidently, Christie claimed that David again inappropriately touched Sarah. Christie told Ms. Wilburn, who again did not find any evidence of sexual abuse. CPS contacted Christie, stated they did not find anything substantiating the claim and actually told Christie to send Sarah to David's home.

Desperate to get CPS to believe her, Christie next sent CPS a video taken at Christie's home in which Christie got Sarah to state David touched her pee pee. ***It is of note that after watching the video, CPS believed that Christie was likely coaching Sarah***.

It is of note that this is Christie's MO. Christie was previously married to John Hentschl, whom she had children with. After Christie and Mr. Hentschl divorced and Mr. Hentschl was awarded primary physical custody, Christie and Mr. Hentschl were arguing over matters involving the children, Christie started making "disparaging, false, and/or hurtful statements with the intent to interfere with the Former

Husband's parent/child relationship. The Former Wife [Christie] has also made false and unsubstantiated reports to the Department of Children and Family Services alleging that the Former Husband has been physically abusing the child(ren)."[1] This litigation resulted in Christie losing the case and having restricted access to the children.[2] Hence, what the Court is seeing is a repeat of the gameplaying and lies Christie resorts to when she has her back to the wall or wants leverage in a case.

Christie's attempt to lie and call the father of the parties' children a pedophile to the Court, third party investigators and even mutual friends, is disgusting and inexcusable. It is also, as Dr. Paglini put it, the ultimate act of parental alienation and evidence Christie cannot be trusted with joint custody. In addition to the other factors set forth in NRS 125C.0035, the following are of special importance:

> (d) ***The level of conflict between the parents***; (e) ***The ability of the parents to cooperate to meet the needs of the child.***

Dr. Paglini has made it clear Christie has significant animosity towards David, going so far as to disparage him in the presence of the young children. Further, he believes this animosity is a hinderance to the

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[1] This was reported by Mr. Hentschl in a April 22, 2004 Supplemental Petition for Modification of Final Judgment of Dissolution of Marriage.

[2] This was ordered in the Stipulation for Temporary Visitation.

parties ability to co-parent going forward.

> (f) ***The mental and physical health of the parents***; (g) ***The physical, developmental and emotional needs of the child***.

Christie's substantial emotional dysfunction, in addition to her admitted PTSD and borderline personality disorder, are fueling her belief that she is "the victim" and her animosity for David. As a result, Christie has a difficult time placing the children's best interests ahead of her desire to hurt David. Dr. Paglini observed this via the numerous times Christie has assaulted David and disparaged him in the presence of the little children. This has created distress in the children. Donna Wilburn also observed this. Worse of all though, this is clear from the fact Christie has gone so far as to claim during this litigation that David has suddenly become a pedophile in order to try and gain leverage in this divorce.

It is of note that Dr. Paglini found that Christie has a history of placing her own interests ahead of her children's. During her first marriage, Christie and her ex-husband Mr. Hentschl both stated Christie abandoned him and their children, which included a daughter from a prior relationship, in order to move away to pursue a polyamorous lifestyle. Today, Christie's adult children have severe issues, with Christie admitting that her daughter Elizabeth has a history of serious

drug addiction (ongoing) and her son Joel has severe anger and emotional issues.

Christie's tendency to be violent is also a concern for Dr. Paglini. When upset, Christie is capable of hitting, throwing items, and destroying property. Such behavior is not just limited to David. She was that way with her two adult children when they were minors, with a counselor in Florida testifying during a deposition that Christie struck her son Joel in the face (at 8-years-old), causing his nose to bleed. Joel's reaction was to try and leave blood on the wall as evidence since he knew his mom would lie about it. This is terrifying as it also indicates it was likely not the first time this type of thing occurred. A normal reaction would be shock, not trying to think of how to leave evidence.

Therefore, and in light of the serious issues regarding Christie raised in Dr. Paglini's report, his recommendations, and the evidence in this case, the Court should order the following:

(1) David should be awarded primary physical custody of the minor children with Christie having supervised visitation through a mutually agreeable third party or visitation center like HeadsUp Guidance and Wellness Centers of Nevada (which takes insurance), Palo Verde Child & Family Services, Inc., Family First Services, Donna's House, etc., as well as weekly video conferencing time with the children;

(2) Christie should undergo therapy through a new psychologist to address her personality dynamics and anger issues and with the psychologist communicating with Dr. Paglini to further understand Christie's issues;[3]

(3) Christie should complete an extensive co-parenting class, with her visitation remaining supervised until she does so; and

(4) Modification of the Court's Standard holiday and vacation schedule to state: (a) Thanksgiving, Halloween, the children's birthdays, the parents' birthdays and three-day holidays are included; and (b) the two-week maximum continuous time is not to be attached to the vacationing parent's regular custodial time. This occurred this summer when Christie tried taking her two weeks sandwiched between her regular time. This would have given David two separate 24-hour periods in a 23-day period. Even Dr. Paglini stated such extended visitation with such small children was not best for them.

III. CHILD SUPPORT, MEDICAL COSTS AND CHILD'S EXPENSES

Since David should be awarded primary physical custody of the parties' two (2) minor children, Christie should pay child support

[3] As Dr. Paglini states, Christie's current therapist is insufficient for this task has her counseling with the therapist has focused on Christie's belief she is "a victim", not an active contributor to her emotional issues.

pursuant to Nevada Administrative Code (NAC) 425.140. For purposes of determining Christie's gross monthly income, the Court should look at her W-2 compensation, as well any income derived from the businesses she runs based on their true earning capacity under NAC 425.125 as reflected in the 2019 figures.

IV. PROPERTY AND DEBTS

A. COMMUNITY PROPERTY AND DEBTS

There are a number of properties that must be adjudicated by the Court, with special focus being on the following assets and debts:

(1) **3485 W. Maule Ave, LV NV 89118 ("W. Maule")**: This property was bought via a short sale in March 2015 by David as his "sole and separate property" prior to the parties' domestic partnership. When they entered into the domestic partnership, they intended the W. Maule property to remain David's separate property. The parties had both been married before and were jaded by the concept of marriage. Therefore, they did not want to marry at that time but wanted to ensure David could cover Christie under his work health insurance policy. For that reason only, the parties decided to enter into a domestic partnership.

The parties recognized that David would be contributing his separate property towards the purchase of W. Maule and that his contribution would therefore need to be protected. To that end, title was

acquired just in David's name (this is furthermore supported by David's refinance in December 2015 that was still David's sole and separate property).

Under *Malmquist v. Malmquist*, 106 Nev. 231, 792 P.2d 372 (1990), separate property contributions to real property are subject to reimbursement on a dollar for dollar basis. The *Malmquist* Court specifically relied on California Civil Code 4800(2)(now Civil Code 2640), that holds separate property contributions towards property *shall* be reimbursed to the contributing party. As for David's separate down payment, he put down 10% on $284,000, which comes out to $28,400. These monies came from a premarital poker winnings from David's 2007 WSOP Bracelet that David had. NRS 123.130; *Kelly v. Kelly*, 86 Nev. 301, 468 P.2d 359 (1970). Hence, David is entitled to reimbursement of these funds off the top.

In addition to his separate property down payment, David is also entitled to the equity in W. Maule from the time David bought the property in March 2015 until the time of the parties' marriage in May 2016. Again, the parties' intention was to keep W. Maule David's separate property during the domestic partnership. This means that his payments towards the mortgage until the date of marriage were his separate property. Therefore, a *Malmquist* application to said funds is

appropriate. *Gafforini v. Gafforini*, No. 79436-COA, 2020 Nev. App. Unpub. Lexis 592.

However, the *Malmquist* formula should be run on the actual fair market value of the property at the time of purchase, not the short sale value of $284,000. An appraisal from 2015 shows the value of W. Maule to be $435,000. Hence, for purposes of the *Malmquist* formula, this is permitted. The Nevada Supreme Court held in *Malmquist* that its formula is not the only way to apportion the separate and community interests in real property.[4] The trial courts can deviate to the extent the deviation results in an equitable result and division of property. An example where deviation is likely is where the vast bulk of appreciation in real property occurred prior to marriage.[5] Here, the fair market value of W. Maule was $435,000, not the short sale contract price of $284,000. Using the $284,000 figure would result in a windfall to Christie and unfairly deprive David of separate equity. A just result requires the fair market value of W. Maule be used, not the short sale price.

Therefore, as the parties stipulated and the Court ordered on March 10, 2020 for David to be awarded W. Maule and buy Christie out of any interest she may have, and applying the *Malmquist* formula using

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[4] 106 Nev. at 240.
[5] *Id.*

the $435,000 value, David's separate interest in W. Maule totals $265,929.87 and the community interest totals $55,498.46. Hence, David's total interest in the W. Maule equity is $293,679.10 and Christie's total interest in the W. Maule equity is $27,749.23.[6]

Additionally, Christie's remaining equity in W. Maule should be deducted by (1) the missed mortgage payments on W. Maule and the Chrysler Van Christie was ordered to make, which she did not due to her wasting the monies on gambling, thereby forcing the loans to be paid from monies in David's counsel's client trust account; and (2) Christie's wasting of marital funds on gambling. See Section V below. These total $67,410.51 related to Christie's gambling in 2019 and 2020 ($134,821.02 divided by 2) and $18,314 (related to Christie's missed mortgage and van loan payments), with a grand total of $85,724.51 to be deducted from any equity Christie has in W. Maule.[7]

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[6] See **Exhibit 1**. However, if the Court chooses to go with the short sale purchase price, the analysis would be the following: Applying the *Malmquist* formula, David's separate interest in W. Maule totals $69,575.55 and the community interest totals $196,345.32. Hence, David's total interest in the W. Maule equity is $167,752.71 and Christie's total interest in the W. Maule equity is $98,172.66. See **Exhibit 2**.

[7] Now, Christie may attempt to argue that since the parties bought the W. Maule residence so close to the time they entered into a domestic partnership, application of *Malmquist* is unavailable but she is wrong. W. Maule was purchased prior to the domestic partnership and even if it had been, the parties transmuted any potential joint / domestic partnership interest in W. Maule in David's separate property. Where the parties intend for property that would have been marital / community in nature to be separate, a transmutation occurs. *Colman v. Collier (In re Colman Revocable Living Trust)*, 136 Ne Adv Rep. 13, 460 P.3d 452 (2020); *Mullikin v. Jones*, 71 Nev. 14, 278 P.2d 876 (1955) *Schmanski v. Schmanski*, 115 Nev. 247, 984

It is of note that despite being ordered to move out of the W. Maule residence, Christie delayed. Her excuses for doing so were numerous, none of which had merit: Christie claimed she could not afford to (despite having a roommate and spending tens of thousands on gambling), movers were unavailable due to the pandemic (even though David provided proof they were still working), and Christie falsely claiming she did not have to execute a Quitclaim Deed (disregarding the fact the Court ordered her to). These intentional delays barred David from both moving into the W. Maule residence and from refinancing the loan. Christie intentionally delayed the whole process even refusing the appraisal, requiring the court to re-state what was previously issued.

(2) **7211 Birkland Court, LV NV 89117 ("Birkland Court")**: David spoke to Christie about owning an Air BNB that he would own with his friend, Jonathan Morrell as their own separate investment. Christie agreed and the parties acted accordingly. The property was bought by David and Mr. Morrell on April 13, 2018. As part of this, Christie executed title instructions to First American Title Insurance in which she acknowledged all interest was to be vested solely in David's name as his "sole and separate property." When David and

P.2d 752 (1999). In this case, it is clear W. Maule was bought just in David's name, the parties entered into a domestic partnership, not a marriage (as they believed their rights in the former were different than the latter) and the parties subsequently married when they wanted to be "actually married," subject to the rights and obligations therein.

Mr. Morrell were ready to commence the business, David transferred the property on August 3, 2018 to the joint business formed the same day between David and Mr. Morrell called JD Investments, LLC. Only David and Mr. Morrell were listed on the business, not Christie. Mr. Morrell and David each contributed to the acquisition of same, with Mr. Morrell contributing $589,889.13 and David $25,000. David's $25,000 came from his premarital retirement account.

Hence, there is substantial proof that Christie transmuted any interest in Birkland Court to David. *Colman v. Collier (In re Colman Revocable Living Trust)*, 136 Ne Adv Rep. 13, 460 P.3d 452 (2020); *Mullikin v. Jones*, 71 Nev. 14, 278 P.2d 876 (1955) *Schmanski v. Schmanski*, 115 Nev. 247, 984 P.2d 752 (1999). While Christie will claim she was not put on title due to her alleged bad credit, the residence was bought free and clear, meaning Christie's credit would have no effect on her being placed on title or listed as an owner in JD Investments.

Each was a 50% owner in JD Investments but as for their interest in Birkland Court, Mr. Morrell owned 96% and David 4%. Each party would split any gains from the house upon sale but with each receiving back their initial investment. The company agreed to pay Mr. Morrell monthly mortgage payments of principal and interest at a rate of 5.5% but none of the mortgage payments were ever made. Mr. Morrell was

also to be paid 42.5% of the rental proceeds but never was. The property was initially leased until renting it was no longer allowed due to ordinances. David and Mr. Morrell therefore decided to sell, with the property selling on February 29, 2019.

From the sale proceeds, the parties, along with Mr. Morrell, entered into an agreement as to the disposition of the monies. This agreement consist of the following:

- Mr. Morrell received back his $589,889.13 initial investment and $25,636 as and for mortgage interest Mr. Morrell was entitled to; and
- The remainder was deposited into David's counsel's client trust account. This amount consists of $25,000 (David's separate property down payment), $17,892.34 (the amount of rental proceeds to which Mr. Morrell is entitled to), and half of the remaining sales proceeds.

(3) **3740 Grandview Place, LV NV 89118 ("Grandview Place")**: This property was bought in October 2017 for David to rent out as his own investment. Accordingly, title is held by David as a "married man as his sole and separate property." As a result, Christie executed a GBS Deed when the property was purchased, with title being in David's name. Also, there was a down payment of $82,764.97 by David, consisting mostly of David's separate property. It is of note that Christie executed the GBS Deed after the down payment monies were made. By doing so, Christie waived all interest in the monies (both separate and

community). *Todkill v. Todkill*, 88 Nev. 231, 495 P.2d 629 (1972); *Kerley v. Kerley*, 112 Nev. 36, 910 P.2d 279 (1996); *Viramontes v. Perez-Rodriguez*, COA Unpublished Case, No. 79736, 467 P.3d 649 (2020)(finding that a conveyance by wife to husband of property acquired during the marriage creates a presumption of a gift that can only be overcome by clear and convincing evidence.

The Grandview property was sold during the divorce, with the net sales proceeds totaling $63,077.55 (which are in David's client trust account). David requests that since the amount of the down payment, which is David's separate property, exceeds the net sales proceeds. David should be awarded the full $63,077.55.

(4) **<u>Furniture and Furnishings</u>**: The parties must still divide up the furniture and furnishings in the W. Maule residence. This was ordered by the Court at the March 10, 2020 hearing. Specifically, the Order states:

> **IT IS FURTHER ORDERED** that the W. Maule furniture/furnishings are to be divided via an A/B List, which entails the following: Christie shall prepare two lists, each of which will contain a fair and equitable distribution of one-half (½) of the total community furniture / furnishings, etc. Christie shall provide these lists to David forthwith and at least fourteen (14) days prior to moving out of the Maule residence. Unless these lists are incomplete, David will choose, within five (5) days of the date he receives such lists, either the "A" or the "B" list as the list of items he wishes to have. In the event David believes the lists prepared by Christie are incomplete, David shall have five (5) days from the date he first receives the lists to provide Christie a third

list, which will contain the items that David believes to have been omitted from the initial "A" and "B" lists. Christie shall thereafter divide the items on the third list, distributing the additional items among the "A" and "B" lists. Christie shall then provide the amended lists to David who shall choose either of the two amended lists and communicate his choice to Christie within five (5) days of receiving such lists. The parties shall thereafter cooperate to effectuate the resulting transfer of items with Christie leaving the items awarded to David in the Maule residence and removing the items on the list she selects.

The Court should order this division to occur pursuant to A/B Lists and Christie to fully cooperate in this process.

(5) **David's Personal Property**: David is entitled to the remaining personal property of his in Christie's possession. Most notable of which is David's World Series of Poker (WSOP) bracelet. David requested at the October 7, 2019 hearing that Christie return to him his World Series of Poker bracelet, his passports, his coins and his Social Security card. Christie represented that she "did not know if she had them but would look for them." Regardless, the Court ordered Christie to search and return the items. Christie also admitted that she refused to give the items to David previously even though she didn't argue they were his.

Christie's statement that she did not have the items was a lie. Christie in fact disclosed a video of her opening the family safe back in March 2019 (which was three months after David had been kicked out due to the fraudulent TPO) and evidently forgot that she had. David

brought the video to the Court's attention earlier this year. The video, with still shots provided, shows Christie in possession of all of these items. When pressed again on this in Court on March 10, 2020, Christie provided the passports, social security card, coins and David's necklace but not his WSOP bracelet. Christie obviously cannot keep her lies straight and is continuing to try and deceive this Court. She is also refusing to provide David's WSOP bracelet as she knows it has special sentimental value for him and is trying to hold it over his head as leverage. Christie even told Dr. Paglini that she knows the bracelet "is priceless to David." The Court will agree Christie's doing is in bad faith and deceitful. It has now been almost one year and Christie still has not provided Davide the property she was ordered to on October 7th. Christie also has stolen $40k in cash that David had left in the safe from his 2007 bracelet winnings of $603k. Clearly this is sole-separate property and Christie used her fraudulent TPO to steal that from David as well. David fully disclosed this asset at his first opportunity on his FDF. Christie even went as far as to make a show of a video when she and Scott Pheasant cut open the safe.

(6) **Christie's Disposition of Personal Property**: Christie has sold or otherwise given away personal items and property (consisting of household items, children's items, David's clothing, etc.)

without David's consent. Christie should therefore be ordered to replace these items (especially David's personal property).

V. MARITAL WASTE BY CHRISTIE

Christie has wasted tens of thousands of dollars during this divorce on gambling – gambling that has crippled the parties financially and forced them to unnecessarily draw funds from David's counsel's client trust account. Christie did so despite (1) a Joint Preliminary Injunction (JPI) being in effect that barred Christie from doing so; (2) both David and the Court admonishing Christie not to do so when her representations were that she was losing money from the businesses; and (3) Christie's representations as to same.

Dissipation, or waste, can provide a compelling reason for the unequal disposition of community property. NRS 125.150(1)(b). In *Putterman v. Putterman*, 113 Nev. 606, 939 P.2d 1047 (1997), the Supreme Court found misconduct is also grounds for an unequal division of assets when a litigant lied about the assets they had, as well as their income. The *Putterman* Court went on to state that other possible examples of misconduct warranting an unequal division of assets or debts would be community property spent, conveyed, transferred, secreted or otherwise converted by a spouse that compels a court to award the non-offending spouse half of the property converted

constitutes financial misconduct, with waste being part of financial misconduct. *Lofgren*, 112 Nev. at 1283. In *Lofgren v. Lofgren*, 112 Nev. 1282, 1283, 926 P.2d 296, 297 (1996), the Nevada Supreme Court held:

> "[I]f community property is lost, expended or destroyed through the intentional misconduct of one spouse, the court may consider such misconduct as a compelling reason for making an unequal disposition of community property and may appropriately augment the other spouse's share of the remaining community property...Generally, the dissipation which a court may consider refers to one spouse's use of marital property for a selfish purpose unrelated to the marriage in contemplation of divorce or at a time when the marriage is in serious jeopardy or is undergoing an irretrievable breakdown."

24 Am. Jur. 2d *Divorce and Separation* § 524 (2018); *see also Dissipation*, Black's Law Dictionary (10th ed. 2014) (defining "dissipation" as "use of an asset for an illegal or inequitable purpose, such as a spouse's use of community property for personal benefit when a divorce is imminent"). *Kogod v. Cioffi-Kogod*, 135 Nev. Adv. Rep. 439 P.3d 397, 406-407 (2019). Further, "It should be kept in mind that the secreting or wasting of community assets while divorce proceedings are pending is to be distinguished from under contributing or overconsuming of community assets during the marriage."). Id at 408-409.

Further, spouses owe a fiduciary relationship to the other. NRS 123.070; *York v. York*, 102 Nev. 179, 180 (1986). *See also Crawford v. Crawford*, 24 Nev. 410 (1899); *Williams v. Waldman*, 108 Nev. 466,

836 P.2d 614 (1992); See also *Clark v. Lubritz*, 113 Nev. 1089, 944 P.2d 861 (1997); *Peardon v. Peardon*, 65 Nev. 717, 767, 201 P.2d 309, 333 (1948); *Sogg v. Nevada State Bank*, 108 Nev. 308, 312, 832 P.2d 781 (1992)(even affianced parties are in a presumed fiduciary relationship). The rights and obligations of such a marital fiduciary duty is the same as between general partners in a business. *York v. York*, 102 Nev. 179, 180 (1986). *See also Crawford v. Crawford*, 24 Nev. 410 (1899); *Peardon v. Peardon*, 65 Nev. 717, 767 (1948).

In a fiduciary relationship, the party who gains some asset or tangible advantage over the other has the duty to justify or dispute their conduct by clear and convincing evidence. *Ricks v. Dabney*, 124 Nev. 74, 117 P.3d 1060 (2008). In Nevada, waste of community assets, or the accumulation of debt, is wasteful if it is committed in secret or without the direct consent of the other spouse. Similarly, a violation of any provision of NRS 123.230 can result in a finding of financial misconduct compelling the court to make an unequal division. In *Lofgren* and *Putterman*, it was found that spouse has a fiduciary duty to account for all community funds. In this matter, Christie's massive waste / dissipation of community income consists of the following:

(1) **Christie's Unwarranted and Reckless Gambling**: Christie has gambled away $134,821.02 over the last year and a half. In

February 2019, Christie claimed her income, which was historically $13,000+ per month, had suddenly been reduced to $4,100 per month. Her FDF listed her monthly expenses as $3,966, meaning she was allegedly, at best, break even. Christie also claimed, in response to David's request to account for the decrease in business income, that she had "fallen behind" in her bookkeeping and needed someone to help her catch up but that she "could not afford to hire anyone."

The evidence at trial will establish these representations are complete lies. The business bank accounts will show the following mindboggling withdrawals:

<u>Cash Taken from the Business Accounts in 2019</u>

- Cash withdrawals made in Branch/Bank/Other: $31,946.00
- ATM/cash withdrawal made at Gambling Bars: $18,590.00
- ATM/cash withdrawals made at Casinos: $59,020.00

Total: $109,556.00

<u>ATM Fees/Overdraft</u>

- Atm fees/Overdraft on Personal Transactions: $4,347.00
- Atm fees/Overdraft fees on Casino Transaction: $4,572.07

Total: $8,919.07

Grand total: **$118,475.07**

///

It must be remembered that the businesses transacted electronically/online as clients are located outside of Nevada, as were payment of legitimate business expenses. Hence, there was absolutely no reason for cash withdrawals, much less withdrawals at gambling bars and casinos. Being that total business income in 2019 after deduction of business expenses was $169,569.81, the $118,475.07 wasted via gambling and unexplained cash withdrawals is astounding.

These numbers do not even include monies wasted on gambling in 2020. The records to date for 2020 show Christie continued her wanton disregard for financial responsibility, wasting massive amounts via gambling and unaccounted for spending through June 2020:

<u>Cash Taken from the Business Accounts in 2020</u>

- Cash withdrawals made in Bank/ATM: $4,030.00
- ATM/cash withdrawal made at Gambling Bars: $1,880.00
- ATM/cash withdrawals made at Casinos: $10,435.95

Total: $16,345.95

These monies include sums taken in cash by Christie at the bank and Christie failed to account for what she did with these significant sums. Pursuant to *Kogod v. Cioffi-Kogod*, 135 Nev. Adv. Rep. 439 P.3d 397 (2019), failure by a spouse to account for community funds can result in the Court finding the funds were wasted/dissipated. The

Nevada Supreme Court in *Kogod* stated that this is especially the case where a spouse claims the dissipation is in excess of their reported income.

What makes Christie's behavior so much worse and "shocks the conscious" is that on top of lying about not having the funds to gamble, she took advantage of social services – and essentially stole from those who truly were destitute – while she gambled away tens of thousands of dollars. Christie had social media posts in which she talks about going to food banks, like 3Square, to get free groceries and supplies at the same time she gambled with reckless disregard. Such behavior is despicable and further demonstrates Christie's callous ways.

Now, Christie will attempt to deflect attention away from her lies and waste by stating David gambled during the marriage. However, David was a professional gambler back in the 2000's, with his gambling dropping off in the early 2010's and definitely by the time he and Christie were married. David did not gamble during the divorce (either professionally or recreationally).

Christie will also likely argue that gambling is no different than other recreational activities but her argument would lack merit. Recreational gambling is purely for recreation–like any other recreational community expense – but pathological gambling serves no

reasonable recreational function and is substantially harmful to the financial position of the married spouses, as it has in this case. While Nevada has not directly, the Supreme Court of Mississippi's reasoning in *Lowery v. Lowery*, 25 So. 3d 274, 2009 Miss. LEXIS 549 (2009) is on topic. In that case (with facts similar to our own and in which state gambling is legal), the offending wife wasted $122,000 in gambling. She did so while lying about the gambling. The Court made an unequal division of marital assets and debts based on wife's gambling and held that gambling losses and debt can be wasteful, resulting in an unequal division of marital assets and debt.[8] The Court did so while also stating that whether gambling losses constitute marital waste should be determined on a case by case analysis.[9] It is of note that wife's lies and misrepresentations in combination with the total amount spent were a major factor in the Court finding that her gambling constituted waste.[10] Christie's gambling is so severe that she spends over $1,000 on play money casino apps on her phone that can't win real money since the divorce process began. David paid all of Christie's bills, from December 2018 to April 2019, in addition to maintaining the rental properties while Christie was losing $6,000 per month in gambling while claiming

[8] *Id.* at 288.
[9] *Id.* at 289.
[10] *Id.* at 288 through 290.

to only make $4,000 per month.

(7) **Christie's Refusal to Pay the W. Maule Mortgage and 2015 Chrysler Van**: Worse, Christie unilaterally stopped paying her portion of monthly expenses starting in late December 2019. Christie was ordered to pay the monthly mortgage on the W. Maule residence, as well as the monthly loan payments on the 2015 Chrysler van. Commencing in December 2019, Christie commenced alleging she "could no longer afford to make the payments". David contested this representation, stating records indicated she was continuing to gamble at the same time she said she was broke.

The Court stated it did not have the information to confirm or deny the claim so it ordered monies in David's client trust account to be applied to the payments but that the amount would be reimbursed by Christie from her portion of any marital funds held in trust. Christie stopped making the W. Maule mortgage payments, which are $1,599.28 a month, starting in December 2019 and stopped making the Chrysler Van payments, which are $331.60 per month, starting in March 2020. By the time of trial, these will total $15,992.80 and $2,321.20, respectively. David requests these funds be reimbursed from Christie's portion of any community property.

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The Court should note that if Christie had not spent what she did on needless gambling at the end of 2019 and throughout 2020, she would have easily had the funds for payment of these bills. Instead of being responsible, Christie chose to disregard this Court's orders and blow the monies on herself, thereby and intentionally harming David financially. Christie continues to travel on gambling trips going to the Grand Sierra Resort in Reno, several times in June 2020 while claiming be broke.

(8) **Christie's Other Unaccounted for Transactions**: Christie has other transactions, which are in the tens of thousands, that she has not accounted for. These shall be established at Trial. David should be awarded half of said sums.

(9) **Christie's Sabotage of the Businesses**: Wanting to not pay David support, Christie went about undermining the businesses in order to artificially lower her income. Once the Court hears the evidence, David requests Christie be imputed the businesses' actual income for purposes of child support.

The parties have a number of businesses, three of which Christie actively runs. One of these businesses is Atomic Radiology, Inc. (ARI). ARI contracts with doctors and medical imaging centers to provide imaging services. While it was understood Christie would provide the

majority of day to day work on this business, David was an integral part of getting the business established and running. David was in fact still listed on ARI's webpage as the President and CEO and listed as a founder until the website was removed by Christie. In addition, Christie filed falsified meeting minutes with the Nevada Secretary of State claiming that David was at a meeting on December 4, 2018 signing all of his rights to Atomic Radiology and assigning Christie 100% owner and President.

The other two businesses are PCCG, Inc. (PCCG), and ActionRad Solutions, Inc. (ActionRad). These businesses are software vendors for the software utilized by clients of ARI. By using this software, PCCG and ActionRad are able to give ARI clients better, competitive pricing. It is of note the businesses are essentially the same, with the revenues both listed on the PCCG P&L, and the only difference being one of the companies Christie previously owned with a partner.

These three businesses were historically Christie's source of income and were profitable. The P&Ls for 2017 show ARI made net profit of $124,638.27 and PCCG made $171,975.89 – totaling $296,614.16. The 2018 numbers were similar and Christie should have had similar numbers in 2019 and 2020. Further, there was a new client at the end of 2018 that Christie was excited about as they would pay

$5,000 per month that she told David about prior to their separation. In fact, there is a text message from Christie to David's father at the end of 2018 in which Christie stated: "I make very good money, I make more than your son by the way." Christie even told David during a fight before the divorce, "You'll never get any money from me. I'll just open under another name and run my business there. I make very little money because I keep it all in the businesses."

Knowing that she would have to provide child support based on the difference in the parties' incomes though, Christie started misrepresenting business income and undermining the businesses. She first attempted to claim the businesses were not profitable when they in fact were. However, Christie's deception is based on the fact Christie used the business accounts as her personal slush funds, constantly withdrawing monies to pay personal monthly bills, entertainment, gambling, etc., while falsely referring to them as "business expenses."

When this failed, Christie became more aggressive and nefarious. Christie threatened to close her current company and move her clients to a new one if David tried to push on the businesses or their income in the divorce. David has audio of Christie stating she will screw him out of assets and funds ("I'm going to hit you where it hurts cause that's all you care about"[finances]). Not surprisingly, Christie started claiming during

this divorce that the businesses were "going under" and she had lost her clients. She essentially shut one business down and sabotaged the other two. Christie often bragged that it is great having a business with residual income, because you don't have to do a lot of work on a daily basis. This helps to aid Christie in her ruse claiming to be a Swiss Colony salesperson and now an insurance agent as a primary source of income.

VII. CHRISTIE'S CONTEMPT OF COURT

Christie has violated a number of Court orders, all of which Christie did knowingly and with clear disregard for the authority of the Court. David shall present said evidence and requests Christie be held in contempt of court and sanctioned appropriately.

VIII. ATTORNEY'S FEES

Christie is the one who has unnecessarily forced this case to Trial through her lies, attempted manipulation of the children, attempting extortion of David, efforts to unduly influence this Court ex parte, wasting of hundreds of thousands of dollars in community property and sabotaging of businesses. Such behavior, resulting in vexatious litigation, has been inexcusable and should result in attorney's fees and costs being awarded to David under EDCR 7.60, NRS 125C.250, NRS 125.150 and NRCP 18.010. To that end, David shall submit a *Brunzell* Memorandum of Fees & Costs / NRCP 54 motion post-trial. As to the fees, David has

paid his attorney $60,761.87 (with a significant amount being borrowed) and still owes his counsel $21,886.68 as of September 1, 2020, which does not include trial preparation and attendance.

IX. LIST OF WITNESSES

1. David Patrick Stucke, Plaintiff
   c/o Vincent Mayo, Esq.
   The Abrams & Mayo Law Firm
   6252 South Rainbow Blvd., Suite 100
   Las Vegas, Nevada 89118

   Mr. Stucke will testify regarding the facts and circumstances of the marriage.

2. Christie Leeann Stucke, Defendant
   c/o Fred Page, Esq.
   6930 South Cimarron Road, Suite 140
   Las Vegas, Nevada 89113

   Ms. Stucke will testify regarding the facts and circumstances of the marriage.

3. Jonathan Morrell
   c/o Zachary P. Takos, Esq.
   1980 Festival Plaza Drive, Suite 300
   Las Vegas, Nevada 89135

   Mr. Morrell will testify regarding the purchase of the Birkland Court residence and related financial matters.

4. John Paglini, Psy.D.
   9163 West Flamingo Road, Suite 120
   Las Vegas, Nevada 89147
   Tel: (702) 869-9188

   Dr. Paglini will testify regarding his custody evaluation.

5. Donna Wilburn

10655 W. Park Run Drive
Las Vegas, Nevada 89144
Tel: (702) 234-9325

Ms. Wilburn will testify regarding Sarah's therapy and other custodial related matters.

6. Tiffany Keith
Tel: (702) 604-0783

Ms. Keith will testify regarding custodial related matters.

7. James Williams
1542 Dover Center Road
Westlake, Ohio 45145
Tel: (440) 666-2919

Mr. Williams will testify regarding financial matters and conversations that he was present for between the parties.

8. Laura Jenkins
3137 Blossom Glen Court
Henderson, Nevada 89014
Tel: (702) 286-7931

Ms. Jenkins will testify regarding her interactions with Mr. Stucke, the parties' children and custodial related matters.

9. Any and all witnesses relied upon by the Defendant, which are properly disclosed.

10. Any and all rebuttal witnesses as necessary.

X. LIST OF EXHIBITS

A separate exhibit list will be provided as the current list would make this filing voluminous.

///

XI. LENGTH OF TRIAL

Two (2) days.

DATED Thursday, September 10, 2020.

Respectfully Submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Plaintiff's Pre-Trial Memorandum* was filed electronically with the Eighth Judicial District Court in the above-entitled matter, on Thursday, September 10, 2020. Electronic service of the foregoing document shall be made in accordance with the Master Service List, pursuant to NEFCR 9, as follows:

Fred Page, Esq.
Attorney for Defendant

/s/ Chantel Wade
An employee of the Abrams & Mayo Law Firm

EXHIBIT 1

EXHIBIT 1

EXHIBIT 1

Contract sales value	$435,000.00
Loan	$255,600.00
Date of purchase:	3/20/15
Date of marriage:	5/28/16
Outstanding loan balance today:	$234,070.13

Principal pay down from the time of first payment to marriage	$28,871.14
Principal pay down from the time of marriage to now	$21,058.73
Total principal pay down	$49,929.87

$$CP = \$21{,}058.73 + \frac{\$21{,}058.73 + \$209{,}422.54}{\$435{,}000.00} \times \$65{,}000.00 = \mathbf{\$55{,}498.46}$$

Total mortgage payments	=	57
Total SP payments	=	6
Total CP payments	=	51

51/57 = 89.47% CP Percentage

Mortgage balance = $234,070.13 x 89.47% = $209,422.54

Total equity	=	$265,929.87
CP	=	$55,498.46
SP	=	$210,431.41

EXHIBIT 2

EXHIBIT 2

EXHIBIT 2

Contract sales price	$284,000.00
Loan	$255,600.00
Date of purchase:	July 28, 2015
Date of marriage:	May 28, 2016
Outstanding loan balance today:	$234,070.13
Principal pay down from the time of purchase to marriage	$28,871.14
Principal pay down from the time of marriage to now	$21,058.73
Total principal pay down	$49,929.87

$$CP = \$21{,}058.73 + \frac{\$21{,}058.73 + \$209{,}422.54}{\$284{,}000.00} \times \$216{,}000.00 = \mathbf{\$196{,}354.32}$$

Total mortgage payments	=	57
Total SP payments	=	6
Total CP payments	=	51

51/57 = 89.47% CP Percentage

Mortgage balance = $234,070.13 x 89.47% = $209,422.54

Total equity	=	$265,929.87
CP	=	$196,354.32
SP	=	$69,575.55

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Steven D. Grierson
CLERK OF THE COURT

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EIGHTH JUDICIAL DISTRICT COURT
COUNTY OF CLARK
STATE OF NEVADA

DAVID PATRICK STUCKE, Plaintiff, vs. CHRISTIE LEANN STUCKE, Defendant.	Case No.: D-18-580621-D Dept.: F **Hearing Date: September 14, 2020** **September 17, 2020** **Hearing Time: 9:15 a.m.**

DEFENDANT'S AMENDED PRE-TRIAL MEMORANDUM

Defendant, CHRISTIE STUCKE, by and through her attorney, Fred Page, Esq., hereby submits her Amended Pre-Trial Memorandum which addresses marital waste and attorney's fees.

I.
STATEMENT OF ESSENTIAL FACTS

A. Names of the parties:

1. Cristine Stucke, Defendant, age 42
2. David Stucke, Plaintiff, age 46

B. Date of Marriage: May 28, 2016

C. Names and Dates of Birth of the Children

1. Sarah Laura Stucke, born July 22, 2016, age 4

2. David Orion Stucke, born March 30, 2018, age 2

D. Resolved Issues, Including Agreed Resolution:

1. Personal jurisdiction.
2. Subject matter jurisdiction
3. Joint legal custody.
4. Incompatibility.

II.
CHILD CUSTODY

Dr. Paglini provided an extensive 88-page report. Dr. Paglini reviewed all of the filings in the case. Dr. Paglini reviewed numerous videos that David provided to him. There was in depth psychological testing, interviews, and home visits of both parties. Dr. Paglini also conducted extensive collateral interviews. After all of the document review, all of the video reviews, all of the interviews and testing, Dr. Paglini's concluded that the parties should have joint physical custody.

Pursuant to NRS 125C.0045, the Court is authorized to enter orders at any point in a child's minority as appears in their best interests. The preference under

NRS 125C.0035 is for joint physical custody. An application of the factors under NRS 125C.0035(4) should lead to the conclusion that none of the factors would lead to the conclusion of joint physical custody.

NRS 125C.0035 states in pertinent part,

> The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:
>
> (a) . . . If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent's application.

An analysis of the factors is as follows:

a. <u>The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody</u>

Not applicable.

b. <u>Any nomination of a guardian for the child by a parent</u>

Not applicable

c. <u>Which parent is more likely to allow frequent associations and a continuing relationship with the noncustodial parent</u>

It appears that this factor is equal.

///

STUCKE-0964
Docket 82723 Document 2021-30623

d. The level of conflict between the parents

The level of conflict is currently high and is situational. As the divorce recedes into the past, there is no reason why the parties would not be able co-parent.

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

If communication regarding the health and well-being of the children is in writing through Talking Parents or Our Family Wizard, the parties should be able to cooperate regarding the children's needs. Dr. Paglini did not identify anything that would prohibit cooperation.

f. The mental and physical health of the parents

The parties are physically and mentally healthy. Dr. Paglini did not identify any mental factors that would prevent either parent from being able to take care of the children.

g. The physical, developmental and emotional needs of the children

The children are 4 and 2 years of age respectively. The children are still bonding with both parents and the children need frequent contact with both parents. There were no needs of the children identified by Dr. Paglini that neither parent would be unable to address.

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

The relationship of the children with their respective parents is good. There has been no suggestion to the contrary.

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

The children have several adult siblings with Christie whom they will need to bond. David has no other children. This factor favors Christie.

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

There have been several CPS reports and a criminal investigation. After those reports and investigation there has been no substantiation of abuse and no criminal complaints have been filed.

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

David has pled no contest to battery/domestic violence. David has done nothing to rebut the presumption. David inundated Dr. Paglini with videos of Christie and himself having arguments. After review, Dr. Paglini concluded that he did not see anything that would prevent the parties from having joint physical custody.

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

Not applicable.

Based upon the foregoing, joint physical custody should be ordered.

III.
VISITATION

Dr. Paglini's recommended schedule may be implemented.

IV.
CHILD SUPPORT

Child support should be entered pursuant to NAC 425.

V.
SPOUSAL SUPPORT

Both parties pled in their Complaint and Counterclaim that neither party should pay support to the other.

VII.
PROPERTY AND DEBTS

A. Division of Community Property

Per NRS 123.130, all property acquired after marriage is presumed to be community property unless there is a pre or post-nuptial agreement, the property was acquired by gift, award of personal injury damages, or acquired by gift or

devise, and the rents issues and profits thereof. *See Peters v. Peters*,[1] (all property acquired after marriage is considered to be community property under NRS 123.220 and that presumption can only be overcome by clear and convincing evidence); *Todkill v. Todkill*,[2] (same); *Carlson v. McCall*,[3] (the burden is on the person claiming it as separate property to overcome this presumption by proof sufficiently clear and satisfactory to prove the correctness of such a claim); *Lake v. Bender*,[4] (property acquired during marriage is community property and property acquired prior to marriage is separate property).

NRS 125.150(1)(b) provides that a court,

> 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.

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[1] 92 Nev. 687, 557 P.2d 713 (1976)

[2] 88 Nev. 231, 495 P.2d 629 (1972)

[3] 70 Nev. 437, 271 P.2d 1002 (1954)

[4] 18 Nev. 361, 7 P. 74 (1885)

It appears that David has tried to make this case much more complicated that it actually is. Below is the proposed division of the community property as required by NRS 125.150(1)(b).

1. Real Property:

<u>3485 West Maule Avenue, Las Vegas, Nevada 89118</u>

The real property located at 3485 West Maule Avenue was purchased on July 28, 2015, according the Clark County Assessor. The purchase price was $284,000. Evidence and testimony will show that the real property was acquired with monies acquired by the parties through their advantage gambling business.[5]

The parties were married to each other on May 28, 2016. Pursuant to NRS 125.130, the property was acquired during the course of the marriage and is presumptively community property. The presumption of community property can only be overcome by clear and convincing evidence. *See Todkill, supra.*

The fact 3485 West Maule was titled in David's name is irrelevant. *See* NRS 123.130. David's opinion is irrelevant. *See Verheyden v. Verheyden*, 104

[5] The parties through mathematical tables would determine which types of machines at which type of casinos would result in a mathematical advantage in playing those machines. Christie and David would then play those machines.

Nev. 342, 757 P.2d 1328 (1988) (opinion of either spouse is of no weight in determining whether property is community or separate).

Christie is entitled to one-half of the equity in the real property. It is submitted because the down payment for the real property was acquired as part of the parties' joint venture prior to the marriage.

There is authority in Nevada in multiple cases for this approach. In *Benavidez v. Benavidez*, 92 Nev. 539, 554 P.2d 256 (1976), the district court entered judgment dividing the parties= real and personal property acquired during the marriage and prior to the marriage while the parties were cohabitating.

The Supreme Court affirmed the division concluding that division of the property was properly based upon the guidelines of NRS 125.150. What is apparently implied in the ruling is that the Court approved of the district court applying community property principles to property during the period of co-habitation.

In *Hay v. Hay*, 100 Nev. 196, 678 P.2d 672 (1984), the Supreme Court held that an allegation of an agreement to pool income or contract to hold property is enforceable, citing *Marvin v. Marvin*, 557 P.2d 106 (Cal. 1976).

The Supreme Court stated that

> [i]n the absence of an express contract, the courts should inquire into the conduct of the parties to determine whether that conduct demonstrates an implied contract, agreement of partnership or joint venture, or some other tacit understanding between the parties. The courts may also employ the doctrine of *quantum meruit*, or equitable remedies such as constructive or resulting trusts, when warranted by the facts of the case.

Id. at 199.

The Court held that the remedies set forth in *Marvin* were available to unmarried cohabitants. Unmarried persons who are living together have the same rights to lawfully contract with each other regarding their property as do other unmarried individuals. The agreement may be express or implied from their conduct. The courts will protect their reasonable expectations with respect to transactions concerning property rights. *Id.* at 199. Each case should be assessed on its own merits with consideration given to the purpose, duration and stability of the relationship and the expectations of the parties. *Id.*

In *Western States Constr., Inc. v. Michoff*, 108 Nev. 931, 840 P.2d 1220 (1992), the Supreme Court held that unmarried cohabitating adults may agree to hold property that they acquire as though it were community property. The agreement may be express or implied. The Court noted that district courts must

protect the reasonable expectations of unmarried cohabitants with respect to transactions concerning their property rights.

In *Carr-Bricken v. First Interstate Bank*, 105 Nev. 570, 779 P.2d 967 (1989), the Supreme Court held that a district court may consider the value of property acquired during premarital cohabitation when determining the distribution of property upon divorce, although the Court did not give much guidance as to the standards to be applied.

If the Court determines that David's down payment is somehow his separate property, the Court will still need to apportion the equity. There is no factual dispute that immediately after the purchase that the parties lived together as husband and wife, got pregnant together, held themselves out as a joint economic unit, and Sarah was born barely a month after the marriage. Any appreciation after the date of purchase is certainly community property.

In *Robison v. Robison*, 100 Nev. 668, 691 P.2d 451 (1984) the Supreme Court held that where payments are made with community funds on real property owned by one spouse prior to the marriage, the community is entitled to a *pro tanto* interest in such property in the ratio that the community payments bear to

the payments made with separate funds. *Robison* has never been overruled and is still good law.

If the Court determines that the down payment is somehow separate property, David would be entitled to a deduction of $28,400 from the total equity. The remainder of the equity would need to be divided equally. It does not appear that a current appraisal has been completed on the property. Zillow shows a value of $513,000. The loan balance is approximately $235,000. The equity would be approximately $278,000. Deducting the down payment of $28,400 would result in a balance of $249,600. One-half of that amount would be $124,800.

7211 Birkland Court, Las Vegas, Nevada 89117

The residence located at 7211 Birkland Court was acquired by the parties during the course of the marriage on April 13, 2018. Pursuant to NRS 125.130, the house is presumptively community property.

The real property was purchased as an investment property for Airbnb rentals. Because the house was an investment with a partner, the request was made to have Christie execute a Grant, Bargain, Sale Deed. There was never any intent for Christie to relinquish any of her community property rights. Christie did so because that was the requirement of being in the partnership with Jonathan

Morrell due to her poor credit. Had she known that David had any different intent at the time of the divorce Christie would have never signed the Grant, Bargain, Sale Deed.

Once the house was placed in Jonathan Morrell's and David's name, the house was then on August 3, transferred into J D Investments, LLC, a New Mexico. The members of J D Investments, LLC are David Stucke and Jonathan Morrell. J D Investments, LLC was created by David during the course of the marriage. It does not matter whose name or names is on the LLC. *See* NRS 123.130. David's opinion is irrelevant. *See Verheyden, supra.* As such, J D Investments, LLC is community property. Any assets owed by J D Investments, LLC is therefore community property as well.

The equity in 7211 Birkland, LLC needs to be divided equally.

<u>3740 Grandview Place, Las Vegas, Nevada 89118</u>

The real property located at 3740 Grandview Place was purchased on October 31, 2017. Because the house was purchased during the course of the marriage, pursuant to NRS 125.130, the house is presumptively community property.

David put himself on the title of 3740 Grandview Place as a "married man as his sole and separate property." David's opinion as to the character of the real property is irrelevant. *See Verheyden, supra.* More importantly is the Supreme Court's holding in *Peardon v. Peardon*, 65 Nev. 717, 201 P.2d 309 (1948). *Peardon* is still good law as it has never been overruled. The case contains a number of significant holdings.

a. The relation of husband and wife is one involving the highest trust and confidence. "Under both common law and equitable standards, in any transaction, whereby one spouse seeks to obtain the other spouse=s property without adequate compensation, no duress, coercion, undue influence, imposition or overreaching will be tolerated." *Peardon* at 717, 732.

b. "As has been hereinbefore stated in a transaction between husband and wife whereby she conveyed to him her property without consideration, and it is not shown that he is not the dominant, superior personality in influence and power, the burden of proof shifts, and by a long-settled equitable doctrine, the burden is placed

on the husband to prove the voluntary character of the wife's act in party with her property." *Peardon* at 766.

c. The Supreme Court approvingly incorporated Pomroy's Equity Jurisprudence when it quoted, "where there is no coercion amounting to duress, but a transaction is of the result of a moral, social, or domestic force exerted upon a party, controlling the free action of his will and preventing any true consent, equity may relieve against the transaction, on the ground of undue influence, even though there may be no invalidity at law. In the vast majority of instances, undue influence naturally as a field to work upon in the condition or circumstances of the person influenced, which render him particularly susceptible and yielding – his dependent or fiduciary relation toward the one exerting the influence, his mental or physical weakens, his pecuniary necessities, his ignorance, lack of advice and the like." *Peardon* at 766-67.

d. "Where an antecedent fiduciary relation exists, a court of equity will presume confidence placed and influence exerted . . ." *Peardon* at 767. (Emphasis in the original).

e. Because of the presumption arising from the very relationship itself and the superior position of the husband as to the ability to exercise undue influence to bring about a property advantage to himself, equity requires that in a property transaction between husband and wife, in order to assure the free exercise of the wife's will and consent and the voluntary character of her act, she must be provided with independent legal counsel and advice in relation to the advisability and the fairness to her of the transaction . *Peardon* at 768.

The burden is on David to show that the down payment was somehow his separate property. At this point, no such evidence has been provided. The equity in 3740 Grandview Place should be equally divided.

2. **Bank Accounts:** Each party should keep their own bank accounts.

3. **Vehicles:** David has a Toyota Prius. Christie has a 2015 Toyota minivan. Each party should keep the vehicles in their possession.

4. **Household Goods and Furnishings:** Christie advises that David has been out to the house roughly four times to get the items that he wanted.

The household goods and furnishings should be considered as having been divided by the parties.

B. Division of Debt

1. Credit card debt

Christie has roughly $1,400 in credit card debt. The amount of credit card debt that David has is unknown. The parties should keep the unsecured debt in their possession as their sole and separate debt.

C. Marital Waste

It was overlooked from the original Pre-Trial Memorandum due to the lateness of the hour, but David has been making claims that Christie committed marital waste by gambling.

Marital waste can provide a compelling reason for the unequal disposition of community property. *See Lofgren v. Lofgren*, 112 Nev. 1282, 1283, 926 P.2d 296, 297 (1996) ("if community property is lost, expended or destroyed through the intentional misconduct of one spouse, the court may consider such misconduct as a compelling reason for making an unequal disposition of community property and may appropriately augment the other spouse's share of the remaining community property.").

In *Putterman v. Putterman*, 113 Nev. 606, 939 P.2d 1047 (1997) the district court found that the husband refused to account for finances over which he had

control and the court believed that the husband was lying about having no income. The district court made meticulous findings as to why the division was unequal.

In *Kogod v. Cioffi-Kogod*, 135 Nev. Adv. Op. 9, (April 25, 2019), the Supreme Court noted that other potential "compelling reasons" for an unequal division of community property could include negligent loss or destruction of community property, unauthorized gifts of community property, and even, possibly, compensation for losses occasioned by marriage and its breakup. *Id.* at 608.

In Nevada, gambling is legal. Christie will testify that she and David engaged in advantage gambling as a business in Las Vegas. Christie and David operated the advantage gambling business before and during the marriage. Christie will testify that David would identify games and machines for which there was a mathematical advantage.

Christie will testify that they would then solicit investors to invest in those games and machines and play those machines through their players card. By playing through the players cards, they would obtain comps through the players cards and overtime as they played through the machines, the comps would eventually provide a profit to be distributed to the investors. Because both parties operated the business, and it was originally David's idea because of his math background, there can be no finding of marital waste.

operated the business, and it was originally David's idea because of his math background, there can be no finding of marital waste.

VIII.
ATTORNEY'S FEES

There should be no factual dispute that David is the stronger party financially. Because of that, it has been difficult for Christie to meet him on an equal footing and at one point had to represent herself due to lack of funds.

In *Sargeant v. Sargreant*, 88 Nev. 223, 495 P.2d 618 (1972), the Supreme Court held that the wife does not have to show necessitous circumstances before being awarded fees and costs. The Supreme Court further stated that the wife did not have to invade her separate property before calling on the support of her husband. Christie can and should be awarded fees pursuant to *Sargeant*.

Attorney's fees may also be awarded to Christie under NRS 18.010 as the prevailing party, as well as NRS 125.040(2). Attorney's fees may additionally be awarded under *Brunzell v. Golden Gate National Bank*.[5] The undersigned is well experienced in domestic relations law, the work requires something more than a passing knowledge of domestic relations law, the work is more complex because of the real estate transaction and because of the marital waste claims as well as the custody issues.

---

[5] 85 Nev. 345, 455 P.2d 31 (1969)

IX.
LIST OF WITNESSES

A. Plaintiff

B. Defendant

X.
EXHIBITS

A. Defendant's Financial Disclosure Form

B. Plaintiff's Financial Disclosure Form

C. Credit card statements

D. Deeds from the Clark County Assessor's Office

E. Printout from the New Mexico Secretary of State

XI.
UNUSUAL LEGAL OR FACTUAL ISSUES

Character and division of the real properties.

XII.
LENGTH OF TRIAL

Two days.

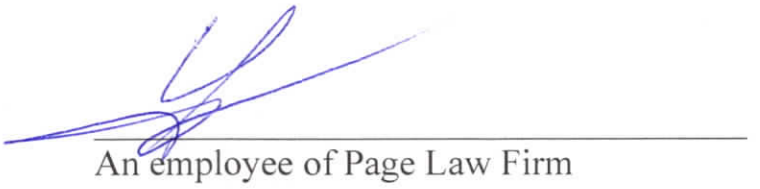
DATED this 10th day of September 2020

PAGE LAW FIRM

FRED PAGE, ESQ.
Nevada Bar No. 6080
6930 South Cimarron Road, Suite 140
(702) 823-2888
Attorney for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 10th day of September 2020 that the foregoing AMENDED PRE-TRIAL MEMORANDUM was served pursuant to NEFCR 9 via e-service to Vincent Mayo, Esq., attorney for Plaintiff.



An employee of Page Law Firm

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Steven D. Grierson
CLERK OF THE COURT

MOT

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Email: VMGroup@TAMLF.com
Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
	)	
vs.	)	
	)	
CHRISTIE LEEANN STUCKE,	)	ORAL ARGUMENT REQUESTED
	)	
Defendant.	)	
	)	

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

MOTION TO ALLOW JOHN PAGLINI, PSY.D. TO REVIEW NEWLY DISCOVERED EVIDENCE PRIOR TO GIVING TESTIMONY AT THE PARTIES' TRIAL; AND FOR RELATED RELIEF

NOW INTO COURT comes Plaintiff, DAVID PATRICK STUCKE, by and through his Attorney of Record, Vincent Mayo, Esq., of The Abrams & Mayo Law Firm, and hereby submits his *Motion to Allow John*

Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and for Related Relief.

This *Motion* is based upon the attached Memorandum of Points and Authorities, any supporting exhibits provided in Plaintiff's Exhibit Appendix filed contemporaneously with this Motion, the attached Declaration of David Stucke, any and all pleadings and papers on file herein, and any further evidence or argument presented to the Court at the hearing of this matter.

DATED Monday, October 05, 2020.

Respectfully submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
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Attorney for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL BACKGROUND

The parties to this divorce action are DAVID STUCKE (hereinafter "David" or "Plaintiff") and CHRISTIE STUCKE (hereinafter "Christie" or "Defendant"). Day One of the parties' Trial was held on September 14, 2020 wherein the Court took testimony related to property issues only (custody has not yet been addressed); Day Two was then calendared for September 17, 2020 (John Paglini, Psy.D., was scheduled to testify at the beginning of the September 17, 2020 Trial). Shortly before the September 17, 2020 hearing, the Court advised that the matter needed to be taken off-calendar for the day and rescheduled. As of this filing, a new date and time for the parties' second day of trial remains pending.

As the Court is well-aware, Christie first alleged during this litigation that David has been sexually inappropriate with the parties' young daughter (hereinafter "Sarah") who is presently 4-years old. Christie's repugnant and insidious allegations include David penetrating the minor child with his fingers when the child was 3 years old. Predictably, Child Protective Services, the child's pediatrician, the child's counselor (Donna Wilburn, LMFT) and Dr. Paglini all swiftly concluded that nothing inappropriate took place and that it was quite possible that Christie was coaching Sarah (raising obvious concerns related to

pathogenic parenting and emotional child abuse by way of Christie's coaching and manipulation of the child).

Prior to day one of Trial, on August 1, 2020, David's significant other (hereinafter "Laura") noticed that Sarah had become visibly upset and started crying. When Laura asked Sarah what was wrong, Sarah's crying intensified. David was moving items into an Airbnb at the time and was not present. Knowing the troubled history of the parties, the extensive history of this case, and, Christie's unrelenting willingness to poison Sarah against her father, Laura grabbed her iPhone and began recording (the video referenced herein is being submitted as **Exhibit 1**).

According to Laura's sworn affidavit, Sarah told Laura that she had a "secret" to tell her but she would only whisper the secret in Laura' ear (earlier in the day, Sarah had told Laura that her private parts were "itchy"). Sarah then whispers in Laura's ear, "daddy put a jellyfish in my pee pee." When Laura tells Sarah that she shouldn't say things about people that aren't true, Sarah tells Laura that she and her mother have "secrets" that Sarah is not supposed to tell anyone else; that it's hard to have secrets; and that she didn't know why her "pee pee" itched. Laura tells Sarah that it could be many reasons including not wiping after using the bathroom, irritation from the swimming pool, or the need for more baths. When asked by Laura if it bothers her to have secrets, Sarah says yes; when asked

by Laura if she keeps secrets with David, Sarah says no. Sarah is also heard on video saying Laura and her dad protect her and keep her safe (Laura's Affidavit referenced herein is attached as **Exhibit 2**).

While David has no desire to delay the pending proceedings or inconvenience the Court, this new piece evidence is obviously of significant concern. At a minimum, Dr. Paglini should have the opportunity to review the video and briefly meet with the parties regarding its contents prior to giving testimony at the parties' upcoming Trial. The video obtained by Laura is only 3-minutes in duration and would not require a lengthy review by Dr. Paglini; however, this type of evidence is precisely the kind of evidence that experts routinely rely upon when forming opinions and reaching custodial-based recommendations (particularly when investigating claims of systemic coaching, manipulation, triangulation, and pathogenic parenting).

The Court has yet to enter final custodial orders in this case and Dr. Paglini's testimony will likely carry considerable weight with regard to the Court's ultimate best interest analysis, particularly with regard to Christie's ability to foster and encourage frequent associations between Sarah and her father (NRS 125C.0035(4)(c)); Christie's state of mental health (NRS 125C.0035(4)(f)); and whether Christie has a history of committing acts of emotional abuse or neglect (NRS 125C.0035(4)(j)).

Accordingly, David is asking the Court to give Dr. Paglini the opportunity to review the video referenced herein and, if necessary, meet with the parties to discuss its contents prior to giving his testimony at the parties' upcoming Trial. By doing so, the Court would be ensuring that Dr. Paglini has *all information* necessary to make informed conclusions and recommendations to the Court with regard to the best interests of Sarah and David Jr. moving forward. Most importantly, neither party would be prejudiced by allowing Dr. Paglini to review the video referenced herein.

II. ARGUMENT AND ANALYSIS

A. The Court Should Allow Dr. Paglini to Review David's Newly Discovered Evidence Prior to Testifying at Trial

NRS 125C.0035 makes it abundantly clear that the *sole consideration* of the Court, in determining the physical custody of a minor child, is the *best interest* of that child. In *Blanco v. Blanco*, 129 Nev. 723, 311 P.3d 1170 (2013), the Nevada Supreme Court went a step further holding that child custody matters must be decided on their *merits*. In *Price v. Dunn*, 106 Nev. 100, 105, 787 P.2d 785, 788 (1990), the Court specifically held that the policy in favor of deciding cases on their merits *is heightened in domestic relations matters*.

Here, we are dealing with the very serious issue of pathogenic parenting and whether Christie has been abusing Sarah on an

emotional/psychological level. The recent video obtained by Laura strongly supports David's contention that Christie has in fact been coaching and manipulating this 4-year-old child on an abusive level. If so, this is certainly a best interest consideration that the Court must consider in its ultimate custodial determination at trial; as noted above, particularly with regard to Christie's ability to foster and encourage frequent associations between Sarah and David (NRS 125C.0035(4)(c)); Christie's state of mental health (NRS 125C.0035(4)(f)); and whether Christie has a history of committing acts of emotional abuse upon Sarah by way of coaching and manipulation (NRS 125C.0035(4)(j)).

i. Regarding Pathogenic Parenting

Mental health professionals refer to pathogenic parenting (also called attachment-based parental alienation) as a *pervasive pattern* of alienating and undermining behaviors designed to impair and eventually ruin the other parent's relationship with his/her children. Pathogenic parenting is sometimes mistakenly confused with parental alienation "syndrome" (which was debunked by experts many years ago).[1]

...

[1] According to experts, pathogenic parenting is not a new syndrome, but rather a manifestation of standard and well-established pathologies. It only uses references to classic works of psychology and none related to parental alienation syndrome; giving pathogenic parenting tremendous power.

As the Court is aware, pathogenic parenting is more about lobbying, coaching, manipulating, and (to a certain extent) programming a child "against" the other parent. Based on the studies of national experts (like Dr. Craig Childress and Dr. Richard Warshak) and the opinions of local therapeutic providers (including Nicolas Ponzo, MSW, Stephanie Holland, PhD, and Donna Wilburn, LMFT), pathogenic parenting, without question, is a form of *emotional child abuse*.[2]

Pathogenic parents usually suffer from deep-seated mental illness[3] (upon information and belief, Christie has borderline personality disorder) and are oblivious, or simply don't care, when it comes to understanding how their crusade directly affects the emotional development and wellbeing of their own children.[4] More times than not, pathogenic parents

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[2] See recent cases within the Family Division of the Eighth Judicial District Court, including *Abid v. Abid*; *Silva v. Silva*; *Kerrigan v. Kerrigan*; and *Sobczyk v. Osborne*.

[3] A parent suffering from a narcissistic or borderline personality disorder can (under unrelenting stress or pressure from divorce) decompensate into persecutory delusions that the other parent is inadequate or abusive. These parents then expel their feelings of inadequacy or abandonment onto their former partner by using the defense mechanisms of projection and splitting. In short, the ex-spouse must also become the ex-parent of the child.

[4] Through triangulation, psychological enmeshment with their children, and the formation of a cross generational alliance with their children, the pathogenic parent influences their children to share their delusion. This can be done by eliciting criticism from the child about the other parent and then enthusiastically validating it, and by mixing in partially true lies. These parents then use their children as a narcissistic supply, creating a role reversal relationship that shows a lack of empathy for their children's own developmental needs.

are simply incapable of co-parenting and cannot be trusted with the status of joint custodian. This is David's obvious concern heading into trial.

ii. Regarding Routinely Relied Upon Evidence

With regard to expert witnesses, NRS 50.285 mandates that (1) the facts or data in a particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert *at or before the hearing*; and (2) if of a type reasonably relied upon by experts in forming in forming opinions or inferences upon the subject, the facts or data *need not be admissible in evidence*.

In other words, even if the Court should deem the newly discovered video inadmissible at the time of trial, Dr. Paglini could – and should – have the opportunity to review the video prior to testifying at trial because video recordings and audio recordings are routinely used and relied upon by custody evaluators and outsourced providers on a regular basis when forming opinions and making custodial recommendations (particularly with regard to pathogenic parenting and emotional child abuse).

In the case of *Abid v. Abid*, 133 Nev. __, __ P.3d __ (Adv. Opn. No. 94, Dec. 7, 2017), Dad placed a recording device in his child's backpack to record the interactions between his child and Mom (Dad suspected Mom was coaching and interrogating the minor child); neither Mom nor the child consented to being recorded. The Nevada Supreme Court held that

though the recordings possibly violated NRS 200.650, the evidence was admissible as the protection of a child (and that child's best interest) far outweighs any exclusionary rule. The Court further held that the review of the recordings by a child psychologist (in this case, Dr. Stephanie Holland) who will be testifying as to her opinion was also proper considering the best interest of the child (and considering that child psychologists routinely review audio and video recordings when forming opinions).

Additionally, in the case of *Barrett v. Baird*, 111 Nev. 1496, 908 P.2d 689 (1995), the Nevada Supreme Court confirmed that in Nevada, as in most jurisdictions, experts may rely on evidence that is otherwise inadmissible at a trial even when testifying before a jury as to an ultimate issue (such as negligence, in this particular case) pointing to both NRS 50.285 and NRS 50.295.

Here, David's request is reasonable and made in the spirit of protecting the best interests of the parties' minor child. David is simply asking the Court to allow Dr. Paglini to review the short, newly obtained video prior to testifying at trial so that Dr. Paglini has all information necessary to make informed recommendations and assist the Court in making a final custodial determination in this case.

...

...

III. CONCLUSION

Based upon the foregoing, and for the reasons set forth herein, David respectfully requests that the Court:

1. Allow Dr. Paglini to review the newly obtained video prior to testifying at the parties' Trial;
2. Allow Dr. Paglini to speak to Laura and/or David regarding the video prior to testifying at the parties' Trial;
3. Allow Dr. Paglini to meet with Christie regarding the video prior to testifying at the parties' Trial;
4. Calendar day two of the parties' Trial for a date/time after Dr. Paglini has reviewed the video; and
5. Award David any other relief deemed just and appropriate.

DATED Monday, October 05, 2020.

Respectfully submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., Suite 100
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Tel: (702) 222-4021
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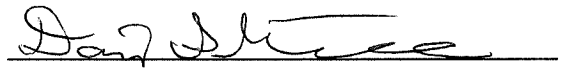
Attorney for Plaintiff

DECLARATION OF DAVID STUCKE

I, DAVID STUCKE, am the Plaintiff in this action and declare that I am competent to testify to the facts in this Declaration. I have read the foregoing *Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and for Related Relief* and know the content thereof; that the same is true of my own knowledge except for those matters therein stated on information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the referenced filing are incorporated here as if set forth in full.

I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the forgoing is true and correct.

DATED this 5th day of October 2020.



David Stucke

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and for Related Relief* was filed electronically with the Eighth Judicial District Court in the above-entitled matter, on Wednesday, October 07, 2020. Electronic service of the foregoing document shall be made in accordance with the Master Service List, pursuant to NEFCR 9, as follows:

Fred Page, Esq.
Attorney for Defendant

/s/ Chantel Wade

An Employee of The Abrams & Mayo Law Firm

MOFI

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

DAVID PATRICK STUCKE Plaintiff/Petitioner vs. **CHRISTIE LEEANN STUCKE** Defendant/Respondent	Case Number: **D-18-580621-D** Department: **F** **MOTION/OPPOSITION FEE INFORMATION SHEET**

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

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

[ ] **$25** The Motion/Opposition being filed with this form is subject to the $25 reopen fee.

-OR-

[x] **$0** The Motion/Opposition being filed is not subject to the $25 reopen fee because:

- [x] The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
- [ ] The Motion/Opposition is being filed solely to adjust the amount of child support established in a final Order.
- [ ] The Motion/Opposition is for reconsideration or for a new trial and is being filed with 10 days after a final judgment or Decree was entered. The final Order was entered on: _____.
- [ ] Other Excluded Motion

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

[x] **$0** The Motion/Opposition being filed is not subject to the $129 or $57 fee because:

- [x] The Motion/Opposition is being filed in a case not initiated by Joint Petition.
- [ ] The party filing the Motion/Opposition previously paid a fee of $129 or $57

-OR-

[ ] **$129** The Motion/Opposition being filed with this form is subject to the $129 fee because it is a Motion to modify, adjust, or enforce a final Order.

-OR-

[ ] **$57** The Motion/Opposition being filed is subject to the $57 fee because it is an Opposition to a Motion to modify, adjust, or enforce a final Order or it is a Motion and the opposing party has already paid a fee of $129.

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

The total filing fee for the Motion/Opposition I am filing with this form is
[x] $0 [ ] **$25** [ ] **$57** [ ] **$82** [ ] **$129** [ ] **$154**

Party filing Motion/Opposition: **Plaintiff** Date: **10.07.2020**

Signature of Party of Preparer: ***/s/ Mark DiCiero***

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Steven D. Grierson
CLERK OF THE COURT

EXHS

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
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Tel: (702) 222-4021
Fax: (702) 248-9750
Email: VMGroup@TAMLF.com
Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE,	)	Case No.: D-18-580621-D
	)	
Plaintiff,	)	Department: F
	)	
vs.	)	
	)	
CHRISTIE LEEANN STUCKE,	)	
	)	
Defendant.	)	
	)	

APPENDIX OF EXHIBITS IN SUPPORT OF MOTION TO ALLOW JOHN PAGLINI, PSY.D. TO REVIEW NEWLY DISCOVERED EVIDENCE PRIOR TO GIVING TESTIMONY AT THE PARTIES' TRIAL; AND FOR RELATED RELIEF

NOW INTO COURT comes Plaintiff, DAVID STUCKE, by and through his Attorney of Record, Vincent Mayo, Esq., of The Abrams & Mayo Law Firm, and hereby submits his *Appendix of Exhibits in Support of Plaintiff's Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Evidentiary Hearing; and for Related Relief.*

...

DATED Wednesday, October 07, 2020.

Respectfully submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.

Vincent Mayo, Esq.
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The Abrams & Mayo Law Firm
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Fax: (702) 248-9750
Email: VMGroup@TAMLF.com
Attorney for Plaintiff

...

TABLE OF CONTENTS

Exhibit	Description	Page No.
1	Video of Sarah and Laura (Recorded 08.01.2020)	PLTF 001-002
2	Affidavit of Laura Jenkins	PLTF 003-005

...

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Appendix of Exhibits in Support of Plaintiff's Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Evidentiary Hearing; and for Related Relief* was filed electronically with the Eighth Judicial District Court in the above-entitled matter, on Wednesday, October 07, 2020. Electronic service of the foregoing document shall be made in accordance with the Master Service List, pursuant to NEFCR 9, as follows:

Fred Page, Esq.
Attorney for Plaintiff

/s/ Chantel Wade

An Employee of The Abrams & Mayo Law Firm

EXHIBIT 1

EXHIBIT 1

Verbatim
CD-RW
700
4x
80 min
Video of Sarah and Laura
(Recorded 08.01.2020)
Exhibit 1
Plaintiff's MOT Filed 10.05.2020

EXHIBIT 2

EXHIBIT 2

FAMILY COURT EIGHTH JUDICIAL COURT, LAS VEGAS, NV

David Stucke	D-18-580621-D
Plaintiff	
-vs-	
Christie Stucke	
Defendant	

AFFIDAVIT

I, Laura Jenkins, of Henderson, in Clark, Nevada, MAKE OATH AND SAY THAT:

On August 1, 2020 I was alone with Sarah Stucke and David Stucke, the minor children of my boyfriend David P. Stucke. We were all living together at the time. While I was alone with Sarah she said she had a secret to tell me but would only tell me in my ear. She said this after she said her private parts were itchy. I located my phone to audio record what she said because I didn't know what she would say and because her mother, Christie Stucke, had made false accusations of inappropriate touching against David the prior year. Those charges were investigated by CPS and deemed unfounded. It was also suspected that Christie had coached Sarah but that was not proven because Sarah was only three years old at the time. Sarah has had emotional issues coping with her parent's divorce and I wanted to have evidence of whatever the secret was so that I would be believed.

Once I started recording, I asked Sarah what she was going to tell me. She said she would only tell me in my ear. She said "Daddy put a jellyfish in my pee pee". And that she had told her mother that secret and that her and her mother have secrets that she's not supposed to tell anyone else. Also, she said that is bothers her and it is hard to have secrets. I told her she was safe and that no one was hurting her. She then said she didn't know why her pee pee itched and asked me why. I told her that it could be many reasons including not wiping after using the bathroom, irritation from the swimming pool, or the need for more baths. She frequently complains about being itchy during her custody time with David including her private parts at times. When this occurs we offer her a bath and don't discuss it further or make an issue of it.

I have two children myself, and I cannot imagine have secrets with my children regarding their genitals or discussing their genitals at all except during potty training. Sarah has been potty trained since I've known her which was in late December of 2018. It is extremely concerning that her mother discusses this subject with Sarah and is expected to keep secrets at all. Sarah is hyper aware of her pee pee and says it itches or hurts at times. It is extremely inappropriate for a child who is four (three years old during the first false accusation) to be aware of their private parts in this manner or be forced to discuss it in my opinion as a parent.

STATE OF NEVADA

COUNTY OF CLARK

SUBSCRIBED AND SWORN TO BEFORE ME, on the 5th day of October, 2020

Signature _____
(Seal)
NOTARY PUBLIC
My Commission expires:
August 18, 2021

CHANTEL WADE
NOTARY PUBLIC
STATE OF NEVADA
APPT. No. 17-3421-1
MY APPT. EXPIRES AUGUST 18, 2021

_____
(Signature)

Laura Jenkins

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10/30/2020 5:18 PM
Steven D. Grierson
CLERK OF THE COURT

OPPC
FRED PAGE, ESQ.
NEVADA BAR NO. 6080
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Attorney for Defendant

EIGHTH JUDICIAL DISTRICT COURT
COUNTY OF CLARK
STATE OF NEVADA

DAVID PATRICK STUCKE, Plaintiff, vs. CHRISTINE LEEANN STUCKE, Defendant.	Case No.: D-18-580621-D Dept.: F **Hearing Date: November 6, 2020** **Hearing Time: 12:05 a.m.**

DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO ALLOW JOHN PAGLIN, PSY.D. TO REVIEW NEWLY DISCOVERED EVIDENCE PRIOR TO GIVING TESTIMONY AT THE PARTIES' TRIAL AND FOR RELATED AND COUNTERMOTION FOR ATTORNEY'S FEES

Defendant, CHRISTINE LEEANN STUCKE, by and through her attorney, Fred Page, Esq., hereby submits her Opposition to Plaintiff, DAVID PATRICK STUCKE'S, Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial and for Related Relief and Countermotion for Attorney's Fees. This Opposition and Countermotion is

based upon the papers and pleadings on file, the attached Points and Authorities and any oral argument that the Court may wish to entertain.

DATED this 30th day of October 2020

PAGE LAW FIRM

FRED PAGE, ESQ.
Nevada Bar No. 6080
6930 South Cimarron Road, Suite 140
Las Vegas, Nevada 89113
(702) 823-2888
Attorney for Defendant

POINTS AND AUTHORITIES
I.
FACTUAL BACKGROUND

Defendant, CHRISTIE LEEANN STUCKE (hereinafter "Christie") and Plaintiff DAVID PATRICK STUCKE (hereinafter "David") were entered into a domestic partnership through the Nevada Secretary of State under Chapter 122A on May 26, 2015.[1] After the parties entered into to domestic partnership the parties cohabited and shared responsibilities as would any married couple. The parties have two minor children the issue of the domestic partnership, Sarah Laura Stucke, born July 22, 2016 (age 4), and David Orion Stucke, born March 30, 2018 (age 2).

[1] The parties also participated in a marriage ceremony a year later on May 28, 2016.

David requested and received authorization to have Dr. Paglini conduct a custody evaluation. Dr. Paglini conducted a very extensive and through evaluation. The evaluation consisted of Dr. Paglini reviewing numerous video that David had surreptitiously taken of Christie in an attempt to put her in a negative light.

Dr. Paglini provided an extensive 88-page report. Dr. Paglini reviewed all of the filings in the case. Dr. Paglini reviewed numerous videos that David provided to him. There was in depth psychological testing, interviews, and home visits of both parties. Dr. Paglini also conducted extensive collateral interviews.

After reviewing all of those secretly taken videos by David, Dr. Paglini still concluded that the parties should share joint physical custody, contingent upon Christie taking some classes, which Christie readily agreed to do.

David was deeply disappointed after having secretly recording Christie to try and put her in a negative light and after having spent all of that money on Dr. Paglini that Dr. Paglini still recommended joint physical custody.

The matter was last for trial before the on September 14, 2020. David submitted some 8,000 pages of documents. Due to the length of David's direct examination, the Court was unable to conclude testimony that day. Toward the end of day 1, the Court asked if the parties would simply stipulate to Dr. Paglini's report coming and stipulate to the parties having joint physical custody.

Initially, it appeared that David was going to stipulate to joint physical custody. But then, his counsel still wanted Dr. Paglini to come in an testify and see if Dr. Paglini would vary from his recommendation based upon various hypotheticals that he was going to pose to Dr. Paglini. In essence, David was going to stipulate to joint physical custody, but he was not going to stipulate to joint physical custody.

Because of David's refusal to stipulate to joint physical custody the Court scheduled Dr. Paglini to testify on September 17. However, trial for that day had to be continued due to an emergency involving the Court.

David subsequently used the intervening time period to surreptitiously take more recordings against Christie and then try and use those recordings against her.

II.
OPPOSITION

A. David's Misstatements Should be Addressed

As is common in the Family Division of District Court, David's Motion is replete with material misstatements of fact and impermissibly argument in a purported "statement of facts."

David claims that Dr. Paglini and Donna Wilburn, MFT "swiftly concluded that nothing inappropriate took place." Mot. at page 3, lines 19-20. That is incorrect, both Dr. Paglini and Ms. Wiburn were unable to substantiate that any sexual abuse took place.

David claims that Dr. Paglini concluded that it was "quite possible" that Christie was coaching Sarah and that Christie was engaging in pathogenic parenting. Mot. at page 3, line 20, through page 4, line 2. Dr. Paglini made no such conclusions, and if he did, David is duty bound to provide some substantiation for his claims. At no point is Christie required to prove a negative.

David claims that day one of trial was August 1, and that prior to day one, July 31, that David's significant other, Laura, noticed that Sarah was crying. The assertion is incorrect. Day one of the trial was September 14.

David claims, in "statement of facts," the video is precisely the kind of evidence that experts routinely rely upon when forming opinions and reaching custodial-based recommendations." Mot. at page 5, lines 10-14. There is zero basis for such an assertion to be made. David does not have the first clue as to what experts rely upon when reviewing videos and as such has no place in a "statement of facts."

Christie has complied with all visitation orders. Dr. Palini has already concluded that Christie's mental health is sufficient fine. Dr. Paglini has concluded that David fails to prove that Christie history of committing acts of emotional abuse or neglect. And, Dr. Paglini already has enough data points to reach that conclusion after the 20 plus recordings that David foisted upon him after secretly recording Christie as many times as he possibly could.

David claims that Christie has a borderline personality disorder. Mot. at page 8, lines 8-9. Dr. Paglini has conducted an extensive psychological evaluation of both parties and has failed to conclude that Christie has any personality disorder, let alone a borderline personality disorder.

B. David's Request for Dr. Paglini to Review "Newly Discovered Evidence" Should be Denied

David is essentially asking the Court to rule on his untimely "motion in limine" to admit new evidence in the middle of a trial. At some point limits have to be place on David. There are rules, and David cannot continue to be permitted to run amok and throw out whatever he can whenever he can when things have not gone his way.[2]

David goes into great detail about pathogenic parenting and concludes that Christie is engaging in it. Mot. at page 7, line 11, through page 8, line 7. Dr. Paglini produced an 88-page report and after reviewing the videos dumped on him by David, after interviewing the parties, and after reviewing all of the pleadings, that he was unable to conclude that parental alienation or pathogenic parenting

[2] For example, David submitted approximately 8,000 pages of exhibits in an effort to try and overwhelm Christie's ability to be prepared for trial. When David was asked to provide a hard copy of those 8,000 pages of exhibits, the response was "go pound sand," leaving Christie having to print out 8,000 pages of exhibits that David tried to dump upon her - and the Court.

was going on. Dr. Paglini has more than a sufficient amount of evidence with which to make his conclusions.

NRS 48.035(2) provides that evidence may be excluded if its probative value is substantially outweighed by considerations of undue delay, waste of time or needless presentation of cumulative evidence. Dr. Paglini has already reviewed 20 something recordings from David in his desperate attempt to smear Christie.

David's citation to Abid v. Abid, 113 Nev. Adv. Op. 94 (December 7, 2017) is inapplicable as that recording took place months before the trial and not in the middle of it.

The videos at this point are cumulative and one more video it not going to make a difference. David's desperation to try and separate the children from Christie should give the Court some pause as to whether he is willing, or even able, to facilitate a relationship between Christie and the children.

David's request should be denied.

C. The Video Recording Itself is Wholly Improper

One cannot even get through trial and David wants to waste judicial resources for another baseless video wherein they are coaching Sarah. Laura's conduct is completely inappropriate that she is trying to coach Sarah that what she saying did not happen???

It feels very much like gaslighting when Sarah is trying to tell Laura about stuff. Instead of believing her Laura assumes that Christie has coached her. Christie advises that Sarah may be 4 years of age, but she been very clear about certain things and has been consistent with her verbal reporting about concerning things between her and her father. It is inexplicable for David to claim that Christie is somehow brainwashing her or prompting her when Sarah is not even around me when she is talking to others.

David appears to be incredibly vindictive and wants to harm Christie in any way he can. If anything, it looks like David is coaching Sarah or is maybe to try to instigate Christie and get a reaction out of her.

D. David Is Improperly Trying to Get Around the Rules of Having Sarah Not Being Able to Testify

A review of Dr. Paglini's report appears to indicate that he chose not to conduct a forensic interview of the children. Dr. Paglini could have conducted a forensic interview of the children, and have the children testify that way, but he chose not to so. It appears that David has tried to manufacture a situation wherein he can try and get an interview of Sarah and at the same avoid the requirements of NRCP 16.215 regarding children under the age of 14 being able to testify.

The Rule requires that a Notice be filed within 60 days before the hearing. The Rule also requires that a Motion to Permit Child Testimony by Alternative

Means be filed. David is prohibited from trying to backdoor his way into getting Sarah's statements as part of the evidentiary record.

Accordingly, David's Motion should be denied.

III.
COUNTERMOTION

An award of attorney's fees in a divorce proceeding falls within the sound discretion of the trial court. NRS 125.150(2); NRS 125.040(2). In assessing the amount of attorney's fees, courts should examine "(1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived." *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 350, 455 P.2d 31, 33 (1969).

In determining the amount appropriate for the attorney's fees, this court should take into consideration the *Brunzell* factors. Christie's counsel is a well experienced divorce lawyer. Motion writings in essence are intricate part of the law and it requires substantial effort in consideration with other legal activities. The result should be considered as being successful and counsel has performed

100 percent of the work. All factors set forth in *Brunzell* warranties an award of substantial attorney's fees. Christine's counsel's qualifications under the *Brunzell* factors should be recognized and Christie should be awarded the attorney's fees she has incurred.

IV.
CONCLUSION

WHEREFORE, Defendant, CHRISTIE LEEANN STUCKE, respectfully requests that the Court enter orders:

1. Denying Plaintiff's Motion in its entirety.

2. Awarding Christie the attorney's fees she has incurred in filing the Motion and appearing at the hearing, and;

3. For any further relief the Court deems proper and just.

DATED this 30th day of October 2020

PAGE LAW FIRM

FRED PAGE, ESQ.
Nevada Bar No. 6080
6930 South Cimarron Road, Suite 140
Las Vegas, Nevada 89113
(702) 823-2888
Attorney for Defendant

DECLARATION IN SUPPORT OF MOTION

I, CHRISTIE LEEANN STUCKE, first being duly sworn, deposes and says:

That she is the Defendant in the above-entitled action; that she has read the above and foregoing OPPOSITION AND COUNTERMOTION and knows the contents thereof and that the same is true of her own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, she believes them to be true.

Further your declarant sayeth naught.

Executed this _____ day of October 2020

to be supplied

CHRISTIE LEEANN STUCKE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 30th day of October 2020, that the foregoing OPPOSITION AND COUNTERMOTION was served pursuant NEFCR 9 via e-service to Vincent Mayo, Esq. attorney for Plaintiff.

An employee of Page Law Firm

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11/6/2020 1:05 PM
Steven D. Grierson
CLERK OF THE COURT

ROPP
Vincent Mayo, Esq.
Nevada State Bar Number: 8564
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Email: VMGroup@TAMLF.com
Attorney for Plaintiff

Eighth Judicial District Court
Family Division
Clark County, Nevada

DAVID PATRICK STUCKE, Plaintiff, vs. CHRISTIE LEEANN STUCKE, Defendant.	Case No.: D-18-580621-DD Department: F Date of Hearing: 11/6/20 Time of Hearing: In chambers

REPLY IN SUPPORT OF MOTION TO ALLOW JOHN PAGLINI, PSY.D. TO REVIEW NEWLY DISCOVERED EVIDENCE PRIOR TO GIVING TESTIMONY AT THE PARTIES' TRIAL; AND FOR RELATED RELIEF AND OPPOSITION TO COUNTERMOTION FOR ATTORNEY'S FEES

NOW INTO COURT comes Plaintiff, DAVID PATRICK STUCKE, by and through his Attorney of Record, Vincent Mayo, Esq., of The Abrams & Mayo Law Firm, and hereby submits his *Reply in Support of Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and for Related Relief and Opposition to Countermotion for Attorney's Fees.*

This *Reply and Opposition* is based upon the attached Memorandum of Points and Authorities, the attached Declaration of David Stucke, any and all pleadings and papers on file herein, and any further evidence or argument presented to the Court at the hearing of this matter.

DATED Friday, November 06, 2020.

Respectfully submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.

Vincent Mayo, Esq.
Nevada State Bar Number: 8564
The Abrams & Mayo Law Firm
6252 South Rainbow Blvd., Suite 100
Las Vegas, Nevada 89118
Tel: (702) 222-4021
Fax: (702) 248-9750
Attorney for Plaintiff

MEMORANDUM OF POINTS AND AUTHORITIES

I. REPLY AND OPPOSITION

Focusing on the pertinent issues with Christie's Opposition, David's position was not that the parties should be awarded joint physical custody. David made it clear at Court that he should be awarded primary custody based on Christie's manipulation of Sarah and attempts to destroy David's relationship with her. Dr. Paglini even stated in his report that this was a

concern. Dr. Paglini emphasized that if Christie has coached Sarah, including as to accusations of sexual abuse by David in an attempt to gain leverage in this matter, then the Court should award David primary custody. Dr. Paglini's report is replete with examples of why he is concerned about Christie's conduct, including statements from David, Sarah's mental health provider, CPS and Sarah's pediatrician. Hence, the issue related to the potential evidence in the video is not just "collateral to the matter" but directly at issue.

This trial is about what is best for the children and their long-term mental welfare. Christie making secrets about David is very concerning. The Court cannot forget that Christie's other three children have all been diagnosed with mental disorders, with one being an ongoing drug addict that is in and out of rehab. Clearly, Christie's parenting, and its effects on Sarah, must be addressed.

Christie may try and claim the custody case is "simple" but it is not. If it is, Dr. Paglini would not have produced an 88-page report. Further, this Court cannot take the easy road as Christie wants and default to custody. An award should be based on a thorough review of all the pertinent facts.

Christie's attempt to excuse her behavior by stating she is just an "overprotective parent" is not a valid excuse. Christie has consistently

taken Sarah to medical providers and contacted CPS based on the claim that David is sexually abusing Sarah. Repeated claims of sexual abuse by one parent against another is not simply a case of a "overprotective parent". What truly undermines Christie's position is that she is still refusing to state there was no sexual abuse by David in her Opposition. Christie even recently told David via OFW on September 8, 2020 in regard to David and inappropriate conduct towards Sarah, "Furthermore, it certainly makes me believe that you are trying to conceal activities of this nature with Sarah." This is Christie calling David a pedophile, NOT being overprotective. In addition, if Christie believes said abuse occurred, why is she requesting joint custody? The only answer is that Christie knows it did not and she is trying to keep the door open on this issue for leverage purposes. This makes the need to review and consider the video in question even more necessary.

The Court is well aware of Christie's game playing and lying to David and the Court, increasing the need to question Christie's behavior with Sarah against David.

Christie tries to distract the Court from the issue at hand by talking about David using the video to coach Sarah. If that were true, why doesn't Christie want Dr. Paglini or the Court to see the video?

///

Christie next claims the video David wants reviewed by Paglini would just be cumulative. David agrees if it was in regard to Christie being violent (as there is already unopposed evidence of that). However, the video in question involves Sarah having "secrets with mommy about daddy and that Sarah does not like having secrets. The conversation happens after Sarah complains about her itchy vagina. This is an ongoing theme and major concern for David.

Consideration of the short video (which is just a minute long long) will not result in undue delay as the parties are not back in front of the Court until December 9th, giving Dr. Paglini plenty of time to review the short video and formulate any thoughts on it. Being that the children's best interest are always paramount, it seems unreasonable to not have all relevant information considered.

Therefore, the video should be reviewed by Dr. Paglini and Christie's claim for attorney's fees denied.

III. CONCLUSION

Based upon the foregoing, and for the reasons set forth herein, David respectfully requests that the Court:

1. Allow Dr. Paglini to review the newly obtained video prior to testifying at the parties' Trial;

2. Allow Dr. Paglini to speak to Laura and/or David regarding the video prior to testifying at the parties' Trial;

3. Allow Dr. Paglini, if he deems it necessary, to meet with Christie regarding the video prior to testifying at the parties' Trial;

4. Deny Christie's claim for attorney's fees.

DATED Friday, November 06, 2020.

Respectfully submitted,

THE ABRAMS & MAYO LAW FIRM

/s/ Vincent Mayo, Esq.

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Nevada State Bar Number: 8564
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Email: VMGroup@TAMLF.com
Attorney for Plaintiff

DECLARATION OF DAVID STUCKE

I, DAVID STUCKE, am the Plaintiff in this action and declare that I am competent to testify to the facts in this Declaration. I have read the foregoing *Reply in Support of Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and for Related Relief and Opposition to Countermotion for Attorney's Fees* and know the content thereof; that the same is true of my own knowledge except for those matters therein stated on information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the referenced filing are incorporated here as if set forth in full.

I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the forgoing is true and correct.

DATED this 6th day of November 2020.

David Stucke

CERTIFICATE OF SERVICE

I hereby certify that the foregoing *Reply in Support of Motion to Allow John Paglini, Psy.D. to Review Newly Discovered Evidence Prior to Giving Testimony at the Parties' Trial; and for Related Relief and Opposition to Countermotion for Attorney's Fees* was filed electronically with the Eighth Judicial District Court in the above-entitled matter, on Friday, November 06, 2020. Electronic service of the foregoing document shall be made in accordance with the Master Service List, pursuant to NEFCR 9, as follows:

Fred Page, Esq.
Attorney for Defendant

/s/ Chantel Wade

An Employee of The Abrams & Mayo Law Firm

STUCKE-1024

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint **COURT MINUTES** November 06, 2020

D-18-580621-D David Patrick Stucke, Plaintiff
vs.
Christie LeeAnn Stucke, Defendant.

November 06, 2020 **12:05 AM** **All Pending Motions**

HEARD BY: Gentile, Denise L **COURTROOM:** Courtroom 03

COURT CLERK: Melissa McCulloch

PARTIES:
Christie Stucke, Defendant, Counter Claimant, not present
Fred Page, Attorney, not present
David Stucke, Plaintiff, Counter Defendant, not present
Vincent Mayo, Attorney, not present
David Stucke, Subject Minor, not present
Sarah Stucke, Subject Minor, not present

JOURNAL ENTRIES

- NRCP 1 and EDCR 1.10 state the procedure in district courts shall be administered to secure efficient, speedy, and inexpensive determinations in every action. Pursuant to Administrative Order 20-17, this Court may issue a decision on the papers.

COURT FINDS that Plaintiff filed a Motion to Allow Dr. Paglini to Review Newly Discovered Evidence Prior to Giving Testimony at the O Parties Trial; and for Related Relief; Defendant opposed and filed a Countermotion thereto and the Reply to the Opposition. All of these were set to be heard on 11/6/2020 on the Court's chambers Calendar. COURT has read and considered the papers on file herein.

COURT FINDS that discovery has closed, the report of Dr. Paglini has been generated, and the trial

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has commenced. COURT FINDS that just because there is a gap between trial dates, does not mean because another incident occurs that the Court should re-open discovery and allow new evidence to be submitted without properly permitting the opponent to pursue discovery in response to refute any allegations, inferences, or conclusions the Plaintiff expects the Court and/or the expert to make with this information.

The Court will permit a line of questioning of the incident, if Dr. Paglini were to learn of this type of an incident would it change his opinion, or if he were to view such a video would it make a difference, but otherwise, there is no need to re-open discovery, cause Dr. Paglini to prepare an errata or addendum to his report, for this particular piece of information that may be addressed in open court.

Family Court cases are fluid and the facts are ever-changing, but we still must follow the rules, and create deadlines, so that the parties understand their universe of facts, (i.e., what facts they may present and against what facts they must defend). Notice and Opportunity to be heard is the basic tenet of due process, and in this case, to allow this request would prejudice the defendant, if the matter were still to proceed on December 9, if the Court were to provide the proper opportunity to pursue discovery in response to the newly discovered evidence, it would delay the trial and prejudice the parties. This matter shall proceed on December 9, 2020.

In this regard, the Motion filed by Plaintiff is hereby DENIED.

CLERK'S NOTE: On 11/9/20 a copy of the Court's Minute Order was provided to each Attorney via email, if an email address is on record with the Court; if no email address is available then the Minute Order was mailed to the physical address of record. (mm)

FUTURE HEARINGS: December 09, 2020 9:00 AM Non-Jury Trial
Gentile, Denise L
Courtroom 03
McCulloch, Melissa

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CLERK OF THE COURT

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EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION

CLARK COUNTY, NEVADA

DAVID STUCKE, Plaintiff, v. CHRISTIE STUCKE, Defendant.	CASE NO. D-18-580621-D DEPT NO. F Date of Hearing: 9/10/2020, 12/09/2020 12/10/2020, 12/11/2020, 12/17/2020

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

THE ABOVE MATTER having come on regularly for Trial before the Honorable Judge DENISE GENTILE, for non-jury trial with Plaintiff, DAVID STUCKE ("Plaintiff" or "DAVID"), having appeared personally, and by and through his attorney, VINCENT MAYO, ESQ., and Defendant, CHRISTIE ("Defendant" or CHRISTIE"), having appeared personally by and through her attorney of record, FRED PAGE, ESQ. The Court heard the evidence of the witnesses sworn and examined in open court, which included the parties, Christie and David and John Paglini, PsyD. This Court had the opportunity to assess the demeanor and credibility of the witnesses. The Court examined documentary exhibits admitted into evidence - Plaintiff's Exhibits 1(b), 2, 12(a), (b), and ©, 13-16, 21, 22, 26, 27, 29, 33-37, 39-42, 43(a) and (b), 44, 45(a) and(b), 46 (a) and (b), 47-50, 69, 86, 87, 121, 135, 136, 139, 140, 142, 153, 182, 184, 192, 194-198, 202, 204, 206, 207, 207(a), 208 - 217 were admitted; Defendant's Exhibits A-E were admitted. Being advised as to the law in this case and good cause appearing, this Court renders its decision, as follows:

I.

HISTORY OF THE CASE

THE COURT FINDS that the parties were married on May 28, 2016. The parties have two children, Sarah Stucke, born July 22, 2016, age 4, and David Orion Stuck, born March 30, 2018, age 2. COURT FINDS that David filed this action on November 28, 2018. An Answer was filed by Christie on December 13, 2018. COURT FINDS that this matter was hotly contested and

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

Statistically closed: USJR-FAM-Judgment Reached (Bench Trial) (Close Case) (UJR)

litigated with various motions, discovery disputes, numerous hearings in front of the Court, which included custody, support orders, and related interim issues pertaining to the parties. The parties were not sent to mediation because a joint physical custody schedule was entered by the TPO hearing master, which was confirmed and adopted by this Court. The Court heard various motions entered temporary family support orders, based upon the representations made by the parties as to their financial situations. The case was set for trial after 2 years of discovery and litigation, and this Decree follows:

Preliminary Findings

THE COURT HEREBY FINDS that the Court, as part of the process in formulating the decision, listened to the testimony of witnesses and reviewed the Exhibits offered by the parties that were admitted into the record. THE COURT FURTHER FINDS that the issues before the Court included child custody, child support, the division of assets and debts, confirmation of separate property, and attorney's fees.

The COURT FURTHER FINDS it is to the satisfaction of the Court that the parties are residents of Nevada, as it was undisputed they have lived in the state of Nevada, and based upon the parties' testimony, it is to the satisfaction of the Court that residence is established at least six (6) weeks prior to the commencement of the action.. THE COURT HEREBY FINDS that it has jurisdiction over these parties and the subject matter. THE COURT FURTHER FINDS that the parties are incompatible, with no possibility of reconciliation.

TERMINATION OF THE PARTIES' MARRIAGE

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the bonds of matrimony existing between Christie and David be, and the same are wholly dissolved, and an absolute Decree of Divorce is hereby granted to Christie and David, and each of the parties is restored to the status of a single, unmarried person.

CUSTODY

COURT FINDS the parties have two children, born of this marriage, Sarah Stucke, age 4, and David Stucke, age 2. COURT FINDS the applicable statutory authority that governs this case is as follows:

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

NRS 125C.001 State Policy. 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 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.

LEGAL CUSTODY

COURT FINDS that NRS 125C.002 provides the court with its authority for establishing joint legal custody, as follows:

1. When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if:
(a) The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or
(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.
2. The court may award joint legal custody without awarding joint physical custody.

COURT FINDS the neither party presented a case to overcome the presumption that it is in the children's best interests for the court to order joint legal custody; therefore, IT IS HEREBY ORDERED that each party is awarded Joint Legal Custody of the minor children.

PHYSICAL CUSTODY

NRS **125C.0025 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

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

(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.

NRS 125C.0035 Best interests of child: Joint physical custody; preferences; presumptions when court determines parent or person seeking custody is perpetrator of domestic violence or has committed act of abduction against child or any other child.

1. In any action for determining physical custody of a minor child, the sole consideration of the court is the best interest of the child. If it appears to the court that joint physical custody would be in the best interest of the child, the court may grant physical custody to the parties jointly.
2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.
3. The court shall award physical custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:
(a) To both parents jointly pursuant to NRS 125C.0025 or to either parent pursuant to NRS 125C.003. If the court does not enter an order awarding joint physical custody of a child after either parent has applied for joint physical custody, the court shall state in its decision the reason for its denial of the parent's application.
(b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.
© To any person related within the fifth degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.
(d) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

The Nevada Supreme Court has held that in custody matters, the polestar for judicial decision is the best interest of the child, the court has broad discretion. The Supreme Court has held that the district court must make specific findings and provide an adequate explanation of the reasons for a child custody determination, and must tie it to the best interest factors enumerated by statute, and any other relevant factors relevant to the determination. *Davis v. Ewalefo,* 131 Nev. Adv. Op 45, 352 P3d 1139 (2015).

COURT FINDS that the parties shared joint physical custody during the pendency of the action. COURT FINDS that David and Christie could not agree on the final custodial orders and thus, the Court granted permission for Dr. John Paglini to conduct a child custody evaluation, at David's request. COURT FINDS that after a lengthy period of conducting the evaluation; the custody evaluation was completed on July 27, 2020; including the national pandemic, several factors delayed the divorce trial, but the Court was finally able to hear testimony from Dr. Paglini at the second day of the parties' divorce trial conducted on 12/09/2020. COURT FINDS that Dr.

Paglini's report was admitted as evidence, Plaintiff's Exhibit 207(a). COURT FINDS that Dr. Paglini's report was 88 pages and very detailed as to his findings and recommendations. COURT FINDS that it adopts Dr. Paglini's findings and recommendations, as though set forth fully herein. Dr. Paglini's report and testimony were CREDIBLE and are fair and even-handed when evaluating the parties, their behaviors, and what is best for the parties' minor children.

Based upon the FINDINGS OF FACT, the Court makes the following CONCLUSIONS OF LAW AND ORDERS:

NRS 125C.0035(4) states: In determining the best interest of the child, the court shall consider and set forth its specific findings concerning, among other things:

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

Based upon the foregoing Court FINDS there was no testimony presented about this factor, and therefore inapplicable.

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

Neither party presented evidence of this factor. This factor is inapplicable.

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

Again this Court adopts the findings of Dr. Paglini on this issue. The Court is aware of the struggles experienced during this case and the difficulty the parties have had co-parenting. COURT FINDS that the most concerning was the continued theme learned about Christie in her efforts to gain leverage or control in the custody proceedings. COURT FINDS that Christie made various allegations against David, all in an attempt to gain an advantage, but none of which was substantiated. COURT FINDS that Christie made allegations to denigrate David's image with the Court, such as he was a cheater, that he raped her, that he was a pedophile, but also admitted in some regards that he was good with the children. COURT FINDS that the context of each of such allegations tended to occur when she was unable to gain ground in the divorce action, or there were questions relating to her financial dealings, thus detracting the focus from what would otherwise have been directed to the parties' money issues. COURT FINDS that Dr. Paglini's report addresses this issue extensively in his factual recitation of the numerous reports of the parties regarding the

above issues. COURT FINDS that Dr. Paglini asserts and this Court ADOPTS that if David Stuck truly were a pedophile or did in fact abuse his daughter, this would have serious ramifications on the custodial recommendations and ultimately the orders. COURT CONFIRMS that there was no evidence presented at trial to suggest that David was a pedophile, and Dr. Paglini's observation of the children with their father indicated they were very bonded, while this would have been the opportunity to observe discomfort of an issue between David and his daughter. COURT FURTHER FINDS that Dr. Paglini asserts and this Court ADOPTS that if Ms. Stucke created sex abuse claims or rape allegations for secondary gains, this would be the ultimate act of parental alienation, and the Court would clearly give David primary custody. COURT ALSO FINDS that there is evidence that Christie has a history of making similar allegations in her prior divorce with the father of her elder children, which calls into question her credibility. However, her ex-husband was unwilling to disparage Christie or offer negative testimony about Christie as he indicated to Dr. Paglini that he and Christie have a good relationship now, and that she is a good mother. But, there was a point when the relationship was not so cooperative.

While David attempted to utilize these findings by Dr. Paglini as a reason to seek primary custody, Dr. Paglini testified that while the allegations of sexual abuse may not have been substantiated, it does not mean that Christie reported it out of spite, but could have reported it because she believed her daughter, as parents want to believe their children, and certainly do not want to be in a position where they have chosen to ignore their children's claims of abuse, and then it turns out to be true, so parents WANT to believe their children. COURT FINDS in conclusion, that neither law enforcement, investigative agencies, nor Dr. Paglini or the Court could find that any of such allegations were true. In this regard, this Court FINDS that it could find neither scenario to be presented in the evidence admitted at trial. As it relates to this factor, there were copious amounts of facts included in Dr. Paglini's report, and this Court adopts them herein. This factor does not favor either party. See Dr. Paglini's report, Exhibit 207(a).

(d) The level of conflict between the parents.

COURT FINDS that there is a high level of conflict between the parties at this time, due to these proceedings; however, this Court believes once the case has concluded, the level of conflict

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

should subside to a degree, as this litigation has played a role in the parties' acrimonious relationship. COURT FINDS that the Court's Orders should establish parameters within which the parties shall function, and there should be a reduction in conflict and also instruction for those behaviors the parties should avoid in the future, in order to reduce conflict. Dr. Paglini acknowledged that Christie has demonstrated her dislike for David, and has expressed so in front of the children, and has expressed that if it continues, it would be a hindrance to the parties' ability to co-parent moving forward. This factor favors David. See Dr. Paglini's report, Exhibit 207(a).

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

Other than the acrimony in the parties' divorce, and the issues that have been identified herein and in Dr. Paglini's report, COURT FINDS that historically, both parties have been able to cooperate to meet the needs of the minor children, as evidenced by the testimony at trial.

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

There was a concern for Christie's mental health as Dr. Paglini referred to her emotional dysregulation and the increased dysregulation over time when she was upset with David, when she was jealous or angry with David; COURT FINDS that there is concern for Christie's assaults on David and her continued disparagement of David in the presence of the children which could have lasting effects on the children. COURT FINDS that Dr. Paglini indicates Christie is not aware of the impact this behavior would have on the children, and needs to be more mindful of the same. Dr. Paglini noted that David tended to video record certain incidents with Christie that caused the situation to escalate, and cause additional frustration. COURT FINDS that said behavior of each party was intended to prove a point, and caused frustration to the other party, without concern for how this would affect the children. COURT FINDS that Dr. Paglini determined David appreciated the impact this could have on the children, while Christie chose to focus on blaming David for instigating the incidents. COURT FINDS that Dr. Paglini reports Christie also has admitted she has borderline personality disorder - sufferers of such disorder tend to be a challenge in relationships as they are emotional over-reactive or dysregulated, over idealize and devalue very quickly. COURT FINDS that Dr. Paglini's recommendation is that whether Christie suffers from Borderline Personality or not, she needs to learn to regulate her anger/emotions and to express

herself in a more appropriate manner, and should be addressed in therapy (this will be addressed herein below in the Orders). While Dr. Paglini did not identify specific mental health factors that would prevent either parent from being able to parent the children, Dr. Paglini raised issues of concern that if continued to be present or if increased may support a change in custody in the future. See Dr. Paglini's Report, Exhibit 207(a).

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

COURT FINDS that it needs to reiterate the concerns raised herein about the issues that exist with the emotional dysregulation of Christie, and the continued acrimony that exists between both parents, to the extent that the children are potentially pawns in the process. COURT FINDS that while neither party demonstrated that either was incapable of providing the children what they need on a day to day basis, physically, developmentally, emotionally, as a loving and caring parent, each parent has behaved in such a way during this process and while in the process of the dissolution of their relationship, that neither took into consideration that the triggering of the other would create tension and behavior in the household to be witnessed by the children, NOT meeting the children's emotional needs, but putting their own needs to win, gain an advantage, or prove a point came first. Does this Court believes that each parent loves the children, yes. Does this Court believe each is capable of meeting the physical, developmental and emotional needs of the children, yes. Dr. Paglini's report indicates that each is a good parent, the children love their parents, and the children are cared for, despite the negative interaction between the parents. COURT FINDS that this factor does not favor either parent, but CAUTIONS both parents to be mindful of the fact that while you may be able to feed, clothe, educate, and care for the children on a daily basis, their emotional needs are important, and often the effects of your misconduct toward each other causes an intangible effect that will come to light in later years, while the children are attempting to conduct themselves in relationships, either familial or romantic type relationships. You are your children's role models; straighten up and act like the two highly intelligent individuals capable of understanding that a moment of indiscretion or inappropriate behavior may affect your children for a lifetime. See Dr. Paglini's Report, Exhibit 207(a).

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

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

Based upon the testimony, and the report of Dr. Paglini, COURT FINDS the relationship of the children with their parents is good. There was no evidence presented by either parent to suggest otherwise, and Dr. Paglini indicates that during his observations the children were comfortable and bonded with their parents.

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

COURT FINDS there are no other minor siblings; therefore the ability of the children to maintain a relationship with any sibling is a non-issue, as these children remain together in the custody schedule. COURT FINDS that Christie has children who are much older than the children in this case and Christie is able to ensure the younger children maintain relationship with their elder siblings during her timeshare.

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

COURT FINDS that while there have been multiple reports to CPS and a criminal investigation, there was no evidence presented related to abuse or neglect of the children. This factor is inapplicable.

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

COURT FINDS there have been allegations of domestic violence by each party. COURT FINDS that David pled no contest to a battery domestic violence case, and there was much evidence presented to Dr. Paglini of Christie's volatile and violent behavior. COURT FINDS that even with this behavior, Dr. Paglini concluded that this should not preclude either party from having custody. This factor does not favor either party.

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

COURT FINDS that there was no evidence presented regarding this factor, and is inapplicable.

Based upon the foregoing FINDINGS, the Court states its ORDERS as follows:

IT IS HEREBY ORDERED that David and Christie are awarded Joint Legal and Joint Physical Custody of the minor children, to wit: Sarah Stucke and David Stucke. Based upon the

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

recommendations of Dr. Paglini, the Court FURTHER ORDERS that the parties shall share the children on an approximately 60/40 time share. COURT ORDERS that David shall have the children each week from Monday at 8 a.m. to Friday at 8 a.m., Christie shall have the children from Friday at 8 a.m. to Monday at 8 a.m. David shall also have the 3rd weekend and the 5th weekend of the month (if there are 5 weekends in a given month), from Friday at 8 a.m. to Monday at 8 a.m., and Mom shall have the children from Monday at 8 a.m. to Wednesday at 8 a.m. of the week following David's weekend. The 3rd weekend shall be defined by the weekend that has the 3rd Friday of the month. COURT ORDERS that the parties shall share the children on a week on/week off basis during the summer months, starting the first Friday of the children's summer school break; the schedule shall continue until the weekend before the children return to school, at which point their weekly custody schedule shall be reinstated. The children shall be with David the first week after school ends, in odd years, and shall be with Christie the first week after school ends in even years. COURT ORDERS that the parties shall take their respective vacations during the summer months, and during their own custody time, and shall be no longer than one (1) week, unless otherwise agreed by the parties. If the parties agree to extend vacation longer than the one week as stated herein, they must do so in writing, and provide the other with compensatory time for the time missed, to be exercised immediately after the children return from vacation.

IT IS FURTHER ORDERED that David and Christie will alternate the holidays, and adhere to the following holiday schedule (if the holiday is not addressed herein, the holiday shall be exercised by the person who has the children on that date, unless otherwise mutually agreed by the parties, for any given holiday):

EXTENDED HOLIDAYS	**ODD YEAR**	**EVEN YEAR**
Thanksgiving: The holiday visitation shall begin the day school ends for Thanksgiving break (or 3:00 p.m. if the children are not in school) and continue until the day school is scheduled to resume (or 9:00 a.m. if the children are not in school).	Dad	Mom

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

Christmas/Winter Break: Winter break shall be divided between the parents, with the first block of time commencing when school ends for the Winter Break (or 3:00 p.m. if the children are not in school), and continue until the mid-point of the Winter Break at 12:00 p.m.. The second block of time shall commence on mid-point at 12:00 p.m. and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). If the break has an odd number of days, the second half of the break shall receive the extra day. First Block Second Block	 Mom Dad	 Dad Mom
EXTENDED HOLIDAYS, contd.	**ODD YEAR**	**EVEN YEAR**
Spring Break: The holiday visitation shall begin on the day school ends before the break (or 3:00 p.m. if the children are not in school) and continue until the day school is scheduled to resume (or 9:00 a.m. if the children are not in school).	Dad	Mom

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

CHILD SUPPORT

COURT FINDS that child support should be set pursuant to NAC 425 and the applicable NRS 125B. COURT FINDS David's most recent financial declarations, amongst other testimonial evidence, demonstrate a gross monthly income of $8,333 per month. Pursuant to NAC 423, applying the formula to David's income, twenty-two percent (22%) of David's gross monthly income is $1,833.26. COURT FINDS that Christie's most recent financial declaration from 9/2020 shows that she earns $4,100 per month, her financial declaration just prior to that which was served but never filed (and much more detailed and likely more accurate from the perspective of reporting from where her income is generated) indicates that she earns $7,228 gross monthly income; the prior filings had incomes of $4,100 (2/2019), $7,021 (4/16/2019), and $6,221 (4/23/2019).

COURT FINDS that it is almost impossible to discern what is actually Christie's monthly income. Christie is a master of moving money between accounts, utilizing cash on hand, categorizing personal expenses or paying personal expenses through her various business entities, receiving income for one business entity but running it through a different entity, and frankly, making a difficult accounting task almost insurmountable from the Court's perspective. What is obvious from the information provided is that Christie does not accurately report her income on her financial disclosure forms, as the figures provided do not match the cash withdrawals from the various bank accounts owned by Christie, COURT FINDS that while Christie is willing to admit to an income of $7,223 on February 2020 and various other numbers in that range until just prior to trial in September 2020, the Court FINDS that Christie is able to earn at minimum the same amount of income as David based upon the disclosures and the withdrawals, and thus the Court shall attribute the same amount of income of $8,333 to Christie for purposes of calculating child support. COURT FINDS that Christie's child support shall be set at $1,833.26 per month; and when applying the formula which requires the parties to offset each party's child support against the other, then the child support amount in this case shall be ZERO. IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that NEITHER PARTY shall pay child support to the other.

CHILDREN'S HEALTH EXPENSES

IT IS FURTHER ORDERED, ADJUDGED AND DECREED the cost of the minor children's medical insurance premium shall be paid by David, and said premium shall be shared equally by the parties. IT IS FURTHER ORDERED that each party shall pay one-half (½) of all the reasonable and necessary medical, surgical, dental, orthodontic, psychological, and optical expenses of the minor children not paid by any medical or other insurance covering the minor children. Each party shall be responsible for the payment of his or her share of such expenses, regardless of which party actually pays or incurs such expense, and the party actually paying any such expense shall be reimbursed by the other party for his or her one-half (½) share of the same, in accordance with the 30/30 rules. In this regard, within thirty (30) days from the date either party actually incurs and pays for any such medical related expense for the minor children, such party shall provide the other party with the appropriate billing statement and written verification of such

expense, and such party also shall provide written verification of his or her actual payment of the same. Any such reimbursement required pursuant to the terms of this provision shall be paid within thirty (30) days of the party's receipt of the other party's written request for reimbursement which includes the above-mentioned written verification of such expense having been incurred by the other party, as provided above. IT IS HEREBY ORDERED that if a receipt or request for reimbursement is not tendered within thirty (30) days, the court may consider it a waiver of right to reimbursement. IT IS FURTHER ORDERED that if there is no dispute, or payment, of a reimbursement within the prescribed thirty (30) days, the obligated party may be subject to a finding of contempt and appropriate sanctions.

TAX EXEMPTIONS

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Christie shall be entitled to claim Sarah as a dependent on her tax returns, and David shall be entitled to claim David Orion, as a dependent on his tax returns. When the eldest child reaches the age of majority, then the parties shall alternate claiming David until such time he reaches the age of majority. In the event the current custodial arrangement changes, the COURT retains jurisdiction to modify this provision, as appropriate, so that it properly reflects which party should receive the exemption, pursuant to I.R.S. Tax Code. COURT FINDS that if either party is unable to utilize the child on his/her tax return, the parties may STIPULATE to the transfer the right to claim the children in any given tax year; if the parties do so, the party transferring the right to claim said child shall sign the necessary forms required to transfer the dependency exemption, if required.

LEGAL AUTHORITY REGARDING DIVISION OF ASSETS

THE COURT HEREBY FINDS that this Court considers the following statutory guidance in evaluating the parties' competing property claims. First, Chapter 123 of the Nevada Revised Statutes governs the property rights of a husband and wife. NRS 123.130 defines separate property of a wife and husband while NRS 123.220 defines community property. NRS 125.150 governs the adjudication of property rights, requiring an equal division, unless compelling circumstances exist which warrant a different division. THE COURT FINDS that each party alleged in his/her Complaints that there is community property, owned by the parties.

COMMUNITY PROPERTY AND SEPARATE PROPERTY

THE COURT FINDS the parties have the following assets to be adjudicated by the Court:

3485 W. Maule Ave., LV, NV (West Maule):

COURT FINDS this property was purchased in July 2015 by David during the parties' domestic partnership. COURT FINDS that David argues that he signed a contract in March and thus the property was his sole and separate property; however, the closing date for the purchase was on July 28 2015. COURT FINDS that the date the property was acquired was during the domestic partnership and the presumption is that the property acquired during this period is community in nature. COURT FINDS that David argues several theories about the parties' intent, but provides no independent evidence of these theories that he was to maintain the property as his own, prior to the marriage, that the domestic partnership was not to have the legal effect that a partnership applies to property acquired during the same, etc. David's argument fails, as the property was purchased during the domestic partnership, the parties then married, and there is no legal writing or contract, pre-nuptial agreement or post-nuptial agreement indicating that this presumed community property was anything other than a community asset.

COURT FURTHER FINDS that the parties stipulated on March 2020 that David was to purchase Christie's interest in the property, and said purchase was to be based upon the stipulated value of $500,000. COURT FINDS that Christie argued that the home was worth more than this amount at the time of trial, and that she should be bought out at the higher value, but this COURT FINDS that the stipulation is enforceable pursuant to EDCR 7.50, as consent was given by both parties in the minutes for this amount to be applied to the value of the property, when David is to purchase Christie's interest. There was no time frame or expiration date for the stipulated agreement. COURT FINDS that there was a delay in David's refinance of the home, due to Christie's failure to pay the mortgage, leaving David with a problem with his application. Throughout the proceedings, Christie failed to vacate the residence claiming she had no funds to relocate, despite evidence in the record demonstrating that she continued to gamble consistently; she claimed there were no movers, she claimed that she did not have to execute the quitclaim deed,

and intentionally delayed David from moving into the residence and refinancing the loan. COURT FINDS the property is a community asset, acquired during the parties domestic partnership. COURT ORDERS that the David shall be awarded the W. Maule home, and he shall owe Christie one-half of the net equity interest in the home, as of the date of this Decree of Divorce; David shall pay Christie said one-half after he deducts those amounts paid on her behalf for the mortgage and the van.

(*COURT NOTES that David argued the property should have had a *Malmquist* calculation applied to the home, as he argues 1) that he "purchased" the property in March 2015 prior to the domestic partnership 2) that the home was intended to be his separate property until the parties married 3) that there would only be a small share of the home awarded to Christie based upon these arguments. COURT FURTHER FINDS that the Court was not provided a *Malmquist* calculation for the date of trial, and was only provided Exhibits attached to the Pre-Trial Memorandum with a summary of the calculation, and no underlying documentation to support the figures therein. A brief review of the same, show that the figures do not match the mortgage statements for opening loan amount or ending loan balance at time of trial.)

7211 Birkland Court, **LV, NV** ("Birkland Court")

COURT FINDS that David purchased a home during the marriage at Birkland Court. David testified that the funds came from a pre-marital retirement account, and this Court FINDS this representation credible, especially based upon the parties' conduct thereafter. COURT FINDS that David would own this home with his friend, Jonathon Morrell as his own separate investment. COURT FINDS that David testified that his partner refused to purchase the property with Christie, so he ensured that the entirety of the transaction did not include Christie. COURT FINDS that Christie contended that the reason for the purchase being in David's name was due to her bad credit. David contends that the home was purchased free and clear, and thus the argument that credit was an issue is NOT CREDIBLE. COURT FINDS that Christie executed the documentation for the home to be vested in the name of David, as his sole and separate property, and he and Mr. Morrell purchased the home on April 13, 2018. COURT FINDS that the property was purchased for the business purpose of rental through AirBnb and the property was transferred into an entity

called JD Investments, LLC, which was created during the marriage, but COURT FINDS that because the entity was created for the purpose of the partnership entered into by David and Mr. Morrell. COURT FINDS that Christie argues that because the entity was opened during the marriage, and the property already owned by David was transferred into the entity, that this transmutes the property BACK to being a community asset because the entity was formed during the community. COURT FINDS that this shift in the titling of the asset from David as an individual, as his sole and separate property to an entity where the ownership interest is held by David, does not change the character of the separate property, but merely a vehicle for the two owners of the property to take advantage of the protections afforded by the LLC; the entity would be utilized to manage the expenses, document their business arrangement and ownership percentages of the property, the agreement for distribution of profits related to their ownership, as well as being able to deduct the expenses and utilize the tax benefits associated with holding the property in an LLC. This is no different than transferring property to a family trust for estate planning purposes, and the property is identified by the trust as separate property asset. The character of the separate property asset does not change because a trustor takes advantage of the estate planning vehicle. Christie waived her rights and interest in the property. David held title as his sole and separate property and then later held his interest in the LLC, in which the property was the only asset. *Colman v. Collier* (In re Colman Revocable Living Trust), 136 Nev Adv Rep 13, 460 P.3d 452 (2020), *Sprenger v. Sprenger,* 110 Nev. 855, 858, 878 P.2d 284, 286 (1994). If David shared with Christie the profits therefrom, then that was a gift to the community. Christie argued that the parties shared in the responsibility for the property, and that she participated heavily in the maintenance and booking of the property, thus it was and intended to be a community asset. COURT FINDS that there was no evidence that the community was owed money from improving the property or to maintain the property.

Christie testified that the parties devoted time, energy, community money, to maintain the property, but no independent evidence was presented about what amounts of community monies were allegedly expended that would demonstrate the community was owed or somehow there was a transmutation of the property, and therefore any claims of this nature are not credible and cannot

be sustained, and are hereby DENIED. In this regard, David is entitled to the proceeds from the sale of the residence.

3740 Grandview Place, LV NV ("Grandview")

COURT FINDS that another home was purchased during the marriage, in October 2017, at Grandview. COURT FINDS title is held by David as a married man, as his sole and separate property. COURT FINDS takes judicial notice of the fact that in Nevada, in order for a married man to obtain title in real property as his sole and separate property, the wife must sign a deed relinquishing all right, title and interest in the said property, as escrow will not close without her waiver of her community property interest. COURT FINDS that the title of the property for the Grandview residence was vested in David, a married man, as his sole and separate property. Any and all interest in the monies put into the home for down payment as of the date of the purchase would have been waived at the time of the transaction. COURT FINDS that there was testimony from David that the money utilized to purchase the residence were from separate property sources. COURT FINDS that while David was only able to trace some of the funds which were utilized to purchase the home, his testimony and the tracing of which only confirms that the intent was for the property to be David's separate property. COURT FINDS that there was no credible evidence of a credit problem or other reason as to why the home would be put into David's name solely, but still intended to be community property. COURT FINDS that there was no evidence presented at the time of trial that any additional community monies were used to satisfy the debt on the residence, that would have created a claim for community interest. Further, COURT FINDS that if the down payment were in excess of $80,000 and the sales proceeds were less than the down payment in the amount of $63,077.55, then the entirety of the proceeds from the Grandview residence should be awarded to David. IT IS SO ORDERED.

Business Interests

ACTION RAD, ATOMIC RADIOLOGY, AND PCCG

COURT FINDS that the parties testified there were three businesses which were owned an operated by the parties. COURT FINDS that Atomic Radiology contracted with physicians and medical imaging centers to provide imaging services. COURT FINDS that the two other

businesses were software vendors for the software utilized by clients of Atomic Radiology. COURT FINDS these three businesses were historically Christie's source of income and were profitable. COURT FINDS that unfortunately Christie threatened and it appears made good on the threat that she would ensure David did not receive anything from the businesses. COURT FINDS that during the pendency of the proceedings this Court had difficulty discerning what was Christie's actual income for purposes of child support, and at trial it was no different. COURT FINDS that the difficulty lies in the fact that the accounting for the businesses was not completed by Christie. There were accusations of theft of hard drives and deleting pertinent information. COURT FURTHER FINDS that Christie tended to utilize the business accounts as both business and personal, with transactions occurring between accounts, in casinos, ATM machines, to pay personal expenses, making it almost impossible for the Court to discern what is business income, what is personal income, what are business expenses versus personal expenses. COURT FINDS that the businesses are alter-egos for Christie, as she failed to maintain the separate nature of the entities from her personal transactions. COURT FURTHER FINDS that there were no business valuations presented for the Court to be able to determine a value of the businesses for purposes of dividing the assets or awarding Christie ownership and ascribing an amount for Christie to purchase the business interest from David. In this regard, the Court has no alternative but to award a 50% interest in the business interests to each party. COURT HEREBY ORDERS that the parties each shall be awarded the 50% interest in the entities created during the marriage. COURT FURTHER FINDS that there was some concern that Christie would commence a new business under a new name and attempt to transfer the business away from the current entities to a new entity. COURT CAUTIONS Christie that if this occurs, and it is brought to the Court's attention, the Court may deem such entity to be the same business and a fraudulent effort to divest David of his ownership interest in the same. COURT NOTES, should David choose not to be associated or retain his ownership interest, he has the right to relinquish the same in writing and divest himself of any interest in the businesses, but the Court cannot do so within the decree, as there is no other way to divide the assets presently held by the parties. If David retains his ownership interest, Christie has a fiduciary obligation to her partner and must conduct the businesses in this regard.

MARITAL WASTE

COURT FINDS that David alleges there is marital waste in the amount of thousands of dollars in excess of $100,000. COURT FINDS that David spent inordinate efforts to attempt to clarify this for the Court with the various spreadsheets and financial statements prepared with the information he obtained during discovery, but even then it was difficult to differentiate, as during testimony, it was clear that some of the statements lacked requisite information for the Court to reach a reasonable conclusion (i.e. there were statements presenting purported business profit, but lacked any information relating to business expenses). COURT has reviewed the records prepared by David, and takes into account that David is not a trained professional in this area, but has a mathematical background. COURT FINDS that while it appreciates the efforts expended by David in his preparation of financial statements with the assistance of his girlfriend who is in the accounting field, the Court cannot find that they are reliable for purposes of making a finding of marital waste. While the Court CAN make the finding that Christie functions in such a manner that causes this Court to question all of her financial dealings - unfortunately those financial dealings were not put to the test by an expert who could have evaluated the records. COURT FINDS that the information provided by David definitely convinced this Court that Christie had access to funds in excess of what she presented to the Court at the time of the interim hearings, but it is impossible for this Court to discern what Christie did with the money, what money was transferred between businesses, what paid for personal expenses, and what was utilized by Christie for this venture of advantage gambling, or just recreational gambling. COURT FINDS that Christie's credibility is questionable as it pertains to her representations, as the Court can plainly see that Christie continued to withdraw cash from the business; she did so in gaming establishments, and then expects the Court to believe she did so to pay business expenses. This Court rejects such a notion. HOWEVER, the Court cannot be tasked with performing its own accounting of those transactions within the financial statements, to make a determination as to which transactions were personal, business, gambling, without an expert forensic accounting of said transactions. COURT AGREES with the representations made by Christie's counsel that this Court is unable to make the finding, after a review of the documents admitted into evidence, to determine the actual amount of waste.

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

STUCKE-1045
Docket 82723 Document 2021-30623

In this regard, while the Court believes there is likely wasteful spending and potential concealment of monies by Christie, he Court must DENY the claim for recovery of a sum certain of wasted funds. COURT FINDS however that the evidence supports the Orders that Christie be responsible for the expenses of the business, any tax ramifications associated with the business, as she has been the party solely operating the business, as well as the party who has sole access to the funds received by the business, which she used for her sole support and enjoyment, and did not utilize for purposes of paying community expenses, as ordered by the Court.

VEHICLES

Each party shall hereby be awarded the vehicle in his/her possession.

FINANCIAL ACCOUNTS

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Christie shall be awarded any and all financial accounts titled in her name solely (each party utilizes his/her own accounts to function and pay bills on a monthly basis based upon this Court's distribution of community income, so the value of these accounts vary from day to day).

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that David shall be awarded any and all financial accounts titled in his name, including,(each party utilizes his/her own accounts to function and pay bills on a monthly basis based upon this Court's distribution of community income, so the value of these accounts vary from day to day).

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that any and all retirement accounts shall be divided pursuant to the time rule, pursuant to *Gemma* and *Fondi*. COURT FINDS that it did not receive independent documentary evidence of the actual value of the retirement accounts which may be presently owned by the parties, but reference was made to the same, and thus, they acknowledge the accounts were in existence at the time of the trial. In this regard, the parties shall divide equally any and all retirement accounts COURT ORDERS that David's counsel prepare the requisite orders necessary to effectuate the division of said retirement account(s).

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FURNITURE AND FURNISHINGS

THE COURT HEREBY FINDS that neither party made any specific claims regarding the furniture and furnishings in either party's possession. COURT FINDS that certain property has already been divided by the parties, and there are certain furniture and furnishings remaining in the marital home. COURT FINDS that if the parties are unable to reach a resolution within 10 days of the date of this Decree of Divorce, then this Court hereby modifies its prior orders and orders David shall inventory all of the property owned by the parties (those in Christie's and David's possession), and prepare two lists A and B, with as equal a value as possible without having to have the properties valued. COURT ORDERS that David shall provide these two lists to his counsel within 30 days of the date of this Decree of Divorce, and Christie will be entitled to choose the list she desires to keep, and David will be left with the items on the remaining list. COURT ORDERS that Christie must make her selection within 7 days of receipt of the lists. Should she fail to make her selection in writing, then David will be entitled to choose the list he desires. COURT FINDS that the parties shall arrange with counsel the exchange of any items not already in his/her possession.

REMAINING PERSONAL PROPERTY

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that each party shall be awarded their individual clothing, shoes, accessories, jewelry, personal memorabilia and related personal property, already in his/her possession, or which may remain in the possession of the other. David has raised his desire to have his personal possessions returned, many of which have been resolved. David claims there remain items in Christie's possession, which she disputes. Christie is ORDERED to return any and all personal items, memorabilia, jewelry and effects which are in her possession, when she locates them.

DEBTS AND OBLIGATIONS

COURT FINDS the following debts are owed by the community:

TAX LIABILITIES

THE COURT FURTHER FINDS that debts and obligations accumulated during a marriage are community in nature. *Wolff v. Wolff*, 112 Nev. 1355 (1996); *Fuller v. Fuller*, 106 Nev. 404

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

(1990); NRS 125.150(1)(b). COURT received no independent evidence as to the extent of what is or potentially may be the parties' income tax debt and therefore this Court is unable to specifically identify the amount which may be owed by the parties and who should assume said obligations. COURT ORDERS that each shall be entitled to file his/her own tax returns for the tax year 2021. Any tax filings prior to that tax year, if not already filed, shall be filed in the manner in which the parties deem appropriate for themselves individually or jointly.

CREDIT CARDS

COURT HEREBY ORDERS that each party shall assume, pay, indemnify and defend any and all debt currently owed, in his/her name solely, or incurred on his/her behalf.

CHRISTIE'S FAILURE TO PAY THE W. MAULE MORTGAGE AND VAN PAYMENT

COURT FINDS that Christie unilaterally stopped paying her portion of the monthly expenses starting in late December 2019. Christie was ordered to pay the monthly mortgage on the W. Maule residence, as well as the monthly loan payments on the 2015 Chrysler Van. Commencing in December 2019, she alleged that she did not have the income to make the payments, and she could not afford to satisfy the obligations. David contested the same, and indicated that Christie continued to gamble at the same time she said she was broke.

COURT FINDS it did not have the requisite financial information to confirm or deny that Christie had the funds to pay the expenses, so David was required to withdraw the funds from trust, which held the proceeds from the sale of a residence, and David paid the same on behalf of Christie, which was to be offset from any monies she was to receive in the divorce. COURT FINDS that by the time the Pre-Trial Memorandum was filed the sum of $15,992.80 was owed for the mortgage payments, and $2,321.20 was owed on the van payments. COURT ORDERS that David is to be repaid said sums from Christie's portion of the community property, as Christie did not prove that she was unable to pay, and in fact, the evidence demonstrated that she deposited and withdrew significant funds from her business accounts, which could have been used to pay the mortgage and van payments, and Christie's explanation as to why she failed to do so, and alleged poverty was not credible. COURT FINDS that it is without the updated information as to the total amounts paid by David as of the date of this Decree, but David is entitled to be reimbursed all

payments made on behalf of Christie; upon proof of payment of the additional monies, the amount set forth herein, as well as the additional amounts paid by David since the filing of the Pre-Trial Memorandum, through the date of this Decree.

ALIMONY

COURT FINDS that it must consider the following factors when making an alimony award as enumerated in NRS 125.150(9):

(a) The financial condition of each spouse;
(b) The nature and value of the respective property of each spouse;
© The contribution of each spouse to any property held by the spouses, pursuant to NRS 123.030;
(d) The duration of the marriage;
(e) The income, earning capacity, age and health of each spouse;
(f) The standard of living during the marriage;
(g) The career before the marriage of the spouse who would receive the alimony;
(h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;
(i) The contribution of either spouse as homemaker;
(j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony;
(k) The physical and mental condition of each party as it relates to the financial condition, health, and ability to work, of that spouse.

COURT FINDS that neither party sought alimony from the other, and therefore this issue is foreclosed, and ORDERS there shall be no alimony award.

ATTORNEY'S FEES

THE COURT HEREBY FINDS that attorney's fees in this matter are governed by NRS 18.010, EDCR 7.60, and may make an award of fees pursuant to *Sargeant v. Sargeant*, 88 Nev. 223, 495 P.2d 618 (1972), to ensure that each party meets his adversary on equal footing at trial. COURT FINDS that each party seeks attorney's fees from the Court. COURT FINDS that if either party seeks attorney's fees, such request is permitted pursuant to NRCP 54, upon Motion for post-judgment award of fees.

MISCELLANEOUS

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that each party shall execute any and all legal documents, certificates of title, bills of sale, quitclaim deeds or other evidence of transfer necessary to effectuate this Decree within thirty (30) days of the entry of the Decree of Divorce, unless specified otherwise herein. Should either party fail to execute any of said

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

documents to transfer interest to the other, then the parties shall seek relief from this Court pursuant to NRCP 70, so that the Court may determine whether the Clerk of the Court shall sign the necessary documentation on behalf of the non-signing party; in doing so, the Court will empower the Clerk of the Court to sign, on behalf of the non-signing party, any of the said documents of transfer which have not been executed by the party otherwise responsible for such.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that if any claim, action or proceeding is brought seeking to hold the other party liable on account of any debt, obligation, liability, act or omission assumed by the other party, such party will, at his or her sole expense, defend the other against any such claim or demand and that he or she will indemnify, defend and hold harmless the other party.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that if any joint debt, obligation, liability, act or omission creating such liability has been omitted from this Decree and is subsequently discovered, either party may petition the Court for an allocation of that debt, obligation, liability, or liability arising from such act or omission, as permitted by statute.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that except as specifically set forth herein, each party hereto is released and absolved from any and all obligations and liabilities for future acts and duties of the other, and except as specified herein, each of the parties hereby releases the other from any and all liabilities, debts, or obligations of every kind or character incurred up to this date.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Christie has the right to exercise the option and may to return to her maiden name, to wit: CHRISTIE MARTIN, if she chooses.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall provide the information required by NRS 125.130, NRS 125.230, and NRS 125B.055 on a separate form to be submitted to the Court and the Welfare Division of the Department of Human Resources ("Welfare Division") within ten (10) days from the date of the entry of this Decree of Divorce. IT IS FURTHER ORDERED that each party shall update such information submitted to this Court and the Welfare Division within ten (10) days should any of the information required to be

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

provided become inaccurate. IT IS FURTHER ORDERED that such information shall be maintained by the Clerk of this Court and the Welfare Division in a confidential manner, and the same shall not be part of the public records.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court retains jurisdiction of the parties and the subject matter hereof for the purpose of making such other and further orders as relates to the care, custody, support and maintenance of the minor children of the parties as the Court may deem proper from time to time hereafter during the minority of said children.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that in the event either party believes this Court is in error, the parties should avail themselves of the remedies available, including but not limited to Post-trial Motions pursuant to NRCP 52(b), NRCP 59, and NRCP 60.

STATUTORY NOTICES

THE PARTIES ARE HEREBY ON NOTICE that they may request a review of child support every three years pursuant to NRS 125B.145.

THE PARTIES ARE HEREBY ON NOTICE that the non-custodial parent may be subject to the withholding of wages and commissions for delinquent payments of support pursuant to NRS 31A.010, et. seq. and NRS 125.450(2).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Nevada, United States of America is the habitual residence of the parties' minor child.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties and each of them shall be bound by the provisions of NRS125C.0045(6) which states in pertinent part:

> 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 to 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 the 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.

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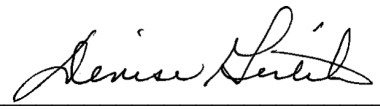
DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

IT IS FURTHER ORDERED that, pursuant to NRS 125C.0045(7), 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. IT IS FURTHER ORDERED that the minor children's habitual residence is located in the United States of America. NRS 125C.0045 (7) and (8) specifically provide as follows:

> Section 7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify 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.
>
> Section 8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:
>
> (a) The parties may agree, and the Court shall include in the Order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in Subsection 7.
>
> (b) Upon motion of the parties, the Court may order the parent to post a bond if the Court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the Court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

Dated this 15th day of February, 2021



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District Court Judge

DENISE L. GENTILE
DISTRICT JUDGE
FAMILY DIVISION
DEPT. F

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DISTRICT COURT
CLARK COUNTY, NEVADA

David Patrick Stucke, Plaintiff vs. Christie LeeAnn Stucke, Defendant.	CASE NO: D-18-580621-D DEPT. NO. Department M

AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 2/15/2021

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