

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

MINH NGUYET LUONG,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA, IN
AND FOR THE COUNTY OF CLARK, AND
THE HONORABLE DAWN THRONE,
DISTRICT COURT JUDGE,

Respondents,

and

JAMES W. VAHEY,

Real Party in Interest.

S.C. No.: Electronically Filed
Apr 08 2022 09:30 a.m.
Elizabeth A. Brown
D.C. Case No.: Clerk of Supreme Court

**PETITIONER'S
APPENDIX**

Attorneys for Petitioner:

Marshal S. Willick, Esq.
Nevada State Bar No. 2515
3860 East Bonanza Road, Suite 201
Las Vegas, Nevada 89110
Telephone (702) 438-4100
Email: Info@willicklawgroup.com

Fred Page, Esq.
Nevada State Bar No. 6080
PAGE LAW FIRM
6930 South Cimarron Road, Suite 140
Las Vegas, Nevada 89113
Telephone: (702) 823-2888
Email: Fpage@pagelawoffices.com

Attorneys for Respondent:

Robert Dickerson, Esq.
Dickerson Karacsonyi Law Group
1645 Village Center Circle, Suite 291
Las Vegas, Nevada 89134

APPENDIX INDEX

#	DOCUMENT	FILE STAMP DATE	PAGES
VOLUME I			
1.	Complaint for Divorce	12/13/2018	AA000001 - AA000007
2.	Ex Parte Motion to Seal File	12/13/2018	AA000008 - AA000011
3.	Request for Issuance of Joint Preliminary Injunction	12/13/2018	AA000012 - AA000013
4.	Summons	12/13/2018	AA000014 - AA000015
5.	Ex Parte Order Sealing File	1/3/2019	AA000019 - AA000020
6.	Notice of Entry of Ex Parte Order Sealing File	1/4/2019	AA000021 - AA000025
7.	Answer and Counterclaim for Divorce	1/11/2019	AA000026 - AA000033
8.	Reply to Counterclaim for Divorce	1/24/2019	AA000034 - AA000039
9.	General Financial Disclosure Form	1/29/2019	AA000040 - AA000051
10.	Defendant's Motion for Primary Physical Custody to Relocate with Minor Children to Southern California	1/29/2019	AA000052 - AA000079
11.	Notice of Entry of Stipulation to Reschedule Case Management Conference	2/14/2019	AA000080 - AA000084

12.	Plaintiff's Opposition to Defendant's Motion for Primary Physical Custody to Relocate with Minor Children to Southern California and Countermotion for Joint Physical Custody	2/20/2019	AA000088 - AA000120
13.	Appendix of Exhibits to Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Primary Physical Custody to Relocate With Minor Children to California	3/5/2019	AA000121 - AA000146
14.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Primary Physical Custody to Relocate with Minor Children to California	3/5/2019	AA000147 - AA000180
15.	Clerk's Notice of Hearing	3/6/2019	AA000181
16.	Receipt of Copy	3/12/2019	AA000182
17.	Notice of Taking of Deposition of Plaintiff, James W. Vahey	3/13/2019	AA000183 - AA000185
18.	Plaintiff's Witness List	4/18/2019	AA000186 - AA000190
19.	General Financial Disclosure Form	4/26/2019	AA000191 - AA000199
20.	Declaration of James W. Vahey Regarding His Income	4/2019	AA000200 - AA000206
21.	Notice of Entry of Order from Hearing on March 12, 2019	5/2/2019	AA000207 - AA000210
22.	Defendant's Motion for Order Permitting Minor Children to Testify at Evidentiary Hearing	6/20/2019	AA000214 - AA000225
VOLUME II			
23.	Notice of Hearing	6/20/2019	AA000213
24.	Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant's Motion for Order Permitting Minor Children to Testify at Evidentiary Hearing	7/12/2019	AA000226 - AA000244

25.	Plaintiff's Opposition to Defendant's Motion for Order Permitting Minor Children to Testify at Evidentiary Hearing	7/12/2019	AA000245 - AA000258
26.	Errata to Plaintiff's Opposition to Defendant's Motion for Order Permitting Minor Children to Testify at Evidentiary Hearing	7/15/2019	AA000259 - AA000263
27.	Defendant's Motion for Order Permitting Minor Children to Testify at Evidentiary Hearing	7/18/2019	AA000264 - AA000274
28.	Notice of Rescheduling of Hearing	7/18/2019	AA000275 - AA000276
29.	Notice of Entry of Stipulation and Order Appointing Dr. Michelle Gravely as Children's Therapist	7/30/2019	AA000277 - AA000281
30.	Defendant's Witness List	7/31/2019	AA000285 - AA000288
31.	Defendant's Pre-Trial Memorandum	8/2/2019	AA000295 - AA000326
32.	Errata to Defendant's Pre-Trial Memorandum	8/2/2019	AA000289 - AA000294
33.	Plaintiff's Pre-Trial Memorandum	8/2/2019	AA000327 - AA000408
34.	Receipt of Defendant's N.R.C.P. 16.2 Production -9 and Disclosure of Witness	8/2/2019	AA000409
35.	Notice of Seminar Completion	8/5/2019	AA000410 - AA000412
36.	Receipt of Copy	8/7/2019	AA000413
VOLUME III			
37.	Defendant's Trial Brief	9/3/2019	AA000414 - AA000477
38.	Certificate of Seminar Completion	9/7/2019	AA000478 - AA000480

39.	Findings of Fact, Conclusions of Law, Decision and Order	9/20/2019	AA000481 - AA000512
40.	Notice of Entry of Order	9/20/2019	AA000513 - AA000545
41.	Substitution of Attorney	10/9/2019	AA000546 - AA000547
42.	Notice of Hearing	1/22/2020	AA000548 - AA000549
43.	Appendix of Exhibits in Support of Plaintiff's Individual Case Management Conference Brief	2/10/2020	AA000550 - AA000641
VOLUME IV			
44.	Plaintiff's Individual Case Management Conference Brief	2/10/2020	AA000642 - AA000647
45.	Defendant's Individual Case Management Conference	2/14/2020	AA000648 - AA000656
46.	Order Setting Evidentiary Hearing	2/19/2020	AA000657 - AA000661
47.	Plaintiff's Witness List	3/5/2020	AA000662 - AA000665
48.	Plaintiff's Pre-Trial Memorandum	3/13/2020	AA000666 - AA000856
VOLUME V			
49.	Defendant's Exhibit Appendix in Support of Motion to Extend Temporary Protective Order T-20-204489-T, to Change Custody on an Interim Basis, for an Interview of the Minor Children and to Change Custody	3/27/2020	AA000857 - AA000883
50.	Defendant's Motion to Extend Temporary Protective Order T-20-204489-T, to Change Custody on an Interim Basis, for an Interview of the Minor Children and to Change Custody	3/27/2020	AA000884 - AA000910

51.	Notice of Entry of Stipulation and Order to Continue ,arch 19, 2020 Trial	3/27/2020	AA000911 - AA000916
52.	Plaintiff's Emergency Motion for Immediate Return of the Children, Dissolution of TPO Modification of Child Custody, Appointment of a New Therapist for the Children, an Order to Show Cause Why Defendant Should not be Held in Contempt, and to Resolve Other Parent Child Issues	3/27/2020	AA000917 - AA000973
53.	Plaintiff's Ex Parte Application for Issuance of Order to Show Cause	3/27/2020	AA000974 - AA001045
VOLUME VI			
54.	Appendix of Exhibits in Support of Plaintiff's Emergency Motion for Immediate Return of the Children, Dissolution of TPO Modification of Child Custody, Appointment of a New Therapist for the Children, an Order to Show Cause Why Defendant Should not be Held in Contempt, and to Resolve Other Parent Child Issues	3/27/2020	AA001112 - AA001177
55.	Certificate of Service	3/30/2020	AA001046
56.	Certificate of Service	3/30/2020	AA001047
57.	Defendant's Response to Plaintiff's Ex Parte Application for an Order to Show Cause	3/30/2020	AA001048 - AA001109
58.	Notice of Hearing	3/30/2020	AA001110
59.	Notice of Hearing	3/30/2020	AA001111
60.	Plaintiff's Ex Parte Motion for Order Shortening Time on Plaintiff's Emergency Motion for Immediate Return of the Children, Dissolution of TPO, Modification of Child Custody, Appointment of a New Therapist for the Children, an Order to Show Cause Why Defendant Should not be Held in Contempt. and to Resolve Other Parent Child Issues	3/31/2020	AA001178 - AA001192

61.	Defendant's Response to Plaintiff's Ex Parte Motion for and Order Shortening Time	4/1/2020	AA001193 - AA001203
62.	Order Shortening Time	4/7/2020	AA001204 - AA001205
63.	Amended Order Setting Evidentiary Hearing	4/8/2020	AA001206 - AA001208
64.	Notice of Entry of Order Shortening Time	4/8/2020	AA001209 - AA001213
65.	Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant's Motion to Extend Temporary Protective Order T-20-204489-T, to Change Custody on an Interim Basis, for an Interview of the Minor Children and to Change Custody	4/10/2020	AA001214 - AA001237
66.	Plaintiff's Opposition to Defendant's Motion to Extend Temporary Protective Order T-20-204489-T, to Change Custody on an Interim Basis, for an Interview of the Minor Children and to Change Custody	4/10/2020	AA001238 - AA001267
VOLUME VII			
67.	Appendix of Exhibits in Support of Plaintiff's Reply to Defendant's Opposition to Plaintiff's Emergency Motion for Immediate Return of the Children, Dissolution of TPO, Modification of Child Custody, Appointment of a New Therapist for the Children, an Order to Show Cause Why Defendant Should not be Held in Contempt. and to Resolve Other Parent Child Issues	4/15/2020	AA001268 - AA001328

68.	Plaintiff's Reply to Defendant's Opposition to Plaintiff's Emergency Motion for Immediate Return of the Children, Dissolution of TPO, Modification of Child Custody, Appointment of a New Therapist for the Children, an Order to Show Cause Why Defendant Should not be Held in Contempt. and to Resolve Other Parent Child Issues	4/15/2020	AA001329 - AA001352
69.	Defendant's Opposition to Plaintiff's Emergency Motion for Immediate Return of the Children, Dissolution of TPO, Modification of Child Custody, Appointment of a New Therapist for the Children, an Order to Show Cause Why Defendant Should not be Held in Contempt. and to Resolve Other Parent Child Issues	4/19/2020	AA001353 - AA001387
70.	Defendant's Exhibit Appendix in Support of Opposition to Plaintiff's Emergency Motion for Immediate Return of the Children, Dissolution of TPO, Modification of Child Custody, Appointment of a New Therapist for the Children, an Order to Show Cause Why Defendant Should not be Held in Contempt. and to Resolve Other Parent Child Issues	4/19/2020	AA001388 - AA001396
71.	Defendant's Exhibit Appendix in Support of Reply to Opposition to Motion to Extend Temporary Protective Order T-20-204489-T, to Change Custody on an Interim Basis, to Change Custody, and for an Interview of the Minor Children	4/20/2020	AA001397 - AA001457
72.	Defendant's Opposition to Motion to Extend Temporary Protective Order T-20-204489-T, to Change Custody on an Interim Basis, to Change Custody, and for an Interview of the Minor Children	4/20/2020	AA001458 - AA001491
VOLUME VIII			

73.	Second Amended Order Setting Evidentiary Hearing	5/11/2020	AA001492 - AA001495
74.	Notice of Entry of Order from April 22, 2020 Hearing	6/1/2020	AA001496 - AA001507
75.	Plaintiff's Emergency Motion to Resolve Parent-Child Issues and for Attorney's Fees and Costs	6/5/2020	AA001518 - AA001552
76.	Appendix of Exhibits in Support of Plaintiff's Emergency Motion to Resolve Parent-Child Issues and for Attorney's Fees and Costs	6/5/2020	AA001553 - AA001675
77.	Notice of Hearing	6/8/2020	AA001676
78.	Defendant's Exhibit Appendix in Support of Opposition to Plaintiff's Emergency Motion to Resolve Parent-Child Issues and for Attorney's Fees and Costs and Countermotion to Appoint Jen Mitzel as the Children's Therapist, for an Interview of the Minor Children or in the Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and for Attorney's Fees and Costs	6/29/2020	AA001677 - AA001705
VOLUME IX			
79.	Defendant's Opposition to Plaintiff's Emergency Motion to Resolve Parent-Child Issues and for Attorney's Fees and Costs and Countermotion to Appoint Jen Mitzel as the Children's Therapist, for an Interview of the Minor Children or in the Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and for Attorney's Fees and Costs	6/29/2020	AA001706 - AA001741
80.	Notice of Hearing	6/30/2020	AA001742

81.	Plaintiff's Reply in Support of His Emergency Motion to Resolve Parent-Child Issues and for Attorney's Fees and Costs and Opposition to Countermotion to Appoint Jen Mitzel as the Children's Therapist, for an Interview of the Minor Children or in the Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and for Attorney's Fees and Costs	7/6/2020	AA001743 - AA001770
82.	Defendant's Reply to Plaintiff's Opposition to Countermotion to Appoint Jen Mitzel as the Children's Therapist, for an Interview of the Minor Children or in the Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and for Attorney's Fees and Costs	7/9/2020	AA001771 - AA001788
83.	Defendant's Exhibit Appendix in Support of Reply to Plaintiff's Opposition to Countermotion to Appoint Jen Mitzel as the Children's Therapist, for an Interview of the Minor Children or in the Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and for Attorney's Fees and Costs	7/10/2020	AA001789 - AA001804
84.	Defendant's Second Exhibit Appendix in Support of Reply to Plaintiff's Opposition to Countermotion to Appoint Jen Mitzel as the Children's Therapist, for an Interview of the Minor Children or in the Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and for Attorney's Fees and Costs	7/12/2020	AA001805 - AA001809
85.	Plaintiff's Pretrial Memorandum	8/6/2020	AA001810 - AA001839
VOLUME X			
86.	Plaintiff's Amended Pretrial Memorandum	8/6/2020	AA001840 - AA002152
VOLUME XI			

87.	Defendant's Pre-Trial Memorandum	8/10/2020	AA002153 - AA002183
88.	Notice of Entry of Order from July 13, 2020 Hearing	8/11/2020	AA002192 - AA002197
89.	Notice of Entry of Order from July 13, 2020 Hearing	8/11/2020	AA002184 - AA002191
90.	Receipt of Copy	8/12/2020	AA002198
91.	Amended Order Setting Evidentiary Hearing	8/14/2020	AA002199 - AA002201
92.	Supplemental Appendix of Exhibits in Support of Plaintiff's Emergency Motion to Resolve Parent-Child Issues and for Attorney's Fees and Costs	9/3/2020	AA002202 - AA002212
93.	Defendant's Exhibit Appendix in Support Motion to Enter Decree of Divorce, for an Interim Change in Custody, and to Change Custody, and for Attorney's Fees and Costs	2/11/2021	AA002213 - AA002265
94.	Defendant's Motion to Enter Decree of Divorce, for an Interim Modification of Custody, to Change Custody, and for attorney's Fees and Costs	2/11/2021	AA002266 - AA002299
95.	Notice of Hearing	2/11/2021	AA002300
96.	Notice of Hearing	2/11/2021	AA002301
VOLUME XII			
97.	Appendix of Exhibits in Support of Plaintiff's Motion to Transfer Case to Department Hand to Enter Plaintiff's Proposed Findings of Fact, Conclusions of Law, and Decree of Divorce	2/11/2021	AA002303 - AA002455
98.	Notice of Rescheduling of Hearing	2/26/2021	AA002456 - AA002457

99.	Defendant's Exhibit Appendix in Support Opposition to Plaintiff's Motion to Transfer Case to Department H, to Enter Plaintiff's Proposed Findings of Fact, Conclusions of Law, and Dcree of Divorce	3/5/2021	AA002458 - AA002477
100.	Defendant's Opposition to Plaintiff's Motion to Transfer Case to Department H, to Enter Plaintiff's Proposed Findings of Fact, Conclusions of Law, and Decree of Divorce	3/5/2021	AA002478 - AA002512
VOLUME XIII			
101.	Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant's Motion to Enter Decree of Divorce, for an Interim Modification of Custody, to Change Custody and for Attorney's Fees and Costs	3/5/2021	AA002513 - AA002531
102.	Plaintiff's Opposition to Defendant's Motion to Enter Decree of Divorce, for an Interim Modification of Custody, to Change Custody and for Attorney's Fees and Costs	3/5/2021	AA002532 - AA002560
103.	Defendant's Exhibit Appendix in Support of [Reply to] Opposition to Motion to Enter Decree of Divorce. for an Interim Modification of Custody, to Change Custody, and for Attorney's Fees and Costs	3/15/2021	AA002561 - AA002576
104.	Defendant's Reply to Opposition to Motion to Enter Decree of Divorce, for an Interim Modification of Custody, to Change Custody and for Attorney's Fees and Costs	3.15/2021	AA002577 - AA002610
105.	Appendix of Exhibits in Support of Plaintiff's Motion to Transfer Case to Department H and to Enter Plaintiff's Proposed Findings of Fact, Conclusions of Law, and Decree of Divorce	3/15/2021	AA002611 - AA002627

106.	Plaintiff's Reply in Support of Motion to Transfer Case to Department H and to Enter Plaintiff's Proposed Findings of Fact, Conclusions of Law, and Decree of Divorce	3/15/2021	AA002628 - AA002647
107.	Defendant's Supplemental Exhibit Appendix in Support of Opposition to Plaintiff's Motion to Transfer Case to Department H and to Enter Plaintiff's Proposed Findings of Fact, Conclusions of Law, and Decree of Divorce	3/22/2021	AA002648 - AA002657
108.	Findings of Fact, Conclusions of Law, and Decree of Divorce	3/26/2021	AA002658 - AA002683
109.	Defendant's Brief Regarding Outstanding Issues	4/2/2021	AA002684 - AA002692
110.	Plaintiff's Brief for April 13, 2021 Hearing	4/2/2021	AA002693 - AA002704
111.	Notice of Entry of Findings of Fact, Conclusions of Law, and Decree of Divorce	4/8/2021	AA002705 - AA002733
VOLUME XIV			
112.	Transcription of April 13, 2021, Hearing	4/13/2021	AA003980 - AA004008
113.	Defendant's Documents Filed Regarding Outstanding Issues	4/23/2021	AA002737 - AA002773
114.	Document Filed Pursuant to Court Order Plaintiff's United Healthcare Insurance Policy Summary of Benefits and Coverage	4/23/2021	AA002774 - AA002788
115.	Notice of Entry of Order from March 22, 2021, Hearing	5/11/2021	AA002789 - AA002797
116.	Order from April 13, 2021 Hearing and April 28, 2021 Minute Order	5/18/2021	AA002804 - AA002811
117.	Notice of Entry Order from April 13, 2021 Hearing and April 28, 2021 Minute Order	5/19/2021	AA002812 - AA002822

118.	Notice of Appeal	6/14/2021	AA002823 - AA002824
119.	Stipulation and Order Modifying Findings of Fact, Conclusions of Law, and Decree of Divorce	8/8/2021	AA002836 - AA002839
120.	Notice of Entry of Stipulation and Order Modifying Findings of Fact, Conclusions of Law, and Decree of Divorce	8/9/2021	AA002840 - AA002846
121.	Defendant's Notice of Completion of Cooperative Parenting Class	8/16/2021	AA002847 - AA002850
122.	Defendant's Motion to Correct Clerical error in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative, to Set Aside the Terms in the Decree of Divorce Regarding the Division of the 529 Accounts and for Attorney's Fees and Costs	9/27/2021	AA002851 - AA002864
123.	Certificate of Service	9/28/2021	AA002865 - AA002867
124.	Notice of Hearing	9/28/2021	AA002868 - AA002869
125.	Notice of Change of Firm Address	10/12/2021	AA002870 - AA002872

126.	Appendix of Exhibits in Support of Plaintiff's Opposition to Defendant's Motion to Correct Clerical error in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative, to Set Aside the Terms in the Decree of Divorce Regarding the Division of the 529 Accounts and for Attorney's Fees and Costs and Emergency Countermotion for Immediate Return of Hannah to Jim's Custody, an Order that Hannah Immediately Participate in Therapy with Dr. Dee Pierce, an Order that Hannah have a Forensic Psychiatric Evaluation, an Order Requiring the Parties to Participate in Co-Parenting Counseling with Dr. Bree Mullin, Sole Legal Custody, School Choice Determination, Return of the Children's Passports, and Attorney's Fees and Costs	10/12/2021	AA002873 - AA002900
127.	Certificate of Seminar Completion	10/12/2021	AA002901 - AA002904
VOLUME XV			
128.	Plaintiff's Opposition to Defendant's Motion to Correct Clerical error in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative, to Set Aside the Terms in the Decree of Divorce Regarding the Division of the 529 Accounts and for Attorney's Fees and Costs and Emergency Countermotion for Immediate Return of Hannah to Jim's Custody, an Order that Hannah Immediately Participate in Therapy with Dr. Dee Pierce, an Order that Hannah have a Forensic Psychiatric Evaluation, an Order Requiring the Parties to Participate in Co-Parenting Counseling with Dr. Bree Mullin, Sole Legal Custody, School Choice Determination, Return of the Children's Passports, and Attorney's Fees and Costs	10/12/2021	AA002905 - AA002946
129.	Notice of Entry of Order Shortening Time	10/13/2021	AA002947 - AA002951

130.	Order Shortening Time	10/13/2021	AA002952 - AA002954
131.	Ex Parte motion for Order Shortening Time on Plaintiff's Opposition to Defendant's Motion to Correct Clerical error in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative, to Set Aside the Terms in the Decree of Divorce Regarding the Division of the 529 Accounts and for Attorney's Fees and Costs and Emergency Countermotion for Immediate Return of Hannah to Jim's Custody, an Order that Hannah Immediately Participate in Therapy with Dr. Dee Pierce, an Order that Hannah have a Forensic Psychiatric Evaluation, an Order Requiring the Parties to Participate in Co-Parenting Counseling with Dr. Bree Mullin, Sole Legal Custody, School Choice Determination, Return of the Children's Passports, and Attorney's Fees and Costs	10/13/2021	AA002955 - AA002962
132.	Defendant's Exhibit Appendix in Support of Reply to Plaintiff's Opposition to Defendant's Motion to Correct Clerical error in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative, to Set Aside the Terms in the Decree of Divorce Regarding the Division of the 529 Accounts and for Attorney's Fees and Costs and Opposition to Emergency Countermotion for Immediate Return of Hannah to Jim's Custody, an Order that Hannah Immediately Participate in Therapy with Dr. Dee Pierce, an Order that Hannah have a Forensic Psychiatric Evaluation, an Order Requiring the Parties to Participate in Co-Parenting Counseling with Dr. Bree Mullin, Sole Legal Custody, School Choice Determination, Return of the Children's Passports, and Attorney's Fees and Costs	10/17/2021	AA002963 - AA002982

133.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion to Correct Clerical error in the Decree of Divorce Regarding the 529 Accounts, or in the Alternative, to Set Aside the Terms in the Decree of Divorce Regarding the Division of the 529 Accounts and for Attorney's Fees and Costs and Opposition to Emergency Countermotion for Immediate Return of Hannah to Jim's Custody, an Order that Hannah Immediately Participate in Therapy with Dr. Dee Pierce, an Order that Hannah have a Forensic Psychiatric Evaluation, an Order Requiring the Parties to Participate in Co-Parenting Counseling with Dr. Bree Mullin, Sole Legal Custody, School Choice Determination, Return of the Children's Passports, and Attorney's Fees and Costs	10/17/2021	AA002983 - AA003035
134.	Stipulation and Order Resolving Outstanding Issues on Appeal (and Memorandum of Understanding	10/17/2021	AA003036 - AA003040
135.	Certificate of Service	10/18/2021	AA002043 - AA003044
136.	Notice of Intent to Serve Subpoena Duces Tecum	10/19/2021	AA003045 - AA003047
137.	Subpoena Duces Tecum	10/19/2021	AA003048 - AA003051
138.	Subpoena Duces Tecum to Challenger School	10/25/2021	AA003052 - AA003061
139.	Subpoena Duces Tecum to Ernest A. Becker Sr. Middle School	10/25/2021	AA003062 - AA003071

140.	Appendix of Exhibits in Support of Plaintiff's Motion for an Order to Show Cause to Issue Against Defendant for Violations of the Court's October 18, 2021 Orders, to Compel Compliance with the Court's Orders, for an Order for Matthew to Attend Counseling, for Temporary Sole Legal and Sole Physical Custody of the Minor Children, for an Order that Defendant Pay Child Support to Plaintiff, for an Award of Attorney's Fees and Costs, and for Other Related Relief	10/31/2021	AA003072 - AA003093
VOLUME XVI			
141.	Plaintiff's Motion for an Order to Show Cause to Issue Against Defendant for Violations of the Court's October 18, 2021 Orders, to Compel Compliance with the Court's Orders, for an Order for Matthew to Attend Counseling, for Temporary Sole Legal and Sole Physical Custody of the Minor Children, for an Order that Defendant Pay Child Support to Plaintiff, for an Award of Attorney's Fees and Costs, and for Other Related Relief	10/31/2021	AA003094 - AA003137
142.	Ex Parte Application for Issuance of an Order to Show Cause Against Defendant	11/1/2021	AA003138 - AA003145
143.	Amended Notice of Hearing	11/1/2021	AA003146 - AA003149
144.	Notice of Hearing	11/1/2021	AA003150 - AA003153
145.	Order Shortening Time	11/1/2021	AA003154 - AA003156
146.	Order to Show Cause	11/1/2021	AA003157 - AA003159
147.	Receipt of Copy	11/2/2021	AA003160 - AA003161

148.	Notice of Entry of Order Shortening Time	11/2/2021	AA003162 - AA003166
149.	Notice of Entry of Order to Show Cause	11/2/2021	AA003167 - AA003171
150.	Receipt of Copy	11/2/2021	AA003172
151.	Defendant's Opposition to Plaintiff's Motion for an Order to Show Cause Against Defendant for Violations of the Court's October 18, 2021, Orders, to Compel Compliance with the Court's Orders, for an Order for Matthew to Attend Counseling, for Temporary Sole Legal and Sole Physical Custody of the Minor Children. for an Order that Defendant Pay Child Support to Plaintiff, for an Award of Attorney's Fees and Costs, and for Other Related Relief and Countermotion for Attorney's Fees	11/3/2021	AA003173 - AA003205
152.	Amended Trial Subpoena	11/3/2021	AA003206 - AA003213
153.	General Financial Disclosure Form	11/3/2021	AA003214 - AA003221
154.	Declaration of James W. Vahey Regarding His Income	11/3/2021	AA003222 - AA003233
155.	Trial Subpoena	11/3/2021	AA003234 - AA003241
VOLUME XVII			
156.	Transcript of Hearing Held on November 3, 2021	11/3/2021	AA003242 - AA003353
157.	Defendant's Supplemental Exhibits	11/8/2021	AA003354 - AA003369
158.	Order Regarding Minor Children's Schooling	11/8/2021	AA003370 - AA003372

159.	Notice of Entry of Order	11/9/2021	AA003373 - AA003380
160.	Notice of Entry of Order Regarding Minor Children's Schooling	11/9/2021	AA003381 - AA003386
161.	Order from October 18, 2021, Hearing	11/9/2021	AA003387 - AA003391
162.	Order from November 12, 2021 Hearing	11/12/2021	AA003392 - AA003394
163.	Notice of Entry of Order from November 12, 2021 Hearing	11/12/2021	AA003398 - AA003403
164.	Order Regarding Hannah Vahey's School Attendance	11/14/2021	AA003404 - AA003406
165.	Plaintiff's Memorandum of Attorneys' Fees and Costs	11/15/2021	AA003407 - AA003422
166.	Findings of Fact, Conclusions of Law and Order Regarding Minor Children's Schooling	11/18/2021	AA003423 - AA003434
167.	Notice of Entry of Findings of Fact, Conclusions of Law and Order Regarding Minor Children's Schooling	11/18/2021	AA003435 - AA003448
168.	Notice of Entry of Order	11/18/2021	AA003449 - AA003454
169.	Order Regarding Hannah Vahey's School Attendance	11/18/2021	AA003455 - AA003457
VOLUME XVIII			
170.	Defendant's Objection/Response to Plaintiff's Memorandum of Fees and Costs	11/24/2021	AA003458 - AA003466
171.	Guardian Ad Litem Report	12/6/2021	AA003467 - AA003474
172.	Notice of Appeal	12/8/2021	AA003475 - AA003481

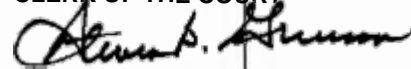
173.	Notice of Entry of Stipulation and Order	12/13/2021	AA003482 - AA003490
174.	Scheduling Order and Order Setting Civil Non-Jury Trial	12/12/2021	AA003491 - AA003493
175.	Stipulation and Order for Guardian Ad Litem	12/13/2021	AA003494 - AA003499
176.	Defendant's Exhibit Appendix in Support of December 16, 2021, Return Hearing	12/15/2021	AA003500 - AA003512
177.	Supplement to Order from November 12, 2021 Hearing	1/31/2022	AA003513 - AA003516
178.	Notice of Entry of Supplement to Order from November 12, 2021 Hearing	2/1/2022	AA003517 - AA003523
179.	Guardian Ad Litem Report	2/2/2022	AA003524 - AA003527
180.	Declaration of James W. Vahey Regarding Case Status	2/5/2022	AA003528 - AA003537
181.	Defendant's Exhibit Appendix in Support of February 8, 2022, Return Hearing	2/7/2022	AA003538 - AA003564
182.	Defendant's Supplement and Response for the February 3, 2022, Return Hearing	2/7/2022	AA003565 - AA003587
183.	Transcript of Hearing Held on February 8, 2022	2/8/2022	AA003588 - AA003609
184.	Notice of Entry of Order from December 16, 2021 Hearing	2/15/2022	AA003610 - AA003619
185.	Order from December 16, 2021 Hearing	2/15/2022	AA003620 - AA003628
186.	Notice of Hearing	3/15/2022	AA003629 - AA003630
VOLUME XIX			

187.	Appendix of Exhibits in Support of Plaintiff's Emergency Motion for Order for Plaintiff to Participate in the Turning Points for Families Program with Minor Children, for Defendant to be Solely Responsible for the Costs Associated with the Program, and for Related Relief	3/15/2022	AA003631 - AA003700
188.	Plaintiff's Emergency Motion for Order for Plaintiff to Participate in the Turning Points for Families Program with Minor Children, for Defendant to be Solely Responsible for the Costs Associated with the Program, and for Related Relief	3/15/2022	AA003701 - AA003715
189.	Notice of Entry of Order Shortening Time	3/17/2022	AA003716 - AA003720
190.	Ex Parte Motion for Order Shortening Time on Plaintiff's Emergency Motion for Order for Plaintiff to Participate in the Turning Points for Families Program with Minor Children, for Defendant to be Solely Responsible for the Costs Associated with the Program, and for Related Relief	3/17/2022	AA003721 - AA003727
191.	Receipt of Copy	3/18/2022	AA003728 - AA003729
192.	Defendant's Exhibit Appendix in Support of Opposition to Plaintiff's Emergency Motion for Order for Plaintiff to Participate in the Turning Points for Families Program with Minor Children, for Defendant to be Solely Responsible for the Costs Associated with the Program, and for Related Relief and Countermotion to Hannah to be Interviewed, for the Immediate Return of Matthew to Minh, and for Attorney's Fees and Costs	3/20/2022	AA003730 - AA003790

193.	Defendant's Opposition to Plaintiff's Emergency Motion for Order for Plaintiff to Participate in the Turning Points for Families Program with Minor Children, for Defendant to be Solely Responsible for the Costs Associated with the Program, and for Related Relief and Countermotion to Hannah to be Interviewed, for the Immediate Return of Matthew to Minh, and for Attorney's Fees and Costs	3/20/2022	AA003791 - AA003824
VOLUME XX			
194.	Defendant's Exhibit Appendix in Support of Opposition to Plaintiff's Emergency Motion for Order for Plaintiff to Participate in the Turning Points for Families Program with Minor Children, for Defendant to be Solely Responsible for the Costs Associated with the Program, and for Related Relief and Countermotion to Hannah to be Interviewed, for the Immediate Return of Matthew to Minh, and for Attorney's Fees and Costs	3/21/2022	AA003825 - AA003885
195.	Defendant's Opposition to Plaintiff's Emergency Motion for Order for Plaintiff to Participate in the Turning Points for Families Program with Minor Children, for Defendant to be Solely Responsible for the Costs Associated with the Program, and for Related Relief and Countermotion to Hannah to be Interviewed, for the Immediate Return of Matthew to Minh, and for Attorney's Fees and Costs	3/21/2022	AA003886 - AA003922
196.	Transcript of Hearing on Monday, March 21, 2022, Before the Honorable Judge Dawn R. Throne	3/21/2022	AA003923 - AA003979

79

79



OPPC
FRED PAGE, ESQ.
NEVADA STATE BAR NO. 6080
PAGE LAW FIRM
6930 SOUTH CIMARRON ROAD, SUITE 140
LAS VEGAS, NEVADA 89113
TELEPHONE: (702) 469-3278
FACSIMILE: (702) 628-9884
Email: fpage@pagelawoffices.com
Attorney for Defendant

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

JAMES W. VAHEY,

Plaintiff,

vs.

MINH NGUYET LUONG,

Defendant.

Case No.: D-18-581444-D

Dept.: H

Hearing Date: July 13, 2020

Hearing Time: 10:00 a.m.

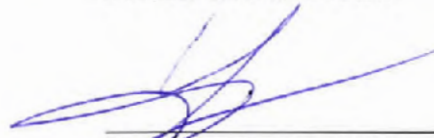
**DEFENDANT'S OPPOSITION TO PLAINTIFF'S EMERGENCY MOTION
TO RESOLVE PARENT-CHILD ISSUES
AND
FOR ATTORNEY'S FEES AND COSTS
AND
COUNTERMOTION
TO APPOINT JEN MITZEL AS THE CHILDREN'S THERAPIST, FOR AN
INTERVIEW OF THE MINOR CHILDREN OR IN THE ALTERNATIVE
FOR THE APPOINTMENT OF A GUARDIAN AD LITEM, TO CHANGE
CUSTODY,
AND
FOR ATTORNEY'S FEES AND COSTS**

COMES NOW Defendant, MINH NGUYET LUONG, by and through her
counsel, Fred Page Esq., of Page Law Firm and hereby submits her Opposition to
Plaintiff, JAMES W. VAHEY'S, Emergency Motion to Resolve Parent Child Issues

1 and for Attorney's Fees and Costs, and submits her Countermotion to Appoint Jen
2 Mitzel as the Children's Therapist, for an Interview of the Minor Children, or in the
3 Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and
4 for Attorney's Fees and Costs. This Opposition and Countermotion is based upon
5 the papers and pleadings on file, the attached Points and Authorities and any oral
6 argument that the Court may wish to entertain.
7
8
9

10 DATED this 29th day of June 2020

11 PAGE LAW FIRM

12
13 

14 FRED PAGE, ESQ.

15 Nevada Bar No. 6080

16 6930 South Cimarron Road, Suite 140

17 Las Vegas, Nevada 89113

18 (702) 823-2888

19 Attorney for Defendant
20
21
22
23
24
25
26
27
28

1 Jim removed the locks on Hannah's bedroom door and bathroom door so she
2 could not have any expectation of any privacy as a teenage girl. The situation is
3 now creepier. Jim now has Matthew sleep in the master bedroom and Jim sleeps in
4 Matthew's bedroom next to Hannah . . . so he can keep an eye on her and make her
5 feel that she has no privacy or control over her own life. She also complains she
6 wakes up with him watching her while she sleeps.² Hannah reports to Minh that
7 she now sleeps with the lights on because of Jim's behavior.
8
9

10 Depending on Jim's mood and whether he had taken away Hannah's
11 cellphone, at a certain time of the day dictated by Jim, he would hand Hannah the
12 landline phone and allow Hannah to talk to Minh. During, Hannah and Minh's
13 conversations, Jim would walk into the room and say, "times up" and unplug the
14 landline, ending the conversation.³
15
16
17
18
19
20
21

22 ² Hannah complains to Minh that many times she will wake up finding Jim
23 standing at her bed staring at her. Hannah asks what Jim wanted and he would not
24 say. That Jim allows himself in Hannah's bedroom and stares at her while she is
25 sleeping is completely uncomfortable. It is important for a teenage girl to feel
26 comfortable in her own house and especially in her own room. Jim fails to provide
27 that for Hannah.

28 ³ Hannah is being treated as a criminal. Hannah cries out for to Minh help,
"mommy, this is not living. I can't live like this anymore. This is jail!" As
always, Jim blames other people for his action. Jim now claims he was following
Dr. Gravley's recommendation.

1 On May 24, 2020, correspondence was sent to Jim's counsel addressing Jim
2 continuing to blame Minh for everything.⁴ On May 28, Hannah sent Minh a text
3 complaining that Jim reduced her to one hour one electronics.
4

5 On June 11, 2020, Hannah sent the following texts to Minh.

6 Hannah: Mommy; I wish I was dead that have to live like this anymore
7 Minh: Hi baby, what happened?

8 Hannah: My head is hurting⁵ and I tried taking a nap but then he came in
9 and wouldn't leave. He started smiling and he seemed happy. That my head
10 was hurting soo much and that he the reason why and that he wouldn't stop.
11 Mommy.

12 Minh: Why was he smiling?

13 Hannah: Because my head was hurting soo bad and he was making it
14 worse and he knew it.

15 Minh: What did he say?

16
17 Hannah: He kept saying that it was my choice to be happy or not even
18 though it's not.⁶

19 On June 19, Minh transferred the children to Jim. It took ten minutes, but
20 eventually the children reluctantly returned to Jim.⁷ Minh advises that at 9:20 a.m.
21

22
23 ⁴ A copy of the correspondence from Minh to Jim's counsel responding to him
24 trying to blame her for everything is attached for the Court's convenience as
25 Exhibit A.

26 ⁵ Minh reports that Hannah complains of a lot of headaches when she is with Jim.

27 ⁶ While Hannah is not acting out on it, suicidal ideations should not be taken
28 lightly.

⁷ By way of contrast, the children run to be with Minh when it is her time.

1 Hannah Facetimed her asking her to turn around. Hannah had gotten out of Jim's
2 van and was walking back toward the guard gate. Hannah asked Minh to come
3 back and pick her up.
4

5 Minh advises that she informed Hannah that she was not able to do that and
6 that she would have to get back into Jim's van. Hannah eventually returned to Jim.
7 After she got to Jim's house, Minh reports that Hannah called her on the landline
8 telling her that Jim had confiscated her cell phone and iPad.
9

10 Minh advises that Hannah spoke to her multiple times between 9:20 a.m.
11 and 10:18 a.m. During the phone call at 10:18 a.m. Minh and Hannah heard an
12 automatic recording saying: "you have reached the maximum capacity of your
13 recording. . ." Jim had intentionally placed a recording device on the landline.
14 Hannah hung up after that.⁸
15
16

17 Hannah called Minh back at 10:41 a.m. telling her that Jim had programmed
18 the landline to record all of their conversations.⁹ That is why Jim confiscated
19 Hannah's devices, forcing Minh and Hannah to speak via the landline where he
20 can monitor and record the conversation.
21
22
23
24

25 ⁸ In Nevada, NRS 200.620 provides that the recording of telephone conversations
26 requires the consent of all involved parties. *See also, Lane v. Allstate*, 969 P.2d
27 938 (Nev. 1998).

28 ⁹ NRS 200.690 provides that person who records telephone calls, like Jim did, is
guilty of a felony.

1 Later that day, Jim became physically violent with Hannah. During an
2 argument at the doorway to her bedroom, Jim punched Hannah in the face with a
3 closed fist, causing her nose to bleed. Jim cleaned up the blood while Hannah
4 called her mother crying telling her that Jim punched her. Minh tried to calm
5 Hannah down and then called the Henderson Police who then went out to the
6 house to take statements and make a report.
7
8

9 Jim apparently tried to claim that his fist was at his waist and Hannah
10 "turned herself into [his] fist." There is no physical way that could occur, and
11 Hannah hotly disputes that contention.¹⁰ The Henderson Police Department went
12 to the residence and took reports.¹¹ There was no blood on her nose when they got
13 there, but there was blood on her foot. The police did take a photo of that.
14 Because there was no bruising at the time and no blood in the sink or on Hannah's
15 nose, as Jim wiped all of that up, the Henderson Police Department concluded that
16 it was "he said/she said" and declined to arrest Jim.
17
18
19

20 Jim then further continued his harassment of Hannah. Jim told Hannah that
21 she had to eat in the living room. Hannah finished and went to go back to her
22
23
24

25 ¹⁰ While Hannah is short, Jim is short as well. Furthermore, Jim is lying, yet again,
26 and Hannah knows he is lying and that is going to make Hannah, and Matthew and
27 Selena, resent him even more than they did previously.

28 ¹¹ Minh is in the process of obtaining that report. Jim reportedly reminded the
officers of how many of them he takes care of because he is a hand surgeon.

1 room, but Jim blocked her and began lecturing her.¹² Hannah kept telling Jim "let
2 me go, let me go." Hannah told Jim, "I hate my life here. You should know that."
3 Jim responded, "that is what you and mommy decided" "you and mommy did it,"
4 to which Hannah stated "no." Jim stated to Hannah, "you decided that I am a bad
5 person," Jim demanded to know from Hannah, "Am I a bad person," to which
6 Hannah responded, "let me go." Jim badgered Hannah again, "Am I a bad
7 person," and Hannah responded the same way, "let me go."¹³
8
9

10 Jim told Hannah, "I am nothing to you; you don't need me," "that's what
11 mommy taught you." Hannah responded "no," but Jim continued to badger
12 Hannah with him stating, "yes she did." Hannah told Jim, "she tries to make me
13 happy here, to which Jim responded "no."
14
15

16 Jim then proceeded to complain about all that he does for Hannah. Jim
17 keeps accusing Hannah telling her, "maybe you and mommy have a plan."¹⁴ Jim
18
19
20

21 ¹² Hannah eats well when she is with Minh. No force is required to make Hannah
22 eat.

23 ¹³ Hannah is in distress. A decent person would alleviate the stress rather than
24 attack her for what she wants and pressure her further and try and make her feel
25 bad for wanting to be with her mother rather her father. This is what should be
described as mental abuse by Jim is apparently Hannah's daily life with Jim.

26 ¹⁴ Jim's conduct of him discussing custody matters with Hannah that is contrary to
27 Hannah's best interests, and is in violation of local rules, is a blatant attempt to try
28 and alienate Hannah from Minh, and is simply abusive because Hannah would
rather be primarily with mother rather than her father. No child should have to
endure what the children are going through. All are reasons for custody to be

1 refused to allow Hannah to walk past him so that she could go back to her room.
2 Hannah retreated back to the living room whereon she sent the video to Minh
3 complaining about Jim's treatment of her.¹⁵
4

5 Minh reports that Hannah complained again on June 24, that Hannah can
6 only have her cellphone for one hour a day and that it has to be used outside of her
7 bedroom.¹⁶
8

9 **A. Jim's Misstatements Should Be Addressed**

10 As is Jim's pattern, Jim persists in engaging in factual misstatements on
11 literally every page of his submission. Jim spends 22 pages personally attacking
12 Minh because all of his problems are her fault. Minh will attempt to address the
13 most significant of Jim's misstatements below.
14
15

16 On page 1, line 7-10, Jim claims in a "statement of facts" that Hannah's
17 psychological, emotional and mental damage is caused by the five weeks that she
18 spent with Minh. One the claim is completely false, and two, at some point Jim is
19 going to have to be directed to cease placing argument in a statement of facts.¹⁷
20
21

22
23 changed to Minh having primary custody, and which is addressed in Minh's
24 Countermotion below.

25 ¹⁵ A copy of the video can be provided by the time of the hearing.

26 ¹⁶ A copy of the text message is attached as Exhibit B. After Hannah complains
27 Minh asks if she has eaten yet.

28 ¹⁷ A statement should include what occurred and when it occurred, much like
would occur in an appellate brief. Jim's "opinion" fails to rise to the level of fact.

1 Hannah and the children *loved* the five weeks they spent with their mother.
2 If spending time with Minh caused problems then one would see similar problems
3 with all three children. Hannah in particular is affected was due to the fact of how
4 clearly she witnessed that battering of her mother by Jim in front of her. It does
5 not matter how many times Jim tries to deny it, the fact will *never change* that *Jim*
6 *battered Minh in front of Hannah, Matthew, and Selena.*¹⁸
7

9 Jim claims that Dr. Gravley recommended reducing Hannah's time on
10 electronics to two hours per day. When confronted with Jim's lies, Minh contacted
11 Dr. Gravley regarding Jim's behavior. Dr. Gravley said that she never
12 recommended Jim to remove the lock from Hannah's bedroom and definitely never
13 remove the lock from her bathroom.
14

16 Dr. Gravley recommended three to four hours of cellphone usage a day. Dr.
17 Gravley did not recommend for Jim to unplug the landline phone while Hannah is
18 on the phone with her own mother and say, "time's up!" and disconnect the phone.
19

21 Minh is very concerned with Hannah's unhealthy behavior. Minh checks in
22 with Hannah routinely throughout the day to remind her to eat breakfast, lunch,
23

24 ¹⁸ Even in Jim's recording that Jim tried to present at the last hearing, without Minh
25 knowing that Jim was recording, Minh cried out, "you pushing me?" And as a
26 defense she kicked him. Minh yelled out multiple times "Stop pushing me!"

27 At the end of the recording, Jim also commented that the children saw everything.
28 Hannah's most psychological, emotional and mental damage was done by Jim with
his actions against Minh and against Hannah.

1 dinner and to drink water frequently. Hannah never has any issues with eating
2 when she is with Minh.¹⁹

3 On page 3, line 15, Jim claims that the prosecutor decided not to pursue
4 charges because the allegations were false. That representation should be seen as
5 an out and out fabrication and lie to this Court (in a purported statement of facts).
6 The city attorney *never* stated the allegations were false. Minh, Hannah, and
7 Matthew gave consistent statements to the investigating officer. The undersigned
8 spoke to the city attorney for Henderson, he stated that he did "feel" that this was
9 a good case.
10
11
12

13 The city attorney indicated that there was a recording in which it was
14 claimed that there was scuffling over property. It was pointed out to him that if
15 the recording was admitted into evidence that Jim would be waiving his right to
16 self-incrimination and that he could be cross-examined.
17
18

19 Therefore, if Jim did not want to subject himself to cross-examination (as
20 he should not) then the recording would not come in because there was no one to
21 lay a foundation. Since the recording would not come in the only pieces of
22 evidence would be the three consistent statements from Dr. Luong, Hannah, and
23 Matthew that Jim attacked and violently battered her.
24
25
26

27 ¹⁹ Hannah confessed with Minh that she does not want to leave her room to find
28 food because she does not want to see Jim. Hannah also states that she is just not
hungry. Minh is concerned that Jim has caused a lot of mental damage to Hannah
and is asking this Court to interview Hannah.

1 When this fact was pointed out to the city attorney, the response was
2 awkward silence on his part. Cases are determined upon facts and not "feelings."²⁰

3 On page 4, line 20 to page 5 line 4, Jim claims that the children try to
4 "sneak" items out of his house and that Minh then refuses to return them. The
5 claim is false and was knowingly false when made. Jim withholds the children's
6 clothing and whatever toys they bring from Minh's house to his. Minh is quite
7 frankly tired of buying the children a new wardrobe for Jim.
8

9 Minh has always picked up the children from school as ordered by this court
10 on Friday at 4:00 p.m.²¹ The children have always been in uniform when Minh has
11 picked them up and Minh has always returned the uniforms. That is how the
12 children have clothes to wear to school every day. To the contrary when Minh
13 transfers the children to Jim in street clothes, those clothes are *never* returned to
14 Minh. As stated, she is tired of purchasing a wardrobe for Jim.
15

16 On page 5 lines 5-14, Jim complains that Minh does not provide the
17 children's iPads so that they can do homework. Jim is the physical custodian for
18

19
20
21
22
23 ²⁰ It was apparent that the city attorney spent zero time engaging in any meaningful
24 analysis regarding the case all to the detriment of Hannah, Matthew, and Selena.
And, Jim continues to serially lie about his attack on Minh.

25 ²¹ Minh could pick them up earlier but Jim refuses to allow that. On the weekends
26 in which Minh had the children, Minh could easily pick up the children when
27 school lets out on Friday at 3:15 p.m. and 3:30 p.m. Instead, Jim makes the
28 children stay in extended care until 4:00 p.m., and *only* then can Minh pick them
up. Jim would rather have the children spend time in daycare rather than be with
their mother.

1 three school age children but he was not equipped to do so. Jim fails to provide
2 computers or printers for the children to do their school work. And, somehow all
3 of this is Minh's fault.²²
4

5 At one point, Hannah had to email her book report to Minh so Minh could
6 printout the report and deliver it to Jim. Because Jim refuses to return whatever
7 the children take to Jim's house, Minh fears that Jim will confiscate the iPad Minh
8 had bought for Matthew so Jim can freely communicate with the children anytime
9 he likes. Because of Jim's history of refusing to return items that the children
10 bring from Minh's house, she decided not to transfer the iPad to Jim any more.
11

12 Jim then complained that he "was required to purchase electronics for the
13 children so they could complete their homework as he did not have separate
14 electronics for each child to use at the same time." Jim being the physical
15 custodian *should* have planned all this and provide the children with what they
16 need to be successful in school. However, according to Jim, *his* lack of interest in
17 the children education and *his* failure to plan is somehow Minh's fault.
18

19 On page 6, lines 9-13, Jim complains that Hannah is not eating enough.
20 Hannah eats well when she is with her mother and refuses to eat when she is with
21 her father. Hannah's refusal to eat is now a medical concern because her
22 expression of her unhappiness is stunting her growth.
23

24
25
26
27
28 ²² Jim should go purchase computers for the children if he wants to be the physical
custodian instead of complaining that Minh does not share the iPads she has
purchased for the children to use during her time.

1 During Minh's time Hannah actually looks forward to waking up every
2 morning to be able to make breakfast for her family. To the contrary, while
3 Hannah is with Jim, Minh has to text Hannah to remind her to leave the bedroom
4 to eat but Hannah will just reply with "I am not hungry. I miss my mommy," or "I
5 don't want to see him."²²
6

7
8 On page 7 lines 5-6, Jim claims that Hannah and Matthew "corroborated"
9 his claim that he did not physically batter Minh. The assertion is false and was
10 knowingly false when made. If that were actually true, Jim would never have been
11 arrested and no criminal complaint would have been filed against him.
12

13 As indicated above, the Henderson city attorney stated, he did "feel" good
14 about the case because of recording that Jim provided while failing to take into
15 consideration the fact that if Jim put the recording into evidence that he would be
16 opening up himself to cross-examination. There was nothing that indicated that
17 Minh's, or the children's allegations were false.²³
18

19
20 Jim claims that Minh made no allegations that Jim retaliated against
21 Matthew. Mot. at page 7, lines 8-11. That claim is false. Minh advises that both
22

23
24 ²² At one point, in May, Hannah locked Jim in the garage for longer than 15
25 minutes begging Jim to allow Minh to come back to pick her up from Jim's house.

26 ²³ Hannah and Matthew did not do anything other than confirm that Jim had
27 battered Minh. The recording provided by Jim to this Court confirmed that Minh
28 stated that Jim shoved her and that the children saw it. Again, this is why Jim was
arrested and criminally charged.

1 Hannah and Matthew had complained to Minh that Jim got really mean to them
2 after they got home after the battering incident. Matthew told Minh that Jim would
3 talk to and treat them in mean ways. "He is really scary mommy," Matthew would
4 say.²⁴ Minh advises that Matthew keeps himself quiet and just plays with Selena.
5

6 Jim continues to complain that he does not know where Minh stays when
7 she exercises her custodial time in Las Vegas. Mot. at page 7 line 11. Minh has
8 informed Jim of her address where she lives in Irvine. Minh's driver's license is
9 still at Jim's address in Henderson. Any tax return would list a Nevada address.
10 Sometimes Minh stays at her cousin's in Las Vegas. Otherwise, she and the
11 children are exploring in Minh's RV.
12
13
14

15 On page 7, line 25, to page 8, line 14. Jim complains that he has a poor
16 relationship with Hannah and impliedly blames Minh yet again like he openly
17 blames her for everything else.²⁵ Jim has a poor relationship with Hannah, and
18 Matthew and Selena, because of Jim. Nobody else is responsible for Jim's
19
20
21
22

23 ²⁴ The Court is invited to review the transcript of the recording that Minh has of
24 Matthew being terrified of going back to Jim and is inconsolable. Minh is
25 comforting Matthew telling him that "it's ok" and that "he is not going to do
26 anything to hurt you."

27 ²⁵ Jim argues, in a statement of facts that it appears Minh has no real intention of
28 actually helping Hannah and would rather make false allegations of abuse. Hannah
is making the allegations of abuse against Jim. Instead of trying to repair his
relationship with Hannah, Jim prefers to blame Minh.

1 deteriorating relationship with Hannah, and Matthew and Selena, but Jim. No
2 amount of deflection and finger pointing by Jim is going to change that fact.

3
4 Hannah is self-aware. She knows that Jim lied to her, has choked her, and
5 battered her mother in front of her, and taken away her privacy as a way of
6 exercising power and control, interrogates her and has now punched her.²⁶

7
8 Jim claims it was the recommendation of Dr. Gravley that Hannah be
9 reduced on the time upon which she spends on electronic devices. Mot. at page 8,
10 lines 25, to page 9, line 2. Jim claims that he reduced Hannah's access to
11 electronics to two hours per day based upon that claimed recommendation. Since
12 everyone agrees that Dr. Gravley provides no services of any value, why anyone
13 take recommendations from her?
14

15
16 Jim puts down in detail a video therapy session that was attempted wherein
17 Hannah was screaming at him. Mot. at page 9, lines 4-21. Hannah has given up on
18 therapy. She refuses to talk to Dr. Gravley. As noted by Dr. Gravley, "Hannah
19 wasn't exactly happy, but she was not in the state of mind she is in at this time."
20 As noticed by Dr. Gravley, Hannah's psychological, emotional and mental health
21 is declining. Jim has caused Hannah to be in this state.²⁷
22
23
24

25 ²⁶ Hannah knows with which parent she would rather reside. Most reasonable
26 parents would conclude that if their child wants to stay with the other parent, and
27 there is no imminent danger of harm, then fine let the child reside with the other
28 parent.

²⁷ Dr. Gravley notes that Hannah is likely feeling out of control with her custodial
schedule. Yes, Hannah would rather have control over her schedule and be with

1 Hannah refuses to speak to the therapist whether she is with Minh or Jim.
2 As quoted by Jim on page 10, lines 12-14, "all of these are unhealthy for her and
3 will lead to additional decline if not swiftly addressed," yet Jim seeing nothing
4 wrong with what he is doing.²⁸

6 On page 10, line 28, Jim quoted Dr. Gravley's recommendation and claims
7 that he has followed her recommendations. Jim admits in his Motion that he limits
8 Hannah to two hours per day. Dr. Gravley recommended three to four hours of
9 electronic devices.
10

12 On pages 11 and 12, of his Motion, Jim admits that he has lost control. Jim's
13 loss of control is the consequence of the abusive environment that he has created.
14 Instead of acknowledging that fact, Jim tries to blame Minh claiming that the children
15 got worse after they spent time with her. Jim's allegation is untrue. When the children
16 are with Minh they are well behaved, thriving, happy children.
17

19 Jim admits that Hannah is extremely disturbed and inconsolable. Mot. at page
20 12, lines 5-6. Jim admits this yet he completely lacks any insight into himself that he is
21
22
23 her mother. Jim removing locks, sleeping in the room next to her, staring at her
24 while she is sleeping, removing her electronics, and now punching her in response
25 to that desire to be with Minh only compounds Hannah's anxiety and depression.

26 ²⁸ If Jim believes that, then he should see how Hannah does with Minh. It was
27 what any decent parent who is interested in their child's well-being would do.
28 Minh is asking the court to help prevent Hannah from further decline and remove
her from this abusive environment Jim has created in order to compel compliance.
Hannah does not deserve to be treated this way.

1 the one who is responsible for Hannah being disturbed and inconsolable, and instead
2 blames everyone but himself for Hannah's state.

3 Jim complains that Minh will not make any appointments with Dr. Gravley.
4
5 Mot. at page 12, lines 19-21. Jim is the one who has damaged his relationship with the
6 children. Minh has a great relationship with the children; they love being with her.
7
8 Minh and children do not need a therapist for their relationship.

9 Jim attaches an email from Dr. Gravley to Minh dated June 1, as proof that
10 Minh does not want to help. Mot. at page 13, lines 3-10. One, as stated, everyone
11 agrees that Dr. Gravley provides no benefit to the children. Two, as also stated, the
12 children have a great relationship with their mother.
13

14
15 Jim claims that he had limited contact with the children when Minh had them
16 because of the TPO. Mot. at page 13, lines 20-23. The claim is false and was had to
17 have been knowingly false when made. Jim asked to speak to the children on
18 Mondays, Tuesdays, and Wednesdays. Jim was able to speak to the children on
19 those days for as long as the children wanted to talk to him.²⁹
20
21

22 Jim complains that Minh wants to speak the children during "his" time and
23 transcribes an exchange between him and Minh regarding her requests to speak to
24 Selena and Matthew. Mot. at page 13, line 23, to page 14, line 13. The exchange
25 should be seen as being only harmful to Jim. On April 23, Minh made requests
26
27

28 ²⁹ Minh even volunteered that Jim should speak to the children on Selena's
birthday and Easter for as long as the children wanted to stay on the phone.

1 from 11:39 a.m. to 9:15 p.m. to be able to speak Selena or Matthew and Jim never
2 finds the time to put the children on the phone with their mother. Jim snarkily
3 writes to Minh, "so sorry. My phone was on silent." Jim then makes sure that
4 Minh is unable to speak to the children for the rest of the day because he makes
5 Minh speaking to the children contingent upon her providing information to him
6 that he wants.³⁰

9 Jim complains that he has to call the children directly when he wants to
10 speak to them, and now that is somehow a problem. Mot. at page 14, lines 22-24.

12 Previously, Jim was complaining that Minh would not answer his calls or
13 texts. See Motion for Immediate Return of the Children at page 10, lines 1-7. That
14 claim was proven as being false. Attached as Exhibit D are a sampling of messages
15 between Minh and Jim, from her Opposition to that Motion. Those messages from
16 Minh to Jim include,

- 19 • Please call them directly.
- 20 • You spoke to them yesterday. Again, please call them directly. You
21 don't have to go through me.
- 22 • Please call them directly. I have suggested you do that multiple times
23 already. You spoke to Lena the day before. I called you and handed
24 them the phone.
- 25 • Matthew is still sleeping. I think he is getting sick. I asked Hannah to
26 call you. Lena is playing happily. If I call you and hand her the
27 phone she will start crying. If that is what you want I will do it.
- How they respond to you is dependent on your relationship with them.
I cannot change that. I can only do so much.

28 ³⁰ Jim states that is it "notable" that Minh does not respond to any of Jim's
questions. Jim's unwillingness to facilitate a relationship is a factor regarding
custody under NRS 125C.0035(4).

- 1 • Please call them directly.
- 2 • I asked you to call them directly. You know Hannah has her own cell
- 3 phone and Matthew has an iPad that I paid for both. . . Why can't you
- 4 call them directly?
- 5 • I encourage them to daily and multiple times a day. I call your
- 6 number and give the phone. I insisted [to] them to stay on the phone
- 7 to speak with you and you said go ahead and hang up. You blaming
- 8 me is not going to help your relationship with them.

9 Since Jim's complaint that Minh would not answer his phone calls or texts
10 was proven to be a lie, Jim is now trying to move on to a new complaint against
11 Minh, and that is the children are "too young" for him to communicate directly
12 with him. The children are ages, 6, 10, and 11. The children know how to use cell
13 phones and navigate through iPads and computers possibly better than Jim can.
14 Jim has already communicated with the children directly without Minh.³¹

15 Minh respects and follow courts order with allowing Jim privacy. Minh
16 cannot be blamed for how and how long the children want to talk to him. Jim is
17 free to contact them directly. Minh and Matthew and Selena are perfectly capable
18 of communicating with each other through an iPad. The only problem with that is
19 Jim refuses to allow the children to have free access to their mother.

20 Jim complains that Hannah does not answer his phone calls. Mot. at page
21 14, line 25, to page 15, line 5. Again, Jim cannot create the problem and complain
22 of the problem he creates.

23 ³¹ Jim is trying to force Minh to be the middle person so he can blame her if the
24 children do not want to speak to him. How the children treat Jim has everything to
25 do with his relationship and how he treats the children.
26

1 Jim alleges that the children do not wish to speak to Minh when it is his
2 custodial time. Mot. at page 15, lines 6-18. The claim is simply absurd. The
3 children love being with their mother and hearing from her at any time.
4

5 Jim claims that Dr. Gravley recommends that they speak to the children on
6 specific dates and time. Jim then suggests that the length of the calls be limited to
7 10 minutes without providing any substantiation for the same. Mot. at page 15,
8 line 17 to page 16, line 11. Jim fails to attach any communication from Dr.
9 Gravley providing any substantiation regarding those claimed dates or the claimed
10 lengths of any telephone calls.
11

12 Jim makes the histrionic, and laughable, claim that Minh is encouraging the
13 children to use her last name. Mot. at page 16, lines 12-21. Jim should cease with
14 the incessant blaming of Minh. She has made no comments to any of the children
15 in that regard. Jim is engaging in scorched earth litigation. This has already been
16 addressed in prior correspondence. See Exhibit A, letter dated May 26, 2020, to
17 Jim's counsel.
18

19 Minh advises that Hannah and Matthew have told her that they want to
20 change their name to Luong. Minh has told them they do not want to do that and it
21 is better for them that they have an "American" sounding last name.³³ Selena is
22 simply mimicking what she hears from Hannah and Matthew. Jim should focus
23
24
25
26
27

28 ³³ The comments by Hannah and Matthew shows how disconnected Jim is with the children.

1 what he has done to destroy the relationship he has with the children rather than
2 seeking to blame.³³

3 Jim complains that no response was received to his April 27, 2020, letter.
4 Mot. at page 16, lines 22-23. No response was made because it appears that Jim is
5 bent on in engaging in conflict for the sake of engaging in conflict, throwing out
6 insults, and making out accusations, rather than acknowledging that the children,
7 particularly Hannah and Matthew, do not wish to be with him.
8

9 Jim complains that no rationale has been given for using Jen Mitzel. Mot. at
10 page 16, line 16, to page 17, line 1. Ms. Mitzel is preferred because she has done
11 well in a high conflict case that the undersigned has had with her and it is known
12 that she cannot be used by Jim to back his way into some forensic evaluation.
13 Whether the office is closer or not is not a determinative factor, her effectiveness
14 is.
15

16 Jim complains that Minh, through her counsel, asks "what is wrong with
17 your client?" Mot. at page 17, lines 8-9. The question remains unanswered and
18 valid. Hannah is in distress, she hates being around Jim, and she refuses to eat. In
19 response to Hannah's unhappiness being with him, Jim removes the locks, records
20 her phone calls with Minh, restricts her contact with Minh, sleeps in the room next
21 to her.
22

23
24
25
26
27
28 ³³ Notwithstanding, see *Magiera v. Luera*, 106 Nev. 775, 802 P.2d 6 (1990). In
that case, the Supreme Court noted a father has no greater right than the mother to
have a child bear his surname.

1 to her to monitor her, creepily watches her while she sleeps, punches her in the
2 face, and now interrogates her about her conversations with her mother.

3 Jim complains that Minh does not provide an "itinerary" for him when Minh
4 has the children. Mot. at page 17, lines 22-23. According to the Order from
5 September 2019, Minh will inform Jim of where she will be if she was to take the
6 children on vacation longer than two days. Minh does not have to inform Jim of
7 where hereabouts when she has the children for non-holiday weekends. Minh has
8 complied with court's orders of staying in Nevada during the non-holiday
9 weekends. Non-holiday weekends are not longer than two days, therefore Minh
10 does not have to disclose where she will be.³⁴

11 Jim complains about extracurricular activities. Mot. at page 19, line 20, to
12 page 20, line 11. FFCLO has been reviewed. There is no order which requires
13 Minh to pay, other than activities that the parties agree that are best for the
14 children. On September 27, 2019, Minh sent an email to Jim, Exhibit E that read
15 in pertinent part,

16 When I signed up for the kids to take extracurricular activities, I was
17 told by you that you would not pay for any of it because you were
18 not involved in it.

19
20
21
22
23
24
25
26
27 ³⁴ Again, custody is a designation of responsibility, not a designation of power and
28 control. If Jim had a better relationship with the children they would talk with him.
Instead, he interrogates them and causes them to withdraw.

1 Since I am not going to be living in NV, I won't be involved in any
2 of the kids' activities. I am not approving of any of it since I don't
3 get to participate them in it. I will not pay for any of it.

4 It should be seen hypocritical that Jim refused for extracurricular activities
5 in which *he* not involved, but he believes that Minh should have to pay for
6 extracurricular activities in which she is not involved. Jim's contention should
7 expire of its own internal contradictions.
8

9 Jim complains that Minh should have to pay for one-half of the health
10 insurance premiums for the children. Mot. at page 20, lines 13-28. The Order
11 were that the parties will provide the children with health insurance if provided
12 by employment. The court order does not state that Minh would have to pay for
13 half of the medical insurance. The court order states that Minh will pay for 1/2 of
14 what insurance does not cover. Minh will pay for one-half of the medical expenses
15 not covered by insurance as ordered.
16
17
18

19 **B. Bree Mullins Psy.D. Should Not Be Appointed as the Therapist With**
20 **The Children**

21 Whether Dr. Mullins is close to Jim's house is an irrelevant reason for
22 choosing a psychologist.³⁵
23
24
25

26 ³⁵ It is an invalid reason for choosing an attorney, an accountant, or any other
27 specialist. If Jim's logic was valid, then Jim would have chosen a different counsel
28 than his current one because his counsel's office is on the other side of town from
his house.

1 ***Minh and the children do not need counseling for their relationship.*** The
2 children have a ***great*** relationship with Minh. The children ***love*** being with Minh.
3 The children look forward to being back in her care each week. When it is their
4 time with Minh the children ***run*** to her. When the children have to be returned to
5 Jim children have to be literally ***dragged*** from Minh's vehicle.
6

7
8 Also, not to be unduly harsh, but the only one who has a problem with their
9 relationship with the children is Jim. ***Jim and the children need counseling for***
10 ***their relationship – not Minh.***
11

12 Jim is simply looking for someone he can pay money that will support his
13 "diagnosis" of "pathological parenting" so as to backdoor his way into using her as
14 an offensive weapon rather than take responsibility for the chaos he has created.³⁶
15

16 Since Minh and the children have a great relationship and Jim and that
17 children have a poor relationship, no counseling is needed for her and the children,
18 there is no reason of any kind for Minh to have to pay for her excellent relationship
19 with the children
20
21

22 **C. Jim's Request to Limit Minh's Time With The Children for 10 Minutes**
23 **per Session Should Be Denied**

24 The issue was adequately addressed above.
25

26 ³⁶ The Court is likely aware that it is unethical under the APA for a psychologist to
27 try and perform a forensic evaluation at the same time that one is performing
28 therapy. At some point, Jim is going to have accept that he is the one responsible
for the children running away, for battering Minh, for refusing to return to him, for
punching Hannah, for their declining grades, the their emotional distress, among
other issues the children are having.

1 **D. Jim's Request for a "Travel Itinerary" Should be Denied as Requested**

2 The issue was adequately addressed above.

3 **E. Jim's Request for a Behavior Order Should be Denied**

4 Behavior orders are vague aspirational orders that are impossible to enforce
5 by contempt because they are necessarily so vague. Some judges refuse to issue
6 Behavior Orders because of that.³⁷

7 **F. The Request for Compensatory Time Should be Denied**

8 The Court found in the Order drafted by Jim,

9 THE COURT FURTHER FINDS that regarding Jim's request for
10 makeup custodial time, Minh's withholding of the children from Jim
11 must be determined to be wrongful in order for Jim to be awarded
12 makeup time. Video Transcript, 10:27:20. Minh obtained an ex parte
13 Protection Order Against Domestic Violence ("TPO"), entered in Case
14 No. T-20-204489-T, which affected the Court's Custody Order. Video
15 Transcript, 10:27:30. The Court is not concluding today that Minh's
16 denial of Jim's custody time was wrongful. Video Transcript,
17 10:27:36. The Court is also concerned it would not be in the children's
18 best interest for the children to be away from Minh for the same period
19 of time as they have been away from Jim. Video Transcript, 10:27:47.

20 Order at page 5, line 21, to page 6, line 3.

21 Further, the Court stated, "THE COURT FURTHER ORDERS that Jim's
22 request for twenty-four (24) days of makeup custodial time is denied. Video
23

24
25
26
27 ³⁷ The undersigned just had a hearing with Senior Judge Hardcastle. He refused a
28 request for a Behavior Order noting that they are unenforceable and that in his
experience if the parties cannot get along a Behavior Order is not going to change
that.

1 Transcript, 10:27:20.” Jim simply pretends the orders he does not like do not
2 exists and asks for the same thing over and over. The matter is *res judicata*.

3 **G. Jim’s Request For Reimbursement of the School Tuition Should Be**
4 **Denied**

5 Jim claims the amount of the tuition that Minh owes is \$15,568. Mot. at
6 page 19, lines 15-16. It appears Jim is lying to the Court, again. The school
7 principal sent Minh a bill that showed the tuition for the children was actually
8 \$22,504.30 from October to the end of the academic year.³⁸ The FFCLO came out
9 in September, therefore any division would start in October, not August.
10 Furthermore, the prenuptial agreement is controlling. In the prenuptial agreement,
11 the parties agreed that Jim would contribute 75% to family expenses and Minh
12 25%.
13

14 The school tuition is a family expense. Jim should not be rewarded for
15 misrepresenting to the Court the amount of the tuition. Further, the Court should
16 enforce the prenuptial agreement such that Jim is responsible for the family
17 expense of school tuition at the 75/25 ratio as agreed.
18

19 **H. Jim’s Request For Reimbursement of Extracurricular Activities Should**
20 **Be Denied**

21 This “issue” was adequately addressed above. Jim refused to pay for any
22 extracurricular activities in he was not involved, but expects Minh to pay for
23

24
25
26
27
28 ³⁸ A copy of the letter from the principal dated June 23, 2020 showing that the
amount for the 2019-2020 from October to the end of the academic year was
\$22,504.30 is attached for the Court’s convenience as Exhibit C.

1 extracurricular activities in she is not involved, and there is no Court order
2 requiring payment. Jim has spent money litigating an issue than what the activity
3 cost. It is the epitome of scorched earth litigation.
4

5 **I. Jim's Request For The Parties to Not Interfere With the Transportation**
6 **of the Children's Belongings is Routinely Violated by Him**

7 The fact that Jim is requiring that Minh purchase a new wardrobe was
8 adequately covered above as nothing that Minh provides for the children ever
9 comes back from Jim's house.
10

11 **J. Jim's Request for Minh to Pay for One-Half of the Health Insurance**
12 **Premiums of the Marriage Should be Denied**

13 The parties are still married to each other. The Joint Preliminary Injunction
14 (1)(b) filed December 18, 2018, prevents Jim from cancelling Minh from the
15 health insurance. Until the parties are divorced, there is no basis under the law for
16 Minh to have to pay for one-half of the health insurance. The Prenuptial
17 Agreement specifically provides that neither party is to pay support to the other.
18
19

20 By asking for payment of the health insurance premiums Jim is asking for
21 support both retroactively which is barred by law, and prospectively which is not
22 permitted by the terms of the prenuptial agreement that Jim wanted.
23
24

25 As to the children's insurance, the children's offered by Jim's employer.
26 Jim is an employee of the company of which he is a part owner. The FFCLO
27 states on page 32 that the parties shall provide health insurance for the children if it
28

1 is offered through employment. Insurance is not offered through Minh's company.
2 Therefore, the children are covered through Jim's employment. No payment is
3 required. Jim's contention is another example of his scorched earth litigation
4 because he knows the children would rather be with Minh.
5

6 **K. Jim's Request for Attorney's Fees Should Be Denied**

7
8 Based upon the foregoing, Jim's request for fees should be denied without
9 any further discussion. In addition, Minh has made repeated requests for Jim to pay
10 her items for which he owes her. Minh advises that Jim simply ignores her.
11

12 **III.**
13 **COUNTERMOTION**

14 **A. Jen Mitzel Should Be Selected As the Counselor**

15
16 Jen Mitzel should be selected as the counselor. The Court has the authority
17 under NRS 125C.0045. As Ms. Mitzel is the counselor Minh's has chosen she
18 should need perceive any obligation toward Jim and simply focus on the children.
19
20 Whether Ms. Mitzel has a LCSW, or a Psy.D. is not necessarily material. What is
21 material is whether she is licensed to conduct therapy and whether Ms. Mitzel is
22 effective in high conflict cases. By experience Ms. Mitzel is effective, realistic,
23 and well-grounded. See Exhibit F (Psychology Today printout for Ms. Mitzel)
24

25 **B. The Children Should Be Interviewed**

26
27 At the last two hearings the Court stated that custody had been fully litigated
28 over several days and that it was reluctant to revisit the matter. It is submitted that

1 the custody was not fully litigated as the children's perspectives had not been taken
2 into account. The reasons why have been detailed above.

3 Jim also openly doing what abusers do and that is limit their contact with the
4 outside world by trying to cut off their access to friends and family. Jim is openly
5 advocating that Hannah's time with friends and family should be "restricted."
6 Everyone should find such a position extremely troubling. It is in the children's
7 best interests that they do have a voice and that they be interviewed.
8
9

10 **C. The Children Should Be Appointed a Guardian *Ad Litem***

11 In the alternative, the children can be appointed a guardian *ad litem* so what
12 is happening to them can be communicated to the Court.
13
14

15 **D. Minh Should Receive Primary Physical Custody**

16 One Family Court judge thoughtfully states that the designation of Jim
17 having primary physical custody is a designation of responsibility, not a
18 designation of power and control. Jim is abusing that designation of primary
19 physical custody and is using that designation as a designation of power and
20 control.
21
22

23 At some point the issues that keep arising with the children and Jim should
24 be where one concludes "enough is enough."
25

26 **a. The wishes of the child if the child is of sufficient age and** 27 **capacity to form an intelligent preference as to his or her physical** 28 **custody**

The preferences of the children appear to be pretty clear.

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

2 There is no factual dispute. The children *run to* Minh when it is her time.
3 The children run *away* from Jim. The children *run to* Minh because she has
4 historically been the primary caregiver.
5

6 **c. Which parent is more likely to allow frequent associations and a**
7 **continuing relationship with the noncustodial parent**

8 Minh allows Jim to speak to the children for as long as he wants. If the
9 children wanted to spend all of their time with Jim she is fine with that because she
10 knows that is never going to occur. In contrast, Jim wants to cut Minh down to 10
11 minutes per phone call so as he can better exercise power and control. As
12 indicated, Jim trying to isolate his victims, is classically what abusers do.
13
14

15 **d. The level of conflict between the parents**

16 The current level of conflict is high.
17

18 **e. The ability of the parents to cooperate to meet the needs of the**
19 **children**

20 There is no ability to cooperate at this point.
21

22 **f. The mental and physical health of the parents**

23 There are now three reports of physical violence involving Jim since
24 December. Jim is recording around the house and is recording telephone
25 conversations. He removing locks on doors and is sleeping the room next to
26 Hannah to ensure control over her. It appears that there is some mental issue going
27 on with Jim.
28

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

2 Given the above, Jim has no ability to meet the emotional and
3 developmental needs of the children. Hannah is still not eating and it is stunting
4 her growth. Hannah is reaching puberty and has unique emotional needs. Hannah
5 only wishes to be with her mom.
6

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

8 The relationship of the children with Minh is excellent, no counseling is
9 needed, only more time with their mother. The children are happy and well-
10 adjusted when they are with Minh. Jim and the children are in dire need of
11 counseling.
12

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

14 Not applicable.
15

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

18 Jim punching Hannah in the face is abuse or neglect.
19

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

23 Jim punching Hannah in the face is an act of domestic violence for which
24 custody should be changed.
25
26
27
28

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

4 Not applicable.

5 Domestic violence of punching your child in the face is by itself adequate
6 cause for custody to be changed. Under *Rooney v. Rooney*,⁴⁰ “adequate cause”
7 arises where the moving party presents a prima facie case for modification. To
8 constitute a *prima facie* case, one must show that: (1) the facts alleged in the
9 affidavits are relevant to the grounds for modification; and (2) the evidence is not
10 merely cumulative or impeaching. *Rooney* at 543.

13 **IV.**
14 **CONCLUSION**

15 WHEREFORE, Defendant, MINH NGYUET LUONG, respectfully requests
16 that the Court enter the following orders,
17

- 18 1. Denying Jim’s Motion in its entirety.
19
20 2. Requiring that the children be interviewed.
21
22 3. Appointing a guardian *ad litem* for the children.
23
24 4. Finding that there is adequate for there to be an evidentiary hearing on
25 the issue of custody due to Jim punching Hannah in the face.
26

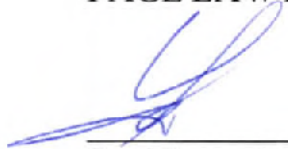
27 ///
28

⁴⁰ 109 Nev. 540, 853 P.2d 123 (1993)

1 5. For any further relief the Court deems proper and just.

2 DATED this 24 day of June 2020

3
4 PAGE LAW FIRM

5
6 

7 _____
8 Fred Page, Esq.
9 Nevada State Bar No. 6080
10 6930 South Cimarron Road, Suite 140
11 Las Vegas, Nevada 89113
12 (702) 823-2888
13 Attorney for Defendant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION IN SUPPORT OF OPPOSITION

I, Minh Luong, declare, under penalty of perjury:

1. I have read this Opposition, and the statements it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, and as to those matters, I believe them to be true. The statements contained in this motion are incorporated here as if set forth in full.

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

DATED this 25th day of June 2020


MINH LUONG

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 29th day of June 2020 that the foregoing DEFENDANT'S OPPOSITION TO MOTION AND COUNTERMOTION was served pursuant to NECFR 9 via e-service to Robert Dickerson, Esq. attorney for Plaintiff.



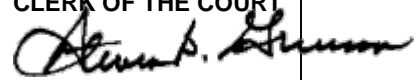
An employee of Page Law Firm

80

80

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
6/30/2020 11:58 AM
Steven D. Grierson
CLERK OF THE COURT



James W. Vahey, Plaintiff

vs.

Minh Nguyet Luong, Defendant.

Case No.: D-18-581444-D

Department H

NOTICE OF HEARING

Please be advised that the Defendant's Opposition to Plaintiff's Emergency Motion to Resolve Parent Child Issues and for Attorney s Fees and Costs, and Countermotion to Appoint Jen Mitzel as the Children s Therapist, for an Interview of the Minor Children, or in the Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and for Attorney s Fees and Costs in the above-entitled matter is set for hearing as follows:

Date: July 13, 2020

Time: 10:00 AM

Location: RJC Courtroom 03G
Regional Justice Center
200 Lewis Ave.
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Sylvia Fussell
Deputy Clerk of the Court

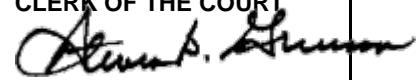
CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Sylvia Fussell
Deputy Clerk of the Court

81

81



RPLY
THE DICKERSON KARACSONYI LAW GROUP
ROBERT P. DICKERSON, ESQ.
Nevada Bar No. 000945
SABRINA M. DOLSON, ESQ.
Nevada Bar No. 013105
1745 Village Center Circle
Las Vegas, Nevada 89134
Telephone: (702) 388-8600
Facsimile: (702) 388-0210
Email: info@thedklawgroup.com
Attorneys for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

JAMES W. VAHEY,
Plaintiff,

v.

MINH NGUYET LUONG,
Defendant.

CASE NO. D-18-581444-D
DEPT NO. H

Hearing Date: 07/13/2020
Hearing Time: 10:00 a.m.

PLAINTIFF'S REPLY IN SUPPORT OF HIS EMERGENCY
MOTION TO RESOLVE PARENT- CHILD ISSUES AND FOR
ATTORNEYS' FEES AND COSTS

AND

OPPOSITION TO COUNTERMOTION TO APPOINT JEN
MITZEL AS THE CHILDREN'S THERAPIST, FOR AN
INTERVIEW OF THE MINOR CHILDREN OR IN THE
ALTERNATIVE FOR THE APPOINTMENT OF A GUARDIAN AD
LITEM, TO CHANGE CUSTODY, AND FOR ATTORNEY'S FEES
AND COSTS

COMES NOW Plaintiff, JAMES W. VAHEY ("Jim"), by and
through his attorneys, ROBERT P. DICKERSON, ESQ., and SABRINA
M. DOLSON, ESQ., of THE DICKERSON KARACSONYI LAW
GROUP, and submits Plaintiff's Reply in Support of His Emergency
Motion to Resolve Parent-Child Issues and for Attorneys' Fees and Costs
and Opposition to Countermotion to Appoint Jen Mitzel as the Children's

1 Therapist, for an Interview of the Minor Children or in the Alternative for
2 the Appointment of a Guardian Ad Litem, to Change Custody, and for
3 Attorney's Fees and Costs ("Reply and Opposition"). Specifically, Jim
4 requests this Court grant the requested relief in his Emergency Motion and
5 deny the relief requested by Defendant, MINH NGUYET LUONG
6 ("Minh"), in her Countermotion.

7 This Reply and Opposition is made and based upon the following
8 Memorandum of Points and Authorities, the Declaration of Jim attached
9 hereto, the attached exhibits, all papers and pleadings on file herein, as well
10 as oral argument of counsel as may be permitted at the hearing on this
11 matter.

12 DATED this 6th day of July, 2020.

13 THE DICKERSON
14 KARACSONYI LAW GROUP

15 By */s/ Sabrina M. Dolson*

16 ROBERT P. DICKERSON, ESQ.
17 Nevada Bar No. 000945
18 SABRINA M. DOLSON, ESQ.
19 Nevada Bar No. 013105
20 1745 Village Center Circle
21 Las Vegas, Nevada 89134
22 Attorneys for Plaintiff
23
24
25
26
27
28

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

It is abundantly clear from Minh's Opposition and Counter-motion that she has no interest in coparenting with Jim or acting in the children's best interest. Minh apparently believes that anything concerning the children on Jim's time is not a concern of hers. Minh has no intention of trying to mitigate or reduce the conflict between the parties, and simply asks the Court to outright deny Jim's requests for relief that he believes would help the parties coparent and meet the children's best interests. Minh cannot even agree to the simplest request of entering into a Behavior Order in which the parties agree to allow the children to transport their clothing and personal belongings freely between the parties' respective homes and agree not to disparage each other in front of the children. Jim hopes that after reading Minh's Opposition and Counter-motion it is clear why he has been unable to resolve, despite multiple efforts, any of the parent-child issues the Court directed the parties to discuss after the April 22, 2020 hearing.

II. FACTUAL STATEMENT

Minh begins her Opposition and Counter-motion by criticizing Jim for filing an Emergency Motion. As is evident from his Emergency Motion, Hannah's behavior has become increasingly concerning since she returned from spending five (5) consecutive weeks with Minh. Jim is very concerned for Hannah's well-being, as Minh should be, and needs this Court's immediate assistance in providing Hannah the help she needs. Minh's excuse for failing to cooperate with Jim and Dr. Michele Gravley in providing Hannah the help she needs is indefensible. Minh believes that Hannah's concerning behavior is essentially not her problem if it occurs during Jim's custodial timeshare. This is obviously no way to coparent as

1 addressing children's needs most often requires the cooperation of both
2 parents.

3 Contrary to Minh's allegations, Jim has not engaged in any type of
4 retribution toward Hannah or Matthew for whatever allegations Minh
5 claims the children made. As addressed in his Emergency Motion, Jim has
6 only taken certain protective actions based on Hannah's concerning
7 behavior and statements. Jim did not immediately confiscate Hannah's
8 electronics and disconnect the landline to control when she can speak to
9 Minh. Jim acknowledged in his Emergency Motion that he removed the
10 locking mechanism from Hannah's bedroom and bathroom after she made
11 concerning statements about wanting to die, and at the recommendation
12 of Dr. Gravley. Dr. Gravley even discussed removing the door to Hannah's
13 room, but Jim did not think that was a good idea. Despite removing the
14 locking mechanisms, Jim does not enter Hannah's room without knocking.
15 Jim also verbally requests Hannah to open the door prior to entering and
16 only then enters Hannah's room if she refuses to open the door. There is
17 nothing "creepy" about Jim's parenting as Minh claims.

18 Minh even makes disturbing allegations that Jim watches Hannah
19 while she sleeps. Minh has threatened Jim with calling the police to do a
20 welfare check on Hannah if he does not send her pictures or videos of
21 Hannah, which is why Hannah thinks Jim is watching her sleep. Hannah
22 woke up after Jim had to take a video of her to show Minh she really was
23 sleeping. Jim did not want to tell Hannah he had to take a video of her
24 because her mother was threatening to call the police, which is why Minh
25 claims Hannah told her she asked her father what he wanted and he would
26 not tell her. Needless to say, Jim does not watch any of the children sleep
27 in the creepy manner in which Minh would like this Court to believe.

28 . . .

1 When Hannah does not want to spend time with the family, Jim
2 often checks on her to make sure she is okay and to see if he can talk to
3 her about spending time with the family outside of her bedroom. Minh
4 characterizes Jim's checking on his own daughter as if he is a creepy
5 stranger lurking in her bedroom even though Minh is well aware Jim has
6 also checked on Hannah for Minh's benefit. It is no wonder why Hannah
7 continues to behave in such a concerning way when her mother is making
8 such disturbing characterizations about her father. Jim also has no
9 intention of making Hannah feel as if she has no privacy or control over
10 her own life. Minh refers to Hannah as a "teenage girl" multiple times in
11 her Opposition and Countermotion, presumably to make Jim's checking
12 on Hannah seem as an even greater violation of privacy. However, Hannah
13 is eleven (11) years old, and any reasonable parent dealing with a child
14 exhibiting such concerning behavior as Hannah would want to consistently
15 check on their child to make sure they are safe.

16 Jim has been temporarily sleeping in Matthew's bedroom while
17 Matthew sleeps in the master bedroom since approximately November
18 2019. Jim originally switched rooms with Matthew because Matthew
19 complained his bed hurt his back. However, since the children ran away in
20 December 2019 and Hannah started exhibiting concerning behavior, Jim
21 feels more comfortable sleeping closer to Hannah's bedroom to make sure
22 the children are safe. This is a temporary situation that Jim feels is
23 necessary to protect the children. There is nothing creepy about a father
24 wanting to protect his children. Hannah is not "being treated as a
25 criminal." Jim is actively trying to engage with Hannah to help her adjust
26 to the parties' separation and custodial arrangement. Jim has limited
27 Hannah's cell phone use at the advice of Dr. Gravley to help Hannah
28 engage with the family, not to prevent her from talking to Minh or to

1 control her. Rather than help the situation and explain to Hannah that she
2 cannot lock herself in her bedroom when she is with Jim, Minh encourages
3 Hannah's behavior, which is evident from her Opposition and
4 Countermotion.

5 It is actually quite worrisome that Minh has refused to cooperate
6 with Jim and Dr. Gravley to provide Hannah with the help she needs when
7 she concedes Hannah is in distress and claims to have conversations with
8 Hannah like the one transcribed at page 3 of her Opposition and
9 Countermotion. In this transcription of text messages exchanged between
10 Minh and Hannah, Minh contends that Hannah tells her "I wish I was
11 dead that [sic] have to live like this anymore." Hannah then goes on to
12 lament to Minh that her head is hurting and she believes that her head
13 hurting made Jim happy because "[h]e started smiling and he seemed
14 happy." Hannah is making such disturbing comments to Minh because she
15 knows this is what Minh wants to hear. Any reasonable parent would
16 address such statements by calming their child down and explaining why
17 it does not make sense that a parent would be happy their child was in
18 pain. Minh has created and fostered such a distorted fear of Jim for
19 Hannah.

20 As discussed in several filings before this Court, Jim does not time the
21 children's conversations with Minh and then abruptly end their telephone
22 calls. Jim does not record conversations on his landline. There is no doubt
23 Minh has now convinced Hannah that all her conversations are being
24 recorded and she has no privacy. These never-ending allegations that Jim
25 is recording the children's telephone calls with Minh are intended to make
26 Jim untrustworthy to the children, and Minh's efforts have clearly worked
27 with Hannah.

28 . . .

1 Minh also continues to make false allegations of physical abuse.
2 Minh now claims that “Jim punched Hannah in the face with a closed fist.”
3 This is untrue. Jim anticipated Minh would try to twist the facts of this
4 incident for her benefit, and immediately called his counsel on the day the
5 incident took place. On June 19, 2020, Minh transferred the children to
6 Jim for the beginning of his custodial timeshare week. Jim took the
7 children to his home, and had hired his babysitter to be there that day.
8 Hannah is the most upset on the days the custodial exchanges occur and
9 refuses to leave her bedroom. This prevents Jim from being able to take
10 Matthew and Selena anywhere so Jim hired his babysitter to be there so he
11 could take Matthew and Selena for a bike ride. Later that day, in the early
12 afternoon, Jim explained to Hannah that she could only be on her cell
13 phone for three (3) hours each day,¹ and had to spend time with the
14 family. As expected, Hannah became upset and started yelling at Jim. Jim
15 was not angry with or hostile toward Hannah as he has dealt with this type
16 of behavior since Hannah returned to his care after spending five (5)
17 consecutive weeks with Minh. While Hannah was having her temper
18 tantrum, Hannah turned abruptly and ran into Jim’s hand, causing her to
19 have a nose bleed. Jim knew instantly he would be having a visit from the
20 police as Minh would try to use this incident for her interminable pursuit
21 to change custody.

23 ¹ In her Opposition and Countermotion, Minh claims that Jim limits
24 Hannah’s cell phone time to one hour per day. This is not accurate. Dr. Gravley
25 recommended limiting Hannah’s cell phone use to encourage her to engage more with
26 the family, and suggested that three to four hours may be appropriate. Although Jim
27 thinks this is too much time for a child to be on electronics, Hannah typically gets
28 three hours each day to be on electronics and can divvy up that time however she
wants. Jim does not rigidly enforce this time limit and most of the time relies on
Hannah to practice the honor system regarding the time limit Jim has set. Presently,
the rule is that Hannah leaves her cell phone outside her door during the times she is
not using it. There have only been a few times when Jim has had to limit Hannah’s
electronics use to less than three hours and taken her cell phone away for misbehaving.

1 As expected, approximately an hour after Hannah's nose bleed, the
2 police arrived at Jim's home. Jim asked his babysitter to contact his counsel
3 as Jim has begun to expect and fear the worst. Although Jim's babysitter
4 was in the home at the time of Hannah's nosebleed, she was not in the
5 room with Jim and Hannah and did not witness Hannah accidentally
6 running into Jim. Nevertheless, it should make any reasonable person
7 question why Jim would choose a time when there is another adult in the
8 house to "punch[] Hannah in the face with a closed fist." Thankfully, after
9 speaking to Jim, Hannah, Matthew, Selena, and the babysitter, the police
10 left Jim's home. Of course, this does not stop Minh from attempting to
11 lead this Court to believe Jim cleaned up Hannah's nosebleed as if he were
12 cleaning a crime scene, and that alone is why he was not arrested. Minh
13 further claims Jim "continued his harassment of Hannah" by making her
14 eat in the living room, as if a parent asking their child to eat with the rest
15 of the family is harassment.

16 Jim hopes at some point Minh will understand he wants the parties
17 to be able to share joint physical custody without the high conflict and
18 constant need for Court intervention to resolve parent-child issues. Jim has
19 continued to make attempts at coparenting with Minh, but has thus far
20 not received any cooperation from Minh in return. Despite acknowledging
21 Hannah is in distress and being concerned for her "unhealthy
22 behavior,"—regardless of whether Minh believes Hannah is only in distress
23 when she is with Jim, which is belied by the fact Minh reported to Dr.
24 Sirsy that Hannah was not eating enough prior to the April 22, 2020
25 hearing when Jim had not seen the children for five weeks—there is no
26 logical reason for Minh to refuse to provide Hannah with the therapy she
27 needs. Although the parties have agreed they would like to hire a different
28 therapist than Dr. Gravley, until the parties can agree on a new therapist,

1 or hopefully this Court appoints a new therapist at the July 13, 2020
2 hearing, Dr. Gravley has been the only option for providing Hannah with
3 the therapy she needs. Yet, Minh refuses to schedule any therapy
4 appointments for Hannah during her custodial timeshare despite Dr.
5 Gravley's multiple pleas to do so. Despite Jim's hopes that another
6 psychologist may be better able to treat Hannah, Jim does not believe that
7 Dr. Gravley provides no service of any value as Minh asserts, and Jim will
8 provide Hannah with any help he is able to.

9 Minh should be just as concerned as Jim is about Hannah's sudden
10 change in behavior and the hostility she feels toward Jim. Minh is not
11 concerned though. Minh believes this is a Jim problem, not a family issue.
12 Minh only cares about using Hannah's fragile state for her benefit in
13 litigation. Minh asserts that her relationship with the children is great and
14 for that reason she does not care how the parties' separation has negatively
15 affected the children, primarily Hannah, when they are with Jim. Minh has
16 the audacity to submit to the Court that "no counseling is needed for her
17 and the children[and] there is no reason of any kind for Minh to have to
18 pay for her excellent relationship with the children." Minh's Opposition
19 and Countermotion, pg. 23, lines 16-21.

20 Fortunately, since the parties started sharing joint physical custody,
21 Jim has had little to no issues with Matthew's and Selena's behavior.
22 Contrary to Minh's allegations in her Opposition and Countermotion,
23 Matthew does not fear Jim and both Matthew and Selena have a great,
24 closely bonded relationship with Jim. Jim's relationship with Matthew and
25 Selena is not poor or deteriorating, but is great and Jim feels he is closer to
26 them than he has ever been. Although Jim has the most difficulty with
27 Hannah, this does not mean that she is never happy at Jim's home. There
28 have been many times Hannah has appeared to return to her normal self

1 and enjoys spending time with Jim, Matthew, and Selena. Jim is hopeful
2 that with the proper treatment, Hannah will learn to adjust to the new
3 custodial schedule. Hannah has also been eating better lately, which is a
4 positive sign. Hannah's growth has not been stunted as Minh claims.

5 As detailed in his Emergency Motion, Jim first attempted to resolve
6 the parent-child issues as directed by this Court on April 27, 2020 and had
7 his counsel send a letter to Minh's counsel regarding same. Minh admits
8 she did not respond to Jim's attempt to resolve the parent-child issues.
9 Minh's Opposition and Countermotion, pg. 20, lines 3-10. Minh claims
10 this is because "it appears that Jim is bent on in [sic] engaging in conflict
11 for the sake of engaging in conflict, throwing out insults, and making out
12 [sic] accusations, rather than acknowledging that the children, particularly
13 Hannah and Matthew, do not wish to be with him." Minh's Opposition
14 and Countermotion, pg. 20, lines 3-10. If the Court reviews this letter,
15 which is attached to Jim's Emergency Motion as Exhibit 1, it is clear this
16 is not true.

17 Jim began the letter by stating he agrees this Court's temporary
18 modification of custody to joint physical custody is in the children's best
19 interest and he has no objection to continuing with the arrangement
20 permanently. Jim requested that Minh "please . . . provide the address
21 where she will be staying with the children as soon as possible" given she
22 represented at the April 22, 2020 hearing that she was no longer residing
23 at the 9742 West Tompkins Avenue home.

24 Jim then proposed the parties agree to not speak about the matter
25 with the children or involve them in their disputes. Jim also suggested that
26 the children would be much less stressed if the parties agreed to allow them
27 to freely transfer their belongings between the parties' homes. Jim
28 described how Matthew not being able to take his iPad to Jim's home and

1 Minh refusing to return Matthew's book negatively impacted Matthew's
2 ability to complete his school work. Although Jim discussed how Minh's
3 actions negatively impacted Matthew, Jim did not "throw out insults" or
4 "make accusations." Jim even states in the letter: "Jim is not trying to
5 criticize Minh or cause more disputes between them; he would simply like
6 the parties to agree that regardless of who purchased certain items for the
7 children it only benefits the children for these items to transfer freely with
8 them so there is no interruption to their needs and school work." Jim's
9 Emergency Motion, Exhibit 1. Minh even admits she would not allow
10 Matthew to take his iPad because she purchased it and would not return
11 Matthew's book. If addressing coparenting issues constitutes "engaging in
12 conflict," then there is no way Jim will be able to address parent-child
13 issues and how the parents can coparent better in the future to avoid
14 repeating unnecessary stressful events for the children.

15 Jim lastly attempted to address choosing a psychologist for the
16 children. Jim discussed the parties' concerns for Hannah and detailed why
17 he felt it was important the parties hire a psychologist and not a therapist.
18 Jim did not "throw out insults" or make any accusations regarding fault for
19 the children's need for therapy. Jim merely explained why he believed Bree
20 Mullin, a psychologist, was a better choice than Jen Mitzel, who is only a
21 clinical social worker/therapist. Thus, it is unclear why Minh would not
22 respond to Jim's attempt to resolve the parent-child issues without court
23 intervention.

24 In her Opposition and Countermotion, Minh finally addresses several
25 of the parent-child issues Jim attempted to discuss prior to filing his
26 Emergency Motion. First, it appears Minh does not have a permanent
27 residence in Nevada for her and the children despite the Court ordering
28 that Minh was to spend her custodial timeshare in Nevada. *See* Order from

1 April 22, 2020 Hearing, pg. 6, line 27, to pg. 7, line 4. Minh maintains
2 that she has informed Jim of her address because he knows where she lives
3 in Irvine. However, this does not resolve the issue of where Minh resides
4 with the children during her week long custodial timeshare in Nevada. Jim
5 suspects Minh has been taking the children to California, but given the
6 lack of communication he does not know for sure. Minh claims she
7 sometimes stays at her cousin's home in Las Vegas and other times she and
8 the children are exploring in her RV. Jim had to file an Emergency Motion
9 and wait for Minh to file her Opposition and Countermotion just to learn
10 from Minh that she and the children sometimes stay with her cousin in Las
11 Vegas. This is the extent to which Minh refuses to communicate with Jim.
12 In addition, Minh believes her refusal to disclose where she takes the
13 children on "explorations" is reasonable as long as any such "explorations"
14 are not longer than two days. Minh does not care that Jim would have no
15 information regarding the children's whereabouts in the case of an
16 emergency.

17 Minh contends Jim has failed to provide computers and printers for
18 the children to complete their school work. This was addressed in Jim's
19 Emergency Motion. This issue arose when Minh refused to allow Matthew
20 to take his iPad between the parties' homes after the children spent the five
21 weeks with her and were finally ordered to be returned to Jim's custody.
22 Jim asked Minh to coparent with him and to bring Matthew's iPad so he
23 could complete his homework, but she refused because she had purchased
24 it. Minh now claims she feared Jim would confiscate the iPad despite the
25 fact this had never been an issue before. Although Jim had a computer and
26 a laptop in his home, he did not have enough separate computers or
27 electronics for each child to complete homework on at the same time. Jim
28 was required to purchase a Chromebook for each of the children so this is

1 no longer an issue. However, this is yet another example of Minh's refusal
2 to coparent, cooperate with Jim to meet the children's needs, and act in the
3 children's best interest.

4 Minh also claims she prefers Ms. Mitzel because her counsel has
5 worked with her in other cases and believes Ms. Mitzel does well in high
6 conflict cases and Ms. Mitzel "cannot be used by Jim to back his way into
7 some forensic evaluation." Minh's Opposition and Countermotion, pg. 20,
8 lines 10-18. Minh fails to address Jim's primary concern, which is that the
9 children be seen by a psychologist rather than a social worker/therapist.
10 Minh only addresses Jim's contention that Ms. Mullin's office is closer to
11 the children's school than Ms. Mitzel's office, attempting to portray office
12 location as the only important issue to Jim. As discussed in detail in Jim's
13 Emergency Motion and above, Jim is primarily concerned that Hannah
14 receives the treatment she desperately needs, and believes that given the
15 extent of Hannah's concerning behavior, a psychologist is necessary.

16 As to other miscellaneous claims made by Minh, many of which Jim
17 addressed in his Emergency Motion, Jim responds:

18 1. Minh acknowledges she will not cooperate with Jim to ensure
19 the children can communicate with him while they are with her. Minh
20 believes that the children, including Selena who is only six (6) years old,
21 are old enough to use their electronics to communicate with Jim. Minh
22 refuses to coparent with Jim to address even the simplest of requests.
23 Matthew² and Selena do not have cell phones. They have iPads; however,
24 it is not realistic that they will have access to their iPads at the times Jim

25
26 ² Matthew previously informed Dr. Gravley he is comfortable speaking to
27 Minh while he is in Jim's custody, but he is not comfortable speaking to Jim while he
28 is in Minh's custody. Based on this information, Dr. Gravley held a session with
Matthew and Minh to discuss this issue. Shortly after this session, Minh stopped
supporting the children attending therapy with Dr. Gravley. This was before the
COVID-19 pandemic.

1 calls, or will even pick up. In addition, even though Hannah has a cell
2 phone, Jim has not spoken to her once while she is with Minh since March
3 20, 2020. Jim encourages and facilitates the children's communication
4 with Minh by calling her from his phone and handing the telephone to the
5 children. It is unclear why it is so difficult for Minh to show her support
6 of the children speaking to their father, apart from the fact she does not
7 want to facilitate the children's relationship with their father or encourage
8 frequent communications.

9 Despite the fact Jim is the one proposing the parents agree to specific
10 days and times the children can speak to the noncustodial parent, Minh
11 claims Jim is the one who refuses to allow the children to have free access
12 to their mother. This is nonsensical considering he is the only parent who
13 will actively call the noncustodial parent for the children and is proposing
14 a schedule to alleviate the constant arguments over this issue. Minh has no
15 proposed alternative solutions because she knows Jim will continue to
16 facilitate communication between the children and Minh, and she can
17 continue to direct Jim to contact them directly. Not coparenting is a win-
18 win for Minh.

19 Minh also twisted Jim's request regarding telephone contact in an
20 attempt to mislead this Court into believing Jim is trying to limit her
21 contact with the children. Minh asserts the following:

22 Jim claims that Dr. Gravley recommends that they speak to the
23 children on specific dates and time. Jim then suggests that the
24 length of the calls be limited to 10 minutes without providing
25 any substantiation for the same. (Citation omitted). Jim fails
to attach any communication from Dr. Gravley providing any
substantiation regarding those claimed dates or the claimed
lengths of any telephone calls.

26 Minh's Opposition and Countermotion, pg. 19, lines 5-12. In his
27 Emergency Motion, Jim recommended each child be permitted to speak to
28 the other parent for a *minimum* of ten (10) minutes because he thought a

1 total of thirty (30) minutes three days a week (Jim suggested Sunday,
2 Tuesday, and Thursday) would be a sufficient minimum amount of
3 communication on a routine and predictable schedule. Jim specifically
4 stated in his Emergency Motion that his proposed schedule would not
5 prevent the children from calling the noncustodial parent on other days
6 and speaking to the other parent for a reasonable amount of time.

7 Minh is correct that Dr. Gravley did not suggest the dates and times
8 Jim proposed. Dr. Gravley only recommended that the children should be
9 permitted to integrate into the custodial parent's home, and have regular
10 contact with the noncustodial parent, but not at the children's disposal all
11 the time. *See* Jim's Emergency Motion, Exhibit 11. Dr. Gravley informed
12 the parties that "case studies have shown that with children in two homes
13 it is not healthy to have such unlimited contact without some boundaries
14 in place." Exhibit 11. Thus, Jim proposed a routine and predictable
15 schedule he believed would be in the children's best interests and reduce
16 conflict between the parties. Rather than address Jim's proposal and make
17 any other suggestions, Minh simply outright requests the Court deny same.
18 Minh does not facilitate contact between the children and Jim so any
19 minimum requirement of telephone contact would only inconvenience her.

20 2. Minh falsely states that Jim lied about his work schedule and
21 being able to care for the children prior to and after the COVID-19
22 pandemic. Minh falsely states that prior to the COVID-19 pandemic, Jim
23 was placing the children in extended care to be babysat until approximately
24 6:00 p.m. because he was unable to care for them. This is untrue. Prior to
25 COVID-19, at the recommendation of Hannah's teacher, Ms. Baron, Jim
26 enrolled the children in extended care after school, but did not routinely
27 pick the children up at 6:00 p.m. The children received free tutoring two
28 times a week during the extended care, and were able to complete their

1 homework during that time. After their homework was completed, the
2 children were able to socialize and play with their friends. Often times,
3 when Jim picked up the children between 5:00 p.m. and 5:30 p.m.,
4 Matthew and Hannah were having such a fun time playing with their
5 friends that they would ask to stay a little longer. The children's school
6 ended at approximately 3:30 p.m. so the children only participated in
7 extended care for about an hour and half to two hours, and Jim enrolled
8 the children in this program at the recommendation of Hannah's teacher.

9 Since this Court ordered the parties to share joint physical custody
10 on a week on/week off basis, Jim has rearranged his schedule to be off from
11 work on the weeks he has custody of the children and now works every
12 other week.

13 3. Minh refuses to contribute to the children's health insurance
14 premiums, but claims she will pay for one-half of the medical expenses not
15 covered by insurance as ordered. Minh's Opposition and Countermotion,
16 pg. 22, lines 9-18. Minh's actions demonstrate otherwise. Minh has not
17 reimbursed Jim for any of the expenses for which he provided evidence that
18 he requested in his Emergency Motion.

19 4. Minh apparently believes she should not have to financially
20 contribute to any of the children's expenses. Despite the Court's order that
21 the parties shall equally divide the children's private school tuition, Minh
22 asserts that the parties' Premarital Agreement, which predates this Court's
23 custodial order, controls with regard to her obligation to financially provide
24 for the children. It is exhausting to keep up with the mental gymnastics
25 Minh does to refuse to comply with court orders or coparent with Jim.
26 Literally, Jim's every request to coparent, to comply with the Court's
27 orders, and to meet the children's needs, is met with resistance and
28 outright refusal. The Court ordered that neither party would pay child

1 support because the Court confirmed *the parties' agreement* to share
2 equally in the cost of the children's private school tuition and related
3 expenses. Decision and Order, pg. 23, line 24, to pg. 24, line 4; pg. 32,
4 lines 1-4. Now, Minh is reneging on that agreement simply to harass Jim.

5 Minh also inaccurately claims that Jim is misrepresenting the amount
6 paid for the children's private school tuition. In several of Jim's past filings,
7 he produced evidence that since October 2019 he has attempted to
8 communicate with Minh regarding the parties' obligation to share equally
9 in the cost of the children's private school tuition. This does not mean that
10 Minh is only obligated to contribute one-half the amount of the children's
11 tuition beginning October 2019. The Court held the evidentiary hearing
12 on the custody issues in August and September 2019; thus, Minh should
13 be required to reimburse Jim for one-half the portion of the children's
14 private school tuition for the entire 2019-2020 school year.

15 Furthermore, the bill Minh attaches to her Opposition and
16 Countermotion, which she purports shows the cost of the children's tuition
17 from October 2019 to March 2020, supports Jim's evidence that Minh
18 owes a total of approximately \$15,000 to Jim for her one-half ($\frac{1}{2}$) portion
19 of the children's school tuition for the entire 2019-2020 school year
20 (beginning August 2019 not October 2019). As Jim explained in his
21 Emergency Motion, he was only required to pay the tuition from August
22 2019 to March 2020 as a result of the COVID-19 pandemic and the
23 school's closure. Based on the letter Minh attached as an exhibit to her
24 Opposition and Countermotion, between October 2019 and March 2020,
25 the total cost of the children's tuition was \$22,504.30, which equals
26 \$3,750.72 per month (\$22,504.30/6). Based on Minh's evidence, her one-
27 half portion equals approximately \$1,875 per month, which is only \$71 per
28 month less than the amount Jim calculated (i.e., \$1,946 per month for the

1 months of August 2019 to March 2020). Jim believes this additional \$71
2 per month includes other fees not considered tuition. However, the cost of
3 litigating this additional \$568 would obviously not be worth it. Thus, Jim
4 requests the Court order Minh to reimburse Jim \$15,000, which is the
5 total Minh would owe based on her calculations of \$1,875 per month for
6 the months of August 2019 to March 2020.

7 5. Minh also contends the Court should deny Jim's request for
8 Minh to reimburse him for the cost of her health insurance, as well as his
9 request that she obtain her own health insurance. Minh is trying to
10 financially hurt Jim in any way, whether it be by refusing to financially
11 contribute to the children's expenses, requiring Jim to litigate every issue
12 by refusing to cooperate or coparent with him, or by forcing Jim to pay for
13 Minh's expenses. Minh knows she is in a significantly, financially superior
14 position to Jim and it brings her pleasure knowing that despite this, Jim
15 has continued to support her by paying for her health insurance for fear of
16 violating a Court Order. Minh is more than financially capable of paying
17 all of her own expenses. Thus, any argument that Jim should continue
18 paying her health insurance is unreasonable and clearly intended to harass
19 Jim. Jim initially requested the Court order Minh to reimburse him for the
20 cost of her health insurance, and obtain her own policy in April 2020, but
21 this was not resolved at the April 22, 2020 hearing.

22 6. Minh continues to demonstrate her lack of credibility. Minh
23 maintains Jim battered her in front of the children despite the evidence to
24 the contrary and the fact that the prosecutor decided not to press charges
25 against Jim. Jim did not batter Minh in front of the children. The audio
26 and video recordings demonstrate Minh was the aggressor and Jim
27 attempted to de-escalate Minh's aggressiveness.

28 . . .

1 7. Minh also continues to defend her inappropriate behavior.
2 When addressing the inappropriateness of directing her counsel to ask
3 Jim’s counsel “what is wrong with your client?,” Minh doubles down and
4 states that “[t]he question remains unanswered and valid.” Minh’s
5 animosity toward Jim prevents him from being able to resolve any issues
6 with Court intervention.

7 **III. LEGAL ARGUMENT**

8 A. The Court Should Appoint Bree Mullin as the New Therapist for the 9 Children and Deny Minh’s Request for Jen Mitzel to Be Selected as 10 Counselor

11 As detailed above and in his Emergency Motion, Jim believes a
12 psychologist is needed for Hannah given her concerning behavior and
13 actions. Jim has attempted on multiple occasions to resolve this issue with
14 Minh, but he received no response or cooperation, necessitating Court
15 intervention. In addition to Ms. Mullin being a psychologist and more
16 qualified than Ms. Mitzel to address Hannah’s issues, Ms. Mullin’s office
17 is located closer to the children’s school than Ms. Mitzel’s office, which is
18 important as the children will most likely be attending sessions on
19 weekdays after school and will need sufficient time to complete their
20 homework and study when they get home. Accordingly, Jim is requesting
21 the Court appoint Ms. Mullin as the children’s psychologist pursuant to
22 its authority under NRS 125C.0045(1)(a). Jim respectfully requests this
23 Court allow Ms. Mullin to testify as a witness if the Court determines Ms.
24 Mullin’s testimony would be helpful in resolving any future issues upon
25 which the parties cannot agree. The Court should also order the parties to
26 abide by Ms. Mullin’s recommendations as to the frequency of therapy
27 sessions for the children. The Court should also order the parties to
28 participate in the therapy sessions if recommended by Ms. Mullin. Lastly,
...

1 the Court should order the parties to share equally in the cost of the
2 therapy sessions to the extent they are not covered by health insurance.

3 B. This Court Should Address Other Parent Child Issues

4 Given Minh has failed to present reasonable objections to the parent-
5 child issues raised by Jim through counsel and in his Emergency Motion,
6 Jim requires this Court's assistance to reduce to conflict between the
7 parties. Jim is requesting the Court enter the following orders pursuant to
8 its authority under NRS 125C.0045(1)(a):

9 1. First, the Court should enter an order that each parent shall
10 have a minimum of ten (10) minutes of video or telephonic
11 communication with each child at least three times per week. In his
12 Emergency Motion, Jim suggested every Sunday, Tuesday, and Thursday,
13 at 7:00 p.m.; however, each parent could choose the three days that are
14 most convenient for that parent, provided such days and times do not
15 interfere with the children's schooling or extracurricular activities. This
16 schedule would not prevent the children from calling the noncustodial
17 parent on other days and speaking to the other parent for a reasonable
18 amount of time. Jim believes such a routine and predictable schedule will
19 be in the children's best interests and reduce conflict between the parties.

20 2. The Court should enter an order requiring each party to
21 provide the other party with a travel itinerary and telephone numbers at
22 which the children can be reached whenever the children will be away from
23 the custodial parent's home for a period of two (2) nights or more. Minh's
24 objection to this request is unreasonable and solely intended to frustrate
25 Jim's attempts to coparent with her.

26 3. In his Emergency Motion, Jim requested the Court require
27 Minh to provide Jim with the address at which she stays with the children
28 during her custodial timeshare in Las Vegas. Minh states in her Opposition

1 and Countermotion that she and the children sometimes stay with her
2 cousin or in Minh's RV. Jim also believes Minh takes the children to
3 California. This Court should order Minh to provide the address(es) where
4 she will be staying with the children for her custodial weeks.

5 4. The Court should enter a Behavior Order, including, but not
6 limited to, the following orders: (1) an order that the parties shall not
7 interfere with each child's right to transport the child's clothing and
8 personal belongings freely between the parents' respective homes; and (2)
9 an order that neither party shall disparage the other party in the presence
10 of the children, nor shall either party make any comment of any kind that
11 would demean the other party in the eyes of the children. These requests
12 only benefit the children and Minh's objection to same demonstrate, in
13 addition to every action she has taken since the parties separated, that she
14 will not coparent with Jim for the children's benefit.

15 5. The Court should enter an order that Minh reimburse Jim the
16 following amounts pursuant to the Court's Decision and Order and the
17 30/30 rule, subject to penalty of contempt if these expenses are not
18 reimbursed within 30 days of the Court's order:

19 a. \$15,000 for her one-half portion of the children's 2019-
20 2020 Challenger School tuition;

21 b. \$262.50 for her one-half portion of the children's 2020-
22 2021 Challenger School applicant fees;

23 c. \$188.84 for her one-half portion of the children's school
24 uniforms cost;

25 d. \$230.12 for her one-half portion of Matthew's martial
26 arts class;

27 e. \$87.78 for her one-half portion of the December 19, 2019
28 therapy session with Dr. Michelle Gravley;

1 f. \$62.50 for her one-half portion of Hannah Vahey's
2 ophthalmology appointment; and

3 g. \$42.50 for her one-half portion of Selena Vahey's
4 ophthalmology appointment and prescribed eye drops.

5 Minh objects to contributing to all of the above costs with the
6 exception of the children's unreimbursed medical expenses. Yet, Minh has
7 failed to even reimburse Jim for these expenses. Minh's refusal to
8 contribute to her children's expenses is completely unreasonable and solely
9 intended to financially harass Jim.

10 6. The Court should enter an order requiring Minh to pay one-
11 half the cost of the children's health insurance premium from the date of
12 the parties' separation in January 2019, and to reimburse Jim \$7,471.04
13 for her one-half (1/2) portion of the children's health insurance premium
14 from January 2019 to June 2020. Minh argues she should not have to
15 contribute to the children's health insurance because health insurance is
16 not offered through her employment. Minh will ensure health insurance is
17 never offered through her business if it means Jim will be solely responsible
18 for providing the children health insurance. This Court should not allow
19 Minh to continue to thwart financially contributing to the children's costs.
20 The Court should also order Minh to reimburse Jim for her one-half
21 portion of the children's health insurance premium on the first day of each
22 month from July 1, 2020 going forward.

23 7. The Court should enter an order requiring Minh to obtain her
24 own health insurance policy beginning July 2020 and to reimburse Jim for
25 100% of the cost of Minh's health insurance premium from January 2019
26 to June 2020, which amounts to \$10,176.24.

27 8. The Court should enter an order that Jim be awarded twenty-
28 four (24) days of make up custodial time, to be exercised three (3) days at

1 a time, as Minh's withholding of the children from Jim for five (5) weeks
2 was wrongful and based on her false allegations of domestic violence, which
3 is evident based on the audio and video recordings Jim took of the March
4 20, 2020 incident and given the prosecutor decided not to pursue criminal
5 charges against Jim.

6 C. The Court Should Award Jim His Attorneys' Fees and Costs for
7 Having to File this Emergency Motion

8 Jim also respectfully submits that he is entitled to an award of
9 attorneys' fees pursuant to NRS 18.010 and EDCR 7.60(b). Minh does
10 not dispute refusing to respond to Jim's attempts to resolve the parent-
11 child issues the Court directed the parties to discuss. Minh claims this is
12 because "it appears that Jim is bent on in [sic] engaging in conflict for the
13 sake of engaging in conflict, throwing out insults, and making out [sic]
14 accusations, rather than acknowledging that the children, particularly
15 Hannah and Matthew, do not wish to be with him." Minh's Opposition
16 and Countermotion, pg. 20, lines 3-10. If the Court reviews the letter Jim's
17 counsel sent on his behalf, which is attached to Jim's Emergency Motion
18 as Exhibit 1, and which attempted to resolve the parent-child issues and
19 contained no insults or unfounded accusations, it is evident Minh's
20 Opposition and Countermotion was brought without reasonable ground
21 and to harass Jim, who should be determined to be the prevailing party.

22 In addition, Jim's counsel sent Minh's counsel a separate letter
23 regarding the financial issues on May 26, 2020. Minh never responded to
24 this letter. Jim has tried time and time again to coparent with Minh and
25 reduce the need for Court intervention. Minh has completely disregarded
26 Jim's attempts to resolve the parent-child issues. Minh's refusal to respond
27 to Jim's attempts to resolve the parent child issues multiplied the
28 proceedings in this case as to increase costs unreasonably and vexatiously.

1 D. This Court Should Deny Minh's Countermotion for the Children to
2 Be Interviewed, for a Guardian Ad Litem to Be Appointed, and for
3 Minh to Be Awarded Primary Physical Custody

4 Minh made these exact same requests in her Motion to Extend
5 Temporary Protective Order T-20-204489-T, to Change Custody on an
6 Interim Basis, for an Interview of the Minor Children and to Change
7 Custody filed on March 27, 2020. Absolutely nothing has changed since
8 Minh's last filing. Minh still refuses to coparent with Jim. Hannah still
9 needs to be seen by a psychologist. It is still in the children's best interest
10 for the parties to share joint physical custody. Jim quite literally could copy
11 and paste the same argument from his Opposition to Minh's Motion to
12 Extend TPO here, and references same to the extent the Court finds any
13 merit to Minh's Countermotion.

14 Although this Court has authority "[d]uring the pendency of the
15 action, at the final hearing or at any time thereafter during the minority of
16 the child, [to] make such an order for the custody, care, education,
17 maintenance and support of the minor child as appears in his or her best
18 interest," pursuant to NRS 125C.0045(1)(a), this Court also has discretion
19 to deny Minh's motion to modify custody without holding a hearing based
20 on the fact Minh has failed to demonstrate adequate cause to hold a
21 hearing. *Rooney v. Rooney*, 109 Nev. 540, 542, 853 P.2d 123, 124 (1993).

22 'Adequate cause' requires something more than allegations
23 which, if proven, might permit inferences sufficient to establish
24 grounds for a custody change. 'Adequate cause' arises where
25 the moving party presents a prima facie case for modification.
26 To constitute a prima facie case it must be shown that: (1) the
27 facts alleged in the affidavits are relevant to the grounds for
28 modification; and (2) the evidence is not merely cumulative or
impeaching.

26 *Id.* at 543, 853 P.2d at 125 (citing *Roorda v. Roorda*, 25 Wash. App. 849,
27 611 P.2d 794, 796 (1980)).

28 . . .

1 Minh has failed to demonstrate how awarding her primary physical
2 custody would satisfy any of the best interest factors set forth in NRS
3 125C.0035(4). Minh’s “analysis” of most of the NRS 125C.0035(4)
4 factors is limited to one groundless sentence and provides no new evidence
5 the Court did not already consider in denying her last motion to award her
6 primary physical custody. The only new allegation, which is false like
7 Minh’s past allegations of domestic abuse, is that Jim punched Hannah in
8 the face. As detailed above, Jim did no such thing and the police found no
9 cause to arrest him after Minh called the police to Jim’s home. In addition,
10 despite the evidentiary hearing on child custody spanning three (3) days,
11 including fifteen (15) hours of testimony from six (6) witnesses, and
12 resulting in a custodial order that is more than thirty (30) pages long,
13 Minh submits “custody was not fully litigated.” Minh’s inability to accept
14 this Court’s Orders is honestly astounding. Even Minh’s request for the
15 appointment of a Guardian Ad Litem consists of one baseless sentence.

16 The children need therapy and for their parents to coparent to meet
17 their needs and best interests. The children do not need to be dragged into
18 Court to be interviewed. As detailed above, Matthew and Selena have
19 adjusted extremely well to the joint physical custody arrangement. It is
20 Hannah for whom the parties are most concerned. Hannah is only eleven
21 (11) years old and should not be made to participate in Minh’s continued
22 campaign for primary physical custody.

23 Based on the foregoing, Minh’s Countermotion should be denied in
24 its entirety.

25 . . .

26 . . .

27 . . .

28 . . .

1 IV. CONCLUSION

2 Based on the foregoing, Jim respectfully requests the Court grant the
3 relief requested in this Emergency Motion and deny Minh's
4 Countermotion.

5 DATED this 6th day of July, 2020.

6 THE DICKERSON
7 KARACSONYI LAW GROUP

8
9 By /s/ Sabrina M. Dolson
10 ROBERT P. DICKERSON, ESQ.
11 Nevada Bar No. 000945
12 SABRINA M. DOLSON, ESQ.
13 Nevada Bar No. 013105
14 1745 Village Center Circle
15 Las Vegas, Nevada 89134
16 Attorneys for Plaintiff
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF JAMES W. VAHEY

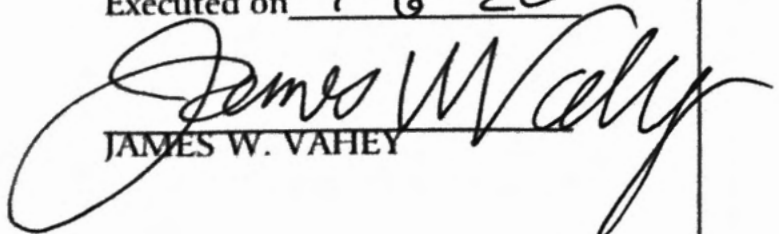
I, JAMES W. VAHEY, declare under penalty of perjury under the law of the State of Nevada that the following statement is true and correct:

1. I am over the age of 18 years. I am the Plaintiff in this action. I have personal knowledge of the facts contained herein, and I am competent to testify thereto.

2. I am making this declaration in support of my PLAINTIFF'S REPLY IN SUPPORT OF HIS EMERGENCY MOTION TO RESOLVE PARENT-CHILD ISSUES AND FOR ATTORNEYS' FEES AND COSTS AND OPPOSITION TO COUNTERMOTION TO APPOINT JEN MITZEL AS THE CHILDREN'S THERAPIST, FOR AN INTERVIEW OF THE MINOR CHILDREN OR IN THE ALTERNATIVE FOR THE APPOINTMENT OF A GUARDIAN AD LITEM, TO CHANGE CUSTODY, AND FOR ATTORNEY'S FEES AND COSTS ("Reply and Opposition"). I have read the Reply and Opposition prepared by my counsel and swear, to the best of my knowledge, that the facts as set forth therein are true and accurate, save and except any fact stated upon information and belief, and as to such facts I believe them to be true. I hereby reaffirm said facts as if set forth fully herein to the extent that they are not recited herein. If called upon by this Court, I will testify as to my personal knowledge of the truth and accuracy of the statements contained therein.

I, JAMES W. VAHEY, declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on 7-6-20


JAMES W. VAHEY

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of THE
3 DICKERSON KARACSONYI LAW GROUP, and that on this 6th day of
4 July, 2020, I caused the above and foregoing document entitled *Plaintiff's*
5 *Reply in Support of His Emergency Motion to Resolve Parent-Child Issues and for*
6 *Attorneys' Fees and Costs and Opposition to Countermotion to Appoint Jen Mitzel*
7 *as the Children's Therapist, for an Interview of the Minor Children or in the*
8 *Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and*
9 *for Attorney's Fees and Costs* to be served as follows:

10 [X] pursuant to NEFCR 9, NRCP 5(b)(2)(E) and Administrative
11 Order 14-2 captioned "In the Administrative Matter of
12 Mandatory Electronic Service in the Eighth Judicial District
Court," by mandatory electronic service through the Eighth
Judicial District Court's electronic filing system;

13 [] pursuant to NRCP 5(b)(2)(C), by placing same to be deposited
14 for mailing in the United States Mail, in a sealed envelope
upon which first class postage was prepaid in Las Vegas,
Nevada;

15 [] pursuant to NRCP 5(b)(2)(F), to be sent via facsimile, by duly
16 executed consent for service by electronic means;

17 [] pursuant to NRCP 5(b)(2)(A), by hand-delivery with signed
18 Receipt of Copy.

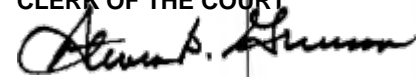
19 To the attorney(s) and/or person(s) listed below at the address, email
20 address, and/or facsimile number indicated below:

21 FRED PAGE, ESQ.
22 PAGE LAW FIRM
23 6930 South Cimarron Road, Suite 140
Las Vegas, Nevada 89113
24 fpage@pagelawoffices.com
Attorney for Defendant

25 /s/ Sabrina M. Dolson
26 An employee of The Dickerson Karacsonyi Law Group
27
28

82

82



ROPP
FRED PAGE, ESQ.
NEVADA STATE BAR NO. 6080
PAGE LAW FIRM
6930 SOUTH CIMARRON ROAD, SUITE 140
LAS VEGAS, NEVADA 89113
TELEPHONE: (702) 823-2888
FACSIMILE: (702) 628-9884
Email: fpage@pagelawoffices.com
Attorney for Defendant

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

JAMES W. VAHEY,

Plaintiff,

vs.

MINH NGUYET LUONG,

Defendant.

Case No.: D-18-581444-D

Dept.: H

Hearing Date: July 13, 2020

Hearing Time: 10:00 a.m.

**DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION
TO
COUNTERMOTION**

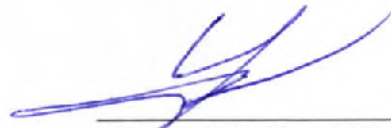
**TO APPOINT JEN MITZEL AS THE CHILDREN'S THERAPIST, FOR AN
INTERVIEW OF THE MINOR CHILDREN OR IN THE ALTERNATIVE
FOR THE APPOINTMENT OF A GUARDIAN AD LITEM, TO CHANGE
CUSTODY,
AND
FOR ATTORNEY'S FEES AND COSTS**

COMES NOW Defendant, MINH NGUYET LUONG, by and through her
counsel, Fred Page Esq., of Page Law Firm and hereby submits her Reply Plaintiff,
JAMES W. VAHEY'S, Opposition to Countermotion to Appoint Jen Mitzel as the
Children's Therapist, for an Interview of the Minor Children, or in the Alternative
for the Appointment of a Guardian *Ad Litem*, to Change Custody, and for

1 Attorney's Fees and Costs. This Reply is based upon the papers and pleadings on
2
3 file, the attached Points and Authorities and any oral argument that the Court may
4 wish to entertain.

5 DATED this 9th day of July 2020

6
7 PAGE LAW FIRM

8
9 

10 FRED PAGE, ESQ.

11 Nevada Bar No. 6080

12 6930 South Cimarron Road, Suite 140

13 Las Vegas, Nevada 89113

14 (702) 823-2888

15 Attorney for Defendant
16
17
18
19
20
21
22
23
24
25
26
27
28

POINTS AND AUTHORITIES

I. REPLY

Jim's Opposition may be summarized as continuing personal attacks against Minh, blaming her for everything and then claims after blaming Minh for everything that she cannot co-parent. Jim continues to improperly place argument in what is supposed to be a Statement of Facts.

A. Jim's Factual Misstatements Should Be Addressed

Jim claims that Hannah's behavior has become more concerning after she returned from being with Minh for five weeks. Opp. at page 1, lines 19-21. That claim is false. Hannah, and Matthew, were running away from Jim in December. Hannah's, and Matthew's grades have deteriorated. Therapy is of no use.

The children still run to Minh when it is her time and have to be dragged over to Jim because they prefer to be with Minh. If Hannah's behavior has deteriorated it is because Jim has removed all vestiges of any privacy for a developing girl, and has tried to limit her access to the outside world. Jim has punished Hannah for reporting that she saw him batter Minh and then wonders why she is resentful toward him.

Jim complains that Minh refuses to cooperate with Dr. Gravley. Opp. at page 1, lines 25-28. The claim is false. Everyone agrees that Dr. Gravley provides no benefit so there is no reason for anyone to use her. Furthermore, Hannah refuses to participate in "therapy" with Dr. Gravley. It is Jim who needs to repair his relationship with the children. As stated, the children's relationship with Minh is

1 excellent, no therapy is needed. Jim needs to do something more that blame everyone
2 else for the damage he has caused to the relationship with the children.

3 Jim claims that he has not engaged in any retribution. Opp. at page 2, lines 3-4.
4
5 Of course Jim has. It is why he removed the locks, sleeps in the room next to her,
6 watches her while she sleeps, restricts her communication with Minh, places
7 recording devices around the house, punches her, and interrogates her about what she
8 and Minh talk about.
9

10 Jim tries to claim that Dr. Gravley even thought it would be okay to remove
11 Hannah's doors. Opp. at page 2, lines 9-14. The claim should be considered as being
12 untrue. Minh advises she has talked with Dr. Gravley has she has never advised that
13 Hannah's doors be removed.
14
15

16 Jim advises that he has to check on Hannah "to make sure that she is okay."
17 Opp. at page 3, lines 1-15. The claim is false. There is no need to "check on
18 Hannah." When Hannah is with Minh she is a happy engaged child, as are Matthew
19 and Selena.
20
21

22 Jim asserts that he has Matthew sleep in the master bedroom because Matthew
23 has a "bad back."¹ Opp. at page 3, lines 8-19. If that were actually true, Jim would
24 simply purchase a new mattress. The assertion strains credulity.
25
26
27
28

¹ Minh advises that Matthew does not have a "bad back."

1 Jim also claims, in a "statement of facts," that he is sleeping in the room next to
2 Hannah to "help her adjust to the parties' separation and custodial arrangement."²
3 Opp. at page 3, lines 24-25. Even Jim's "explanation" is creepy. No further
4 comment should be required.
5

6 Jim asserts that it is "worrisome" that Minh has refused to cooperate with Dr.
7 Gravley. Opp. at page 4, lines 5-19. The claim is false. Everyone agrees that Dr.
8 Gravley fails to provide any useful services. Since that is the case, there is no reason
9 to utilize her. Hannah dislikes Jim because of how he treats her and how he lied to the
10 family. As stated, Jim is the one who needs therapy regarding his relationship with
11 the children. When the children are with Minh, they thrive.
12
13
14

15 It is contended by Jim that he does not time the telephone calls with the
16 children and Minh and does not record them. Opp. at page 4, lines 20-27. If Jim
17 really believes that is true, he should have the children be interviewed.
18

19 On page 5, lines 12-14, Jim claims that Hannah could be on her cellphone only
20 3 hours per day. Jim contradicts himself. On page 8, line 27, through page 9, line 1,
21 of his Motion Jim claimed that Hannah was to be limited to only 2 hours per day. Jim
22 has now contradicted himself for the same hearing.³ Minh reports that Jim has now
23 gone to allowing Hannah has much time on the cellphone as she wants.
24
25
26

27 ² Jim loses control so he tries to exert further control which only further damages
28 his relationship with the children.

³ Either Jim was lying then or Jim is lying now.

1 As expected, Jim actually claims that Hannah "ran into" his "hand," that he
2 happened to be holding at Hannah's face level, while at the same time trying to blame
3 Minh for causing Hannah's nose to bleed by asserting that Hannah "only" acts badly
4 right after she comes back from Minh. Opp. at page 5, lines 1-11 and lines 17-21.
5

6 Jim wants everyone to believe that Hannah "running into" his "hand," rather
7 than a closed fist, was strong enough to cause her nose to bleed.⁴ Minh indicates that
8 Hannah told her Jim took her phone so could not take talk to Minh any further and so
9 she could not take photographs of the blood.
10
11

12 However, in the incident report filed by the Henderson Department, Jim
13 claimed that Hannah ran into is "torso" and that caused Hannah bloody nose. Jim has
14 now contradicted himself in the report to the Henderson Police Department and his
15 sworn statement to this Court. In addition, there is now an ongoing and continuing
16 pattern of Jim engaging in acts of domestic violence.⁵
17
18

19 On page 6, line 3, Jim states that upon his hitting Hannah he called his lawyer.
20 Opp. at page 6, line 2-3. Jim took Hannah's phone to prevent her from taking
21 photographs of the blood and then called his lawyer. Jim's conduct may be
22 reasonably seen as acting guilty.
23
24

25
26 ⁴ None of us could make our nose bleed by running into someone's stationary hand
27 if we tried by running 20 yards to first build up speed, and then ran into the hand.

28 ⁵ Choking Hannah after she and Matthew ran way, twisting Selena's arm, shoving
Minh's nephew (a young child) to the ground, battering Minh (witnessed by the
children), and now hitting Hannah in the face.

1 If nothing had actually happened, as Jim claims, and it was an "accident," there
2 would have been no need for the first thing for Jim to do of Jim calling his lawyer
3 who then would have instructed him to take Hannah's phone from her, and then clean
4 up the blood before any photographs could be taken, and make sure it was all done
5 before the police arrived. None of that changes the truth that Jim punched Hannah.
6

7
8 It is argued by Jim "why" would he punch Hannah if there is another adult in
9 the house. Opp. at page 6, lines 4-10. The assertion answers itself, Jim is unable to
10 control himself when he cannot control Minh or the children he engages in domestic
11 violence against them.
12

13 Jim also tries to argue that it is harassment to have Hannah eat with the family.
14 Opp. at page 6, lines 13-15. Jim gets it wrong. What is harassment is the alienation
15 that Jim in engages in by accusing Hannah of scheming with Minh and badgering her
16 "you don't need me, do you" when all Hannah wants to do is be left alone.
17
18

19 Jim tries to assert that Hannah does not eat when she is with Minh. Opp. at
20 page 6, lines 21-28. When Hannah is with Minh she gets up early and makes
21 breakfast because what is what she likes to do and then eats well throughout the day.
22 Minh is concerned because Hannah refuses to eat when Hannah is with Jim. It is why
23 in Exhibit B which is part of Minh's Countermotion Minh checks in with Hannah in a
24 text to make sure she is eating.
25
26

27 It is complained by Jim that Minh does not schedule therapy appointments
28 during her custodial time. Opp. at page 7, lines 3-7. Jim is the one who ruined his

1 If nothing had actually happened, as Jim claims, and it was an "accident," there
2 would have been no need for the first thing for Jim to do of Jim calling his lawyer
3 who then would have instructed him to take Hannah's phone from her, and then clean
4 up the blood before any photographs could be taken, and make sure it was all done
5 before the police arrived.
6

7
8 It is argued by Jim "why" would he punch Hannah if there is another adult in
9 the house. Opp. at page 6, lines 4-10. The assertion answers itself, Jim is unable to
10 control himself when he cannot control Minh or the children he engages in domestic
11 violence against them.
12

13 Jim also tries to argue that it is harassment to have Hannah eat with the family.
14 Opp. at page 6, lines 13-15. Jim gets it wrong. What is harassment is the alienation
15 that Jim in engages in by accusing Hannah of scheming with Minh and badgering her
16 "you don't need me, do you" when all Hannah wants to do is be left alone.
17
18

19 Jim tries to assert that Hannah does not eat when she is with Minh. Opp. at
20 page 6, lines 21-28. When Hannah is with Minh she gets up early and makes
21 breakfast because what is what she likes to do and then eats well throughout the day.
22 Minh is concerned because Hannah refuses to eat when Hannah is with Jim. It is why
23 in Exhibit B which is part of Minh's Countermotion Minh checks in with Hannah in a
24 text to make sure she is eating.
25
26

27 It is complained by Jim that Minh does not schedule therapy appointments
28 during her custodial time. Opp. at page 7, lines 3-7. Jim is the one who ruined his

1 relationship with the children. The children thrive with Minh and their relationship is
2 excellent. Predictably, Jim chooses to blame Minh for the relationships he ruined
3 instead of accepting that he is the cause of his problems, by how he treats everyone.
4

5 Jim claims that Hannah has had a "sudden change in behavior" and that she
6 does not care how the separation has negatively affected the children. Opp. at page 7,
7 lines 8-19. Hannah, and Matthew, tried to run away in December and their grades
8 have declined and Jim tries to claim that Hannah's behavior has only changed
9 suddenly. The facts contradict the assertion. No further comment should be required.
10
11

12 Jim then tries to again predictably blame Minh for "not caring" how the
13 separation has negatively affected the children. One, Jim is the one who filed for
14 divorce, not Minh. Two, the separation has never negatively affected the children
15 when they are with Minh. The children are happy and contented with her.
16
17

18 Jim claims that he has a good relationship with Matthew and Selena. Opp. at
19 page 7, lines 20-28. If that were true, then exchanges when the children have to go
20 back to Jim would not be such an ordeal. It still takes an extreme amount of effort to
21 pull the children from inside Minh's vehicle to go to Jim. The children still **run** to
22 Minh when it is her time. The lack of insight for Jim to fail to see that there is a
23 problem on his part may be seen as concerning.
24
25

26 Jim reports that Hannah's is "not stunted" and fails to provide any and
27 belatedly claims without any substantiation, "she's eating better lately." Opp. at page
28 8, lines 1-4. It is going to be simple cause and effort that if Hannah is choosing to

1 starve herself she her growth is going to be stunted as well as having a reduced
2 intellectual capacity.

3 Jim claims that he does not hurl accusations and insults. Opp. at page 8, lines
4 10-16. It is all he does. That and blame everyone else for his poor relationship with
5 the children. Even in the response from Minh's counsel to Jim's counsel dated May
6 24, Jim had to be reminded at least three times to stop with the incessant blaming
7 everyone else.
8

9 Jim, again, brings up Matthew's iPad and wants Matthew to bring it back and
10 forth so Matthew can do homework. Opp. at page 9, lines 3-14. It was stated before.
11 Jim is the physical custodian for three school age children but he was not equipped
12 to do so. Even though he has the means, Jim fails to provide computers or printers
13 for the children to do their school work. And, somehow all of this is Minh's fault.
14 Minh is tired of purchasing a new wardrobe for the children because everything
15 she buys them never comes back. Minh fears that Jim will confiscate the iPad, and
16 like everything else, it will never come back.
17

18 Jim still complains wanting to use Jen Mitzel, and claims that she is only a
19 "therapist." Both Jen Mitzel and Bree Mullins are *therapists*. They are equally
20 qualified in that regard. The undersigned has experience with Ms. Mitzel working
21 a high conflict case very well. What Hannah needs is someone who is effective.
22 Jim has made it very transparent that he intends to not use Dr. Mullins for therapy,
23
24
25
26
27
28

1 but to try and backdoor his way into getting some kind of diagnosis for the newest
2 catchphrase of "pathogenic parenting."

3 Jim still claims that he needs to know where the children are. Opp. at page
4 9, line 24, through page 10, line 16. If Jim is really concerned about where the
5 children are if there is an "emergency" he is perfectly capable of calling the
6 children on a cellphone. Jim is trying to exercise control over Minh similar as to
7 how he tries to exercise control over the children, particularly Hannah.
8

9 Jim was the primary physical custodian and he complained that he had to
10 purchase Chromebooks. Opp. at page 10, line 17, through page 11, line 3. As the
11 primary physical custodian Jim *should* have been purchasing laptops for the
12 children, and yet he tries to blame Minh for him needing to purchase some.
13

14 Jim believes that Hannah "desperately" needs treatment. Opp. at page 11,
15 line 14. Hannah only desperately needs treatment when she is with Jim. Hannah is
16 happy, energetic, eating, and contented child when she is with her mother. Jim is
17 the only one responsible for his poor relationship with Hannah.
18

19 Jim actually claims that Minh will not cooperate with Jim to ensure that the
20 children can communicate with him while they are with her. Opp. at page 11, lines
21 18-20. The claim is utterly and completely false. Even in the texts attached as an
22 Exhibit, Minh essentially tells Jim, "okay I hand the phone over to Selena but all
23 she is going to do is cry because she is playing right now." Minh *repeatedly* tells
24 Jim to call Hannah and Matthew directly. Minh can call Hannah and Matthew
25
26
27
28

1 quite easily except when Jim is restricting their access to them. Jim's response to
2 everything is to blame Minh.

3 In footnote 2, on page 11, Jim claims that Matthew told Dr. Gravley that he
4 is not comfortable speak to Jim while he is in Minh's custody. Jim even gets that
5 wrong. Dr. Gravley noticed that when Jim and Minh were in the waiting room
6 with the children that the children gravitated to Minh and did not really interact
7 with Jim. When Jim and the children were in the waiting room without Minh
8 being there Matthew would speak to Jim. In a session with Matthew and Minh,
9 Minh explained and stressed to Matthew that it was okay to interact with Jim when
10 she was there. As to Jim's claim that "shortly after this session, Minh stopped
11 supporting the children attending therapy," the claim is utterly and complete false.
12

13 Jim continues fixating about an amount of time and which days the children
14 should be allowed to communicate. Opp. at page 12, lines 9-18. The children are
15 people. Some days they want to speak to Minh longer, sometimes shorter.
16 Sometimes they will want to speak to Minh multiple times in a day. Other times
17 they will only want to speak to her once day.
18

19 They are children with different ages and personalities, they are not factory
20 workers to act upon Jim's command.⁶ Creating artificial constructs for when a
21

22
23
24
25
26
27
28 ⁶ One does not schedule when you want to say "I love you" to your parent, or "I'm
having a bad day, I need to talk to you." Cases in which there is no litigation have
no issues about contact because the children naturally contact their parents as they

1 child can and cannot contact one of their parents is contrary to their best interests.
2 It is apparent Jim completely fails to understand that. There should be little
3 wonder why the children *run* to Minh and thrive with her, and literally have to be
4 *dragged* from Minh's vehicle to Jim.⁷

6 As to when the Minh tries to get the children to speak to Jim when they are
7 with her, she reports that Hannah and Matthew literally run and hide and Selena
8 usually ends up crying.

10 On page 13, line 20, through page 14, line 8, Jim refers to extended care
11 after school as "free tutoring" and "socializing." The bottom line is that Jim lied to
12 this Court about him rearranging his work hours to be available for the children.
13 He never did that. The reality is that Hannah and Matthew have regressed and
14 academically, and it is submitted socially as well since they are all now in
15 counseling.

19 Jim further claims that "Ms. Baron" wanted the children in extended care for
20 tutoring. That is untrue. Minh advises that she is in regular contact with Ms.
21 Baron. She advised that the children should be in tutoring for 2 days out of the
22 week, not 5. Jim leaves the children in daycare so that he can continue working his
23 late hours, contrary to what he testified to this Court previously.

26 wish. It is hard to image how such an artificial construct would be in any child's
27 best interests.

28 ⁷ All of the evidence indicates that Minh is much more attuned to the children's
wants and needs than is Jim.

1 Jim actually claims he did not batter Minh despite evidence to the contrary.
2 Opp. at page 16, lines 22-27. The evidence that Jim did batter Minh is the
3 children's statements that they made to the Henderson Police Department in
4 separate interviews. The audio recording to which Jim refers has Minh stating that
5 Jim pushed her.
6

7
8 Jim's counsel still takes issue with Jim being asked "what is wrong with
9 your client?" The question remains valid. Jim has choked Hannah, twisted
10 Selena's arm, battered Minh, engaged in retribution against Hannah, punched
11 Hannah, and is badgering Hannah, and yet still does nothing else but blame Minh
12 for every single one of his problems with the children.
13
14

15 **B. Jen Mitzel Should Be Selected As the Counselor**

16 Jim fails to provide any opposition to this request other than restate that he
17 wants Bree Mullins to be the "therapist." Jim openly admits that he intends to use
18 Dr. Mullins as a "witness" even though therapists are not supposed to testify as to
19 what goes on in therapy sessions. Jim effectively admits that it is his agenda to try
20 and use "therapy" for the purpose of getting the diagnosis he pays for from Dr.
21 Mullins for "pathogenic parenting."
22
23

24
25 What Jim wants is antithetical to the children's best interests for Jim to use
26 his own children to try and wrest a diagnosis from a treating therapist, not a
27 forensic therapist, so that he can continue blaming Minh and absolve himself any
28 responsibility for the poor relationship he has with the children.

1 Jim's bad faith reason for wanting to use Dr. Mullins is reason enough for
2 this Court to order the use of Jen Mitzel so that Jim is prevented from using
3 "therapy" for his own selfish ends.
4

5 **C. The Children Should Be Interviewed**

6 Jim has engaged in retribution against Hannah for siding with Minh, Hannah
7 being the victim of domestic violence to the point her nose was bloodied and
8 Hannah being badgered by a controlling Jim as to her relationship with her own
9 mother and whether she "needs" him should be investigated. What is happening
10 should be seen as very concerning and an interview is in the children's best
11 interests.
12
13
14

15 **D. The Children Should Be Appointed a Guardian *Ad Litem***

16 In the alternative, the children can be appointed a guardian *ad litem* so what
17 is happening to them can be communicated to the Court. There are several capable
18 attorneys who could speak for the children.
19

20 **E. Minh Should Receive Primary Physical Custody**

21
22 The analysis Minh presented in her Countermotion need not be restated. A
23 child being a victim of domestic violence to the point her nose has been bloodied is
24 adequate cause regardless of whether an arrest was effectuated.⁸ Because the
25 harassment and badgering that Jim is doing to Hannah since the last hearing for
26
27

28 ⁸ As indicated, Jim also contradicted himself from the police report to his
Opposition as to how the bloody nose occurred.

1 siding with Minh her wishes should be given some consideration. It should also
2 be a consideration that the *still* children *run* to Minh when it is their time to be
3 with her and the children *still* literally have to be *dragged* from Minh's vehicle
4 when it is time to return to Jim. Even Jim admits this is true.
5

6 There has been a change effecting the best interests of the children, and it
7 would be an enhancement of the children's best interests by changing custody.
8 Minh should be given interim primary physical custody until such time as there is
9 an evidentiary hearing.
10
11

12 III. 13 CONCLUSION

14 WHEREFORE, Defendant, MINH NGYUET LUONG, respectfully requests
15 that the Court enter the following orders,
16

- 17 1. Denying Jim's Motion in its entirety.
- 18 2. Requiring that the children be interviewed.
- 19 3. Appointing a guardian *ad litem* for the children.
- 20 4. Finding that there is adequate for there to be an evidentiary hearing on
21 the issue of custody due to Jim punching Hannah in the face.
22

23
24 ///

25 ///

26 ///

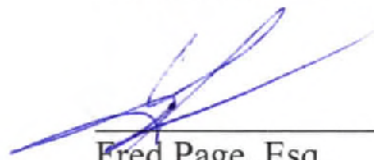
27 ///

28 ///

1 5. For any further relief the Court deems proper and just.

2 DATED this 9th day of July 2020

3
4 PAGE LAW FIRM

5
6 

7 _____
8 Fred Page, Esq.
9 Nevada State Bar No. 6080
10 6930 South Cimarron Road, Suite 140
11 Las Vegas, Nevada 89113
12 (702) 823-2888
13 Attorney for Defendant

CERTIFICATE OF SERVICE

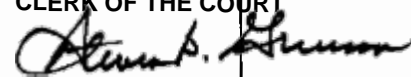
The undersigned hereby certifies that on the 9th day of July 2020 that the foregoing DEFENDANT'S REPLY TO OPPOSITION TO COUNTERMOTION was served pursuant to NECFR 9 via e-service to Robert Dickerson, Esq. attorney for Plaintiff.



An employee of Page Law Firm

83

83



EXHS
FRED PAGE, ESQ.
NEVADA STATE BAR NO. 6080
PAGE LAW FIRM
6930 SOUTH CIMARRON ROAD, SUITE 140
LAS VEGAS, NEVADA 89113
TELEPHONE: (702) 469-3278
FACSIMILE: (702) 628-9884
Email: fpage@pagelawoffices.com
Attorney for Defendant

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

JAMES W. VAHEY,

Plaintiff,

vs.

MINH NGUYET LUONG,

Defendant.

Case No.: D-18-581444-D

Dept.: H

**DEFENDANT'S EXHIBIT APPENDIX IN SUPPORT OF REPLY
TO**

COUNTERMOTION

**TO APPOINT JEN MITZEL AS THE CHILDREN'S THERAPIST, FOR AN
INTERVIEW OF THE MINOR CHILDREN OR IN THE ALTERNATIVE
FOR THE APPOINTMENT OF A GUARDIAN AD LITEM, TO CHANGE
CUSTODY,
AND
FOR ATTORNEY'S FEES AND COSTS**

COMES NOW Defendant, MINH NGUYET LUONG, by and through her
counsel, Fred Page Esq., of Page Law Firm and hereby submits her Exhibit
Appendix in Support of her Reply Plaintiff's Countermotion to Appoint Jen Mitzel
as the Children's Therapist, for an Interview of the Minor Children, or in the

1 Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and
2
3 for Attorney's Fees and Costs.

4 **Exhibit F:** Incident report from the Henderson Police Department dated
5
6 June 19, 2020, wherein Jim struck Hannah.

7 1. It was reported by Hannah on page 9 of her witness
8 statement that she "never really want to go with [her] dad,"
9 and Hannah, "went into the room next to mine and when I
10 turn around, I feel his hand hit my nose and I felt it
11 bleeding." HANNAH000008.
12

13
14 2. Hannah further stated that her nose was "bleeding a lot."
15 HANNAH000008.
16

17 3. Hannah additionally reported that Jim wiped down the sink
18 to remove any evidence of the blood. HANNAH000008.
19

20 4. Hannah further advised that what blood was there was
21 actually "paint." HANNAN000009.
22

23 5. Hannah indicated that Jim took her phone so that she would
24 be unable to take any photographs of the blood.
25 HANNAH000009.
26

27 ///

28 ///

1 **Exhibit G:** Speadsheet from Dr. Luong regarding the expesnes Jim has
2 failed to pay.
3

4 DATED this 10th day of July 2020

5 PAGE LAW FIRM

6 
7

8 FRED PAGE, ESQ.

9 Nevada Bar No. 6080

10 6930 South Cimarron Road, Suite 140

11 Las Vegas, Nevada 89113

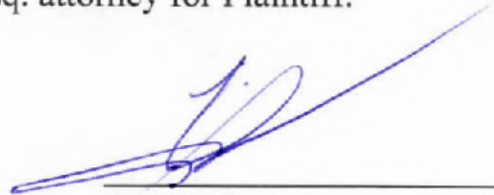
12 (702) 823-2888

13 Attorney for Defendant
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 10th day of July 2020 that the foregoing DEFENDANT'S EXHIBIT APPENDIX IN SUPPORT OF REPLY TO OPPOSITION TO COUNTERMOTION was served pursuant to NECFR 9 via e-service to Robert Dickerson, Esq. attorney for Plaintiff.



An employee of Page Law Firm

EXHIBIT F

Incident Report

HENDERSON POLICE
223 LEAD ST
HENDERSON, NEVADA 89015

Incident Number: 20-10761

Incident Summary

Incident Type: CHILD ABUSE/NEGLECT
Inc Occurred Address: 27 VIA MIRE MONTE, HENDERSON, NEVADA 89011
Inc Occurred Start: 06/19/2020 11:30 Inc Occurred End: 06/19/2020 12:00
Domestic: N Nbr of Prior Incidents: Protective Order in Effect: U DV Card Given: U
Number of Children Present: Ages of Children:
Bias Motivation: Gang Related: N Substance: U
Contact Nature: DISPATCHED Reported Date/Time: 06/19/2020 16:41
Reporting Officer: DIAZ, JULIAN Primary Assigned Officer:
Case Status: CLOSED Disposition: UNFOUNDED Disposition Date: 06/22/2020 00:00
Mitigating Circumstances For Not Arrested:

Offenses

Statute Code: 200.508.1 Enhancers:
Statute Desc: CHILD ABUSE OR NEGLECT, (1ST)
Counts: 1 Statute Severity: FELONY

Persons Involved

Person#: 0001 Can ID Suspect: No
Event Association: MENTIONED Contact Date/Time: 06/19/2020 17:01
Name: VAHEY, MATTHEW
DOB: 06/26/2010 Age: 9 - 9 Sex: MALE Race: WHITE
Height: 4' 9" - 4' 9" Weight: 90 - 90 lbs Eye Color: BROWN Hair Color: BLACK
Address: 27 VIA MIRE MONTE, HENDERSON, NEVADA 89011 Sector/Beat: EAST/E1
Phone Type 1: Phone# 1: Ext 1:
Phone Type 2: Phone# 2: Ext 2:
Occupation: Employer/School:

Person#: 0002 Can ID Suspect: No
Event Association: MENTIONED Contact Date/Time: 06/19/2020 17:01
Name: VAHEY, SELENA
DOB: 04/04/2014 Age: 6 - 6 Sex: FEMALE Race: ASIAN
Height: 4' 5" - 4' 5" Weight: 70 - 70 lbs Eye Color: BROWN Hair Color: BLACK
Address: 27 VIA MIRE MONTE, HENDERSON, NEVADA 89011 Sector/Beat: EAST/E1
Phone Type 1: Phone# 1: Ext 1:
Phone Type 2: Phone# 2: Ext 2:
Occupation: Employer/School:

HANNAH000001

Incident Report

HENDERSON POLICE
223 LEAD ST
HENDERSON, NEVADA 89015

Incident Number: 20-10761

Persons Involved

Person#: 0003
Event Association: MENTIONED
Name: LUONG, MINH
DOB: 12/27/1972
Age: 47 - 47 Sex: FEMALE
Race: ASIAN
Height: 5' 5" - 5' 5"
Weight: 130 - 130 bs
Eye Color: BROWN
Hair Color: BLACK
Address: 100 PARK VISTA DR, LAS VEGAS, NEVADA 89138
Sector/Beat:
Phone Type 1: CELL/MOBILE
Phone# 1: (702) 353-2319
Ext 1:
Phone Type 2:
Phone# 2:
Ext 2:
Occupation:
Employer/School:

Can ID Suspect: No

Contact Date/Time: 06/19/2020 00:00

Person#: 0004
Event Association: WITNESS
Name: ODEJON, MARIA
DOB: 04/12/1965
Age: 55 - 55 Sex: FEMALE
Race: WHITE
Height: 5' 1" - 5' 1"
Weight: 135 - 135 bs
Eye Color: BROWN
Hair Color: BLACK
Address: ,
Sector/Beat:
Phone Type 1:
Phone# 1:
Ext 1:
Phone Type 2:
Phone# 2:
Ext 2:
Occupation:
Employer/School:

Can ID Suspect: No

Contact Date/Time: 06/19/2020 17:15

Person#: 0005
Event Association: VICTIM
Name: VAHEY, HANNAH
DOB: 03/19/2009
Age: 11 - 11 Sex: FEMALE
Race: ASIAN
Height: 4' 9" - 4' 9"
Weight: 100 - 100 bs
Eye Color: BROWN
Hair Color: BLACK
Address: 27 VIA MIRE MONTE, HENDERSON, NEVADA 89011
Sector/Beat: EAST/E1
Phone Type 1:
Phone# 1:
Ext 1:
Phone Type 2:
Phone# 2:
Ext 2:
Occupation:
Employer/School:

Can ID Suspect: No

Contact Date/Time: 06/19/2020 17:01

Person Offenses

Statute Code: 200.508.1
Statute Desc: CHILD ABUSE OR NEGLECT, (1ST)
Counts: 1

Enhancers:

HANNAH000002

Printed by: havisd
Printed date/time: 7/8/20 13:45

Incident Report

Page 3 of 6

HENDERSON POLICE
223 LEAD ST
HENDERSON, NEVADA 89015

Incident Number: 20-10761

Persons Involved

Person#: 0006	Can ID Suspect: No
Event Association: SUSPECT	Contact Date/Time: 06/19/2020 17:01
Name: VAHEY, JAMES WALTER	
DOB: 12/15/1962	Age: 57 - 57 Sex: MALE Race: WHITE
Height: 4' 7" - 5' 7"	Weight: 140 - 140 bs Eye Color: GREEN Hair Color: BROWN
Address: 27 VIA MIRE MONTE, HENDERSON, NEVADA 89011	Sector/Beat: EAST/E1
Phone Type 1: CELL/MOBILE	Phone# 1: (702) 592-5925 Ext 1:
Phone Type 2: CELL/MOBILE	Phone# 2: (702) 592-5925 Ext 2:
Occupation: SURGEON	Employer/School: HAND CENTER OF NEVADA

Person Offenses

Statute Code: 200.508.1	Enhancers:
Statute Desc: CHILD ABUSE OR NEGLECT, (1ST)	
Counts: 1	

HANNAH000003

Incident Report

HENDERSON POLICE
223 LEAD ST
HENDERSON, NEVADA 89015

Incident Number: 20-10761

Narratives

ENTERED DATE/TIME: 6/19/2020 19:15:00

NARRATIVE TYPE: INCIDENT

SUBJECT: FBR NARRATIVE

AUTHOR: DIAZ, JULIAN

On 06/19/2020 at approximately 1641 hours, Officer J. Fuentes #2513 and I, Officer J. Diaz #2580 were dispatched to 27 Via Mira Monte, Henderson, Nevada in reference to a 11 year old advising her mother that she was hit in the nose by her father.

Upon arrival, I made contact with the father, later identified as James Vahey (12/15/62), who advised the following:

James had been home all day and by 0900 hours, his ex-wife, later identified as Minh Luong (12/27/72), dropped off their three children;

Hannah Vahey (03/19/09), Matthew Vahey (06/26/10), and Selena Vahey (04/04/14), as per orders of their joint-custody.

When Hannah's mother left, Hannah became upset and would not talk to James. James explained that Hannah had ran to her room, closed the door, and would not come out.

In efforts to get Hannah out of her room to spend quality time with the family, James went into Hannah's room to talk to her, but Hannah refused to talk to him.

Hannah attempted to run out of the room into the adjacent room, so she could avoid James, but James stepped into the threshold of the door to prevent Hannah from running out the room.

James explained that Hannah had ran into his torso area, which resulted in Hannah receiving a bloody nose from the impact.

Hannah told her father to get away and ran off to the bathroom.

Further, James explained that he had not hit Hannah.

James completed a witness statement, which is attached to this report.

Officer J. Fuentes spoke with Hannah, who advised the following:

At approximately 0930 hours, Hannah was dropped off at the residential gate and picked up by Maria, and brought back home. Hannah explained that she did not want to be with her father and that she rarely does. When

HANNAH000004

Incident Report

HENDERSON POLICE
223 LEAD ST
HENDERSON, NEVADA 89015

Incident Number: 20-10761

she is with James, she would typically run to her room and call her mother, Minh, and remain in her room.

However, James had taken her cell phone away when she arrived home, so she was unable to call her mother.

Approximately two hours later, James came into Hannah's room and would not leave, so Hannah got up from her bed to leave to the room next door. In doing so, she explained that she felt James's hand hit her nose. Hannah was uncertain if it was intentional and how it actually happened.

However, she did elaborate, explaining that she attempted to run passed her father to get away from him and that she did run into him when he stepped in front of her. Hannah continued explaining that she did not want to talk to her father or be around him.

Hannah immediately felt that her nose was bleeding, so she ran into her bathroom to avoid dripping blood onto the carpet. Hannah came out into the hallway with a towel to control the bleeding and was helped by Maria, while James stood there and watched.

When Hannah went back to her room, she had noticed that James cleaned up the blood in the sink from her nose bleed. She also had noticed her father saying it was paint. Hannah wanted to take a picture to send to her mother of the mess caused by the bloody nose her father had given her, but she was unable to since James had her cell phone.

Hannah completed a witness statement, which is attached to this report.

Hannah was observed for any injuries, which yielded negative results upon observation. Medical was offered to Hannah and refused.

CPS (G. Gomez) was contacted and a follow-up investigation will be conducted, reference #1939416.

Photo were taken of Hannah and where the incident occurred, and were uploaded to digital evidence.

Further, James granted Officers permission to check Hannah's room and the restroom where she treated the nose bleed.

I did not see evidence of blood near the threshold of Hannah's bedroom door where contact was made between her and James, nor did I find blood in the bedroom. I did find a tissue that contained a small amount of blood that was in plain view of the bathroom trash bin.

There were no further signs of blood; however, there was paint on the floor and near the toilet, along with paint accessories.

HANNAH000005

Printed by: havisd
Printed date/time: 7/8/20 13:45

Incident Report

Page 6 of 6

HENDERSON POLICE
223 LEAD ST
HENDERSON, NEVADA 89015

Incident Number: 20-10761

I spoke with the family babysitter, Maria Odejion (04/12/65) and Matthew Vahey (06/26/10), who both advised that they did not witness the incident, nor were they aware of Hannah's nose bleed.

Based on the aforementioned details, I did not see any indicators of child abuse, nor did any of the party's statements raise any suspicion of child abuse.

Due to the fact that Officers could not determine whether or not child abuse is a present at the residence, I request that this case be forwarded to CPS for follow-up.

Case Status: Closed

CC: CPS

Attachments: Yes

MVICS: Yes

HANNAH000006

VOLUME IX

AA001799



HENDERSON POLICE DEPARTMENT
WITNESS STATEMENT

HPD 0155

PAGE 1 OF 1

DR# 20-10761

STATE OF NEVADA)

COUNTY OF CLARK)

SS: HENDERSON

DATE: 06/19/20

TIME: 1700

I, James Vaher, date of birth 12-15-82
Social Security Number [REDACTED] Occupation medical doctor
Home Address 27 Via Mira Monte Email Address lotsailjima@gmail.com
Business Address 8585 S. Eastern L.V. 89123
Phone #'s: (H) --- (W) 702-798-8585 (C) 702-592-5925

do hereby make the following true statements to: J. DIAZ #2522
of the Henderson Police Department, of my own free will. There have been no threats, or promises of immunity or reward made to me to make this statement. It is further understood that this statement may be used either wholly or in part as evidence in a Court of Law.
I can read this and write the English language.

Everything I told the officer is what
occurred. I have never including today had
anything to hurt Hannah or my other two children.

[Signature]
Officer

[Signature]
Witness Signature

HPD 0155

City of Henderson, NV
Information collected per NRS 179A.075

Revised 04/10/2012

HANNAH000007

AA001800

VOLUME IX



HENDERSON POLICE DEPARTMENT WITNESS STATEMENT

HPD 0155

PAGE 1 OF 2

DR# 20-10761

STATE OF NEVADA

SS: HENDERSON

DATE: 06/17/20

COUNTY OF CLARK

TIME: 1700

I, Isabella date of birth 3/19/2004
Social Security Number _____ Occupation _____
Home Address _____ Email Address _____
Business Address _____
Phone #'s (H) _____ (W) _____ (C) _____

do hereby make the following true statements to _____
of the Henderson Police Department of my own free will. There have been no threats, or promises of immunity or reward made to me to make this
statement. It is further understood that this statement may be used either wholly or in part as evidence in a Court of Law
I can read this and write the English language

This morning my mom dropped me off at the gate at
9:00 am and I never really want to go with my dad
but when I do we go back to the house and I usually
run to my room to call my mom but my dad took
my phone so I wasn't able to call her so I just went
into my room. About 2 hours later (after I have lunch) he
came in and he wouldn't leave, so I went into the room
next to mine and when I turn around, I feel his hand
hit my nose and I felt it bleeding. I ran into my bathroom
so it wouldn't get on the carpet and my nose started
bleeding a lot. I went out of my room holding a towel
to my nose and the nanny started helping me clean
it up while my dad just stood there. When I went
back to my room I saw my dad leaving with a bunch
of my stuff and when I looked at the sink I
found out that he had wiped it down so I

[Signature]
Officer

[Signature]
Witness Signature

HPD 0155

City of Henderson, NV

Revised 04/10/12

Information collected per NRS 179A.075

HANNAH000008

VOLUME IX

AA001801



HENDERSON POLICE DEPARTMENT
NARRATIVE SHEET

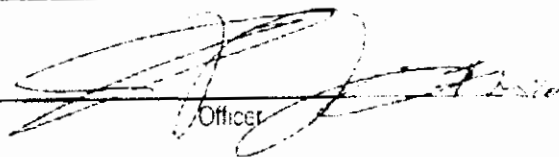
HPD 0080


PAGE 2 OF 2
DR# 2010741

(1) Narrative

(2) Describe physical evidence, location found, and disposition.

went back to the main bathroom which still had blood on it because I remember my dad saying that it was paint from my painting from earlier even though it wasn't and I could tell if he ~~was~~ knew that too. After he wiped that down I went to the main bathroom that still had blood on it so I could take a picture of it to show to my mom to show that I wasn't lying. My dad had my phone so I wasn't able to take a picture of it then. So I just covered the sink with a towel and that's when my little sister came in saying that my mom was here and that's when I saw the police officers.


Officer


Witness Signature

HPD 0080

City of Henderson, NV

Revised 04/10/2012

HANNAH000009

AA001802

VOLUME IX

EXHIBIT G

Jim's is responsible for half of the following:

IXL online kids' education yearly membership

June 2019-2020

\$239

June 2020-2021

\$239

Audi Insurance

11/2019-5/2020

\$218.87

5/2020-11/2020

\$330.87

Audi Battery

\$350

Kids School books

Lena: Nate the Great Undercover

\$5.99

Lean: Nate the Great Stolen Base

\$5.99

Freetime Unlimited books membership

\$0.99

Matthew: Ragged Dick series

\$0.99

Kindle Unlimited Reading for Hannah

Oct 2019

\$9.99

Nov 2019

\$9.99

Dec 2019

\$9.99

ABC Pediatrics

4/22/20 Matthew

\$35

Ideal Eye Care

Hannah 4/28/20

\$70

Dental bill

\$4341

Total:

\$5389.67

Jim's portion:

\$2694.84

If Jim insists on me paying for Matthew's Martial arts Class, the following would be his portion also as he had previously approved of these lessons:

Matthew's Golf classes

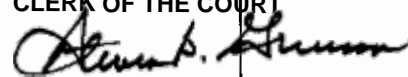
\$1000.00

Jim's portion would be :

\$500

84

84



EXHS
FRED PAGE, ESQ.
NEVADA STATE BAR NO. 6080
PAGE LAW FIRM
6930 SOUTH CIMARRON ROAD, SUITE 140
LAS VEGAS, NEVADA 89113
TELEPHONE: (702) 469-3278
FACSIMILE: (702) 628-9884
Email: fpage@pagelawoffices.com
Attorney for Defendant

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

JAMES W. VAHEY,

Plaintiff,

vs.

MINH NGUYET LUONG,

Defendant.

Case No.: D-18-581444-D

Dept.: H

**DEFENDANT'S SECOND EXHIBIT APPENDIX IN SUPPORT OF REPLY
TO
COUNTERMOTION
TO APPOINT JEN MITZEL AS THE CHILDREN'S THERAPIST, FOR AN
INTERVIEW OF THE MINOR CHILDREN OR IN THE ALTERNATIVE
FOR THE APPOINTMENT OF A GUARDIAN AD LITEM, TO CHANGE
CUSTODY,
AND
FOR ATTORNEY'S FEES AND COSTS**


COMES NOW Defendant, MINH NGUYET LUONG, by and through her
counsel, Fred Page Esq., of Page Law Firm and hereby submits her Second Exhibit
Appendix in Support of her Reply Plaintiff's Countermotion to Appoint Jen Mitzel
as the Children's Therapist, for an Interview of the Minor Children, or in the

1 Alternative for the Appointment of a Guardian Ad Litem, to Change Custody, and
2 for Attorney's Fees and Costs.
3

4 **Exhibit H:** Spreadsheet from Dr. Luong regarding the expenses for
5 activities for the children Jim has failed to pay.
6

7 DATED this 12th day of July 2020

8 PAGE LAW FIRM

9
10 

11 FRED PAGE, ESQ.
12 Nevada Bar No. 6080
13 6930 South Cimarron Road, Suite 140
14 Las Vegas, Nevada 89113
15 (702) 823-2888
16 Attorney for Defendant
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 12th day of July 2020 that the foregoing DEFENDANT'S SECOND EXHIBIT APPENDIX IN SUPPORT OF REPLY TO OPPOSITION TO COUNTERMOTION was served pursuant to NECFR 9 via e-service to Robert Dickerson, Esq. attorney for Plaintiff.



An employee of Page Law Firm

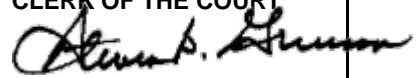
EXHIBIT H

Table 1

tennis	Selena's dance	Golf lessons	Swim
2,900	400	1000	544.40

85

85



PMEM
THE DICKERSON KARACSONYI LAW GROUP
ROBERT P. DICKERSON, ESQ.
Nevada Bar No. 000945
SABRINA M. DOLSON, ESQ.
Nevada Bar No. 013105
1745 Village Center Circle
Las Vegas, Nevada 89134
Telephone: (702) 388-8600
Facsimile: (702) 388-0210
Email: info@thedklawgroup.com

Attorneys for Plaintiff

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

JAMES W. VAHEY,
Plaintiff,

v.

MINH NGUYET LUONG,
Defendant.

CASE NO. D-18-581444-D
DEPT NO. H

PLAINTIFF'S PRETRIAL MEMORANDUM

Date and Time of Trial:
August 13, 2020 at 9:00 a.m.

I. BRIEF STATEMENT OF FACTS

A. Names and Ages of Parties:

1. Plaintiff, JAMES W. VAHEY ("Jim"), 57 years old.
2. Defendant, MINH NGUYET LUONG ("Minh"), 47 years old.

B. Date of Marriage: July 8, 2006

C. Resolved Issues:

This Court held an evidentiary hearing on child custody and child support on August 8, September 5, and September 11, 2019. This Court

1 issued its Findings of Fact, Conclusions of Law, and Decision and Order
2 (“Decision and Order”) on September 20, 2019, setting forth its orders
3 regarding child custody and child support. The Court ordered the parties
4 to share joint legal custody and found it would be in the children’s best
5 interest for the parties to share joint physical custody. Decision and Order,
6 pg. 15, lines 1-10. Given Minh’s representations that she intended to
7 relocate to California with or without the children, the Court gave Minh
8 the opportunity to decide whether she wanted to share joint physical
9 custody in Las Vegas. Decision and Order, pg. 15, lines 1-10; *see also* Order
10 from April 22, 2020 Hearing, pg. 3, lines 9-19. If Minh was steadfast in
11 her decision to relocate to California without the children and chose to
12 forego her joint physical custody rights, Jim would be awarded primary
13 physical custody, almost in the nature of a default. Decision and Order,
14 pg. 15, lines 1-10; *see also* Order from April 22, 2020 Hearing, pg. 3, lines
15 9-19.

16 Minh ultimately decided to forego her joint physical custody rights,
17 and thus Jim was awarded primary physical custody of the children.
18 Pursuant to the Decision and Order and Minh’s choice to move to
19 California without the children, Minh was awarded visitation with the
20 children on certain enumerated holiday weekends and extended school
21 breaks throughout the year, which she could exercise in California, and
22 one non-holiday weekend each month, which she was required to exercise
23 in Nevada. Decision and Order, pg. 29, line 21, to pg. 30, line 13.

24 At the hearing held on April 22, 2020, the Court temporarily
25 modified the custody order to give Minh the opportunity to reconsider her
26 decision not to share physical custody of the children. Order from April
27 22, 2020 Hearing, pg. 5, lines 5-8. Accordingly, the Court ordered the
28 parties to share physical custody of the children on a week on/week off

1 basis until May 28, 2020, the next date the parties were to appear before
2 the Court. Order from April 22, 2020 Hearing, pg. 6, line 27, to pg. 7, line
3 10. The Court ordered Minh must exercise her custody time with the
4 children in Nevada. Order from April 22, 2020 Hearing, pg. 7, lines 2-3.
5 The Court ordered the parties to advise the Court at the May 28, 2020
6 hearing of their intent to either continue with the week on/week off
7 custody arrangement, enter a different physical custody arrangement, or
8 inform the Court an evidentiary hearing is necessary to enter a joint
9 physical custody arrangement as a permanent order. Order from April 22,
10 2020 Hearing, pg. 7, lines 13-19. The Court subsequently continued the
11 May 28, 2020 evidentiary hearing to August 13, 2020.

12 Jim's counsel sent correspondence to Minh's counsel on April 27,
13 2020. Exhibit 1, April 27, 2020 Letter from Sabrina Dolson to Fred Page.
14 Jim informed Minh he agreed with the Court that joint physical custody
15 is in the children's best interest, and has no objection if Minh chooses to
16 continue with the week on/week off custody arrangement permanently.
17 Given the Court's Order that Minh is to exercise her temporary week
18 on/week off visitation in Nevada and given Minh's representation at the
19 April 22, 2020 hearing that she was no longer residing at the 9742 West
20 Tompkins Avenue home when she has custody of the children in Nevada,
21 Jim requested that Minh provide the address where she will be staying
22 with the children. Exhibit 1. Minh did not provide Jim her address in
23 Nevada or respond regarding whether she intends to share joint physical
24 custody permanently.

25 In her Opposition to Jim's Emergency Motion, filed June 29, 2020,
26 Minh stated:

27 Jim continues to complain that he does not know where Minh
28 stays when she exercises her custodial time in Las Vegas. Mot.
at page 7 line 11. Minh has informed Jim of her address where

1 she lives in Irvine. Minh's driver's license is still at Jim's
2 address in Henderson. Any tax return would list a Nevada
3 address. Sometimes Minh stays at her cousin's in Las Vegas.
4 Otherwise, she and the children are exploring in Minh's RV.

5 Pg. 13, lines 6-14. This is the only response Jim has received regarding
6 where Minh resides with the children while she is in (or supposed to be in)
7 Nevada, and this obviously does not answer Jim's question. Minh's
8 address in Irvine is irrelevant as it not in Nevada. The fact that Minh's
9 driver's license still lists Jim's address is irrelevant as she does not reside
10 there and has not resided there since January 2019. The fact that "any tax
11 return," not even Minh's tax return specifically, would list "a" Nevada
12 residence provides no information to answer Jim's question. Lastly, Minh's
13 representations that sometimes she stays at her cousin's home in Las
14 Vegas and sometimes she takes the children exploring in her RV does not
15 answer Jim's question as to where Minh resides, and will continue to
16 reside if she chooses to share joint physical custody of the children, in
17 Nevada. Given the children are to return to school soon, and given the
18 Court's Order that Minh is to exercise her custody time in Nevada, it is
19 important that Minh actually have a stable residence in Nevada if she is
20 to have custody of the children every other week.

21 In addition to the foregoing, Minh has never stated her intent to Jim
22 as to whether she will continue sharing joint physical custody of the
23 children with him in Nevada. As stated above, on April 27, 2020, Jim's
24 counsel sent a letter to Minh's counsel informing Minh that Jim agreed
25 with the Court that joint physical custody was in the children's best
26 interest, and he had no objection to this custody arrangement on a
27 permanent basis. Minh has not responded to Jim's offer to make the
28 current custody arrangement a permanent one. Once Minh informs the
...

1 Court if it is her intent to continue sharing joint physical custody in
2 Nevada, and provides her Nevada address, child custody will be resolved.

3 D. Names, Birth Dates, and Ages of Children:

- 4 1. Hannah Vahey, born March 19, 2009 (11 years old);
- 5 2. Matthew Vahey, born June 26, 2010 (10 years old); and
- 6 3. Selena Vahey, born April 4, 2014 (6 years old).

7 **II. BRIEF STATEMENT OF CONTESTED LEGAL AND FACTUAL**
8 **ISSUES REGARDING THE DISTRIBUTION OF PROPERTY**
9 **AND DEBTS**

9 A. Background Facts and Procedural History

10 Jim and Minh were married on July 8, 2006. On June 14, 2006, the
11 parties entered into a valid and binding Premarital Agreement, which
12 “addresses, controls, and resolves all marital issues that exist between the
13 parties which are incident to the parties’ divorce, with the sole exception
14 of the issues of child custody and child support.” In Jim’s Complaint for
15 Divorce, filed December 13, 2018, he alleged:

16 VII.

17 The parties’ Premarital Agreement is a valid and binding
18 agreement between the parties.

19 VIII.

20 The parties’ Premarital Agreement addresses, controls,
21 and resolves all marital issues that exist between the parties
22 which are incident to the parties’ divorce, with the sole
23 exception of the issues of child custody and child support.

24 IX.

25 By way of their Premarital Agreement, the parties have
26 set forth their mutual desire and intent to establish, determine,
27 and settle between themselves all of their relative property
28 rights, interests, and obligations with respect to each other,
including, without limitation, each party’s respective property
rights, the rights of either party to be supported by the other
party, and all financial obligations each party has relative to
the other party.

...

1 X.

2 By way of their Premarital Agreement, the parties have
3 set forth their mutual desire and intent to define all of their
4 respective rights in any property that each owned at the time
of their marriage to each other, as well as any property either
party has acquired during their marriage.

5 XI.

6 All questions relating to the division of the parties'
7 property, the assumption of their debts, each party's waiver of
8 alimony, and all other issues and claims, marital and
9 otherwise, that exist between the parties have been and are
resolved by the parties' Premarital Agreement. The parties'
Premarital Agreement should be ratified, confirmed, approved,
and enforced by the Court.

10 Minh admitted to each of these allegations in her Answer and
11 Counterclaim for Divorce, filed January 11, 2019. Answer, pg. 2, lines 7-
12 16. In addition, at the February 18, 2020 Case Management Conference,
13 this Court confirmed it previously determined the Prenuptial Agreement
14 is valid. *See* February 18, 2020 Court Minutes.

15 In this Court's Decision and Order, this Court set forth its orders
16 regarding child custody and child support, and directed "the parties to
17 submit a stipulated divorce judgment to the court by October 18, 2019."
18 Decision and Order, pg. 32, lines 19-21. Thus, on October 4, 2019,
19 Robert P. Dickerson, Esq., emailed Minh's counsel at that time, Neil
20 Mullins, Esq., informing him he would prepare the Stipulated Decree of
21 Divorce if he had not already begun to do so. Mr. Dickerson also
22 requested a response to a previous email he had sent on August 19, 2019
23 regarding revisions to the proposed Marital Settlement Agreement, which
24 the parties had been drafting and revising for several months. On October
25 7, 2019, Mr. Mullins informed Mr. Dickerson he had been relieved as
26 counsel and Minh had retained Fred Page, Esq., to substitute as counsel.

27 On October 9, 2019, Mr. Page filed his Substitution of Attorney. On
28 October 10, 2019, Mr. Dickerson made his first of many communications

1 with Mr. Page. With that October 10, 2019 email, Mr. Dickerson
2 provided Mr. Page with the proposed Decree of Divorce the Court directed
3 the parties to submit to the Court by October 30, 2010. Unfortunately,
4 since that initial communication on October 10, 2019, little progress has
5 been made in finalizing the Decree of Divorce and the Marital Settlement
6 Agreement to be merged and incorporated into the Decree of Divorce to
7 be entered by the Court. Thus, when the Court learned of the impasse the
8 parties have reached with respect to finalizing their divorce at the February
9 18, 2020 Case Management Conference, the Court scheduled an
10 evidentiary hearing on the remaining disputes.

11 On February 14, 2020, Minh filed her Individual Case Management
12 Conference Brief, raising two issues with the Marital Settlement
13 Agreement. First, Minh claims she does not owe Jim for income taxes he
14 paid for her separate property income for 2014 through 2018. Second,
15 Minh claims the 529 accounts established for the children should be
16 awarded to her as her separate property on behalf of the children with her
17 being in control as the trustee.

18 In addition to the foregoing, several other issues have arisen since
19 the Court entered its Decision and Order that this Court must resolve to
20 finalize the parties' divorce. First, Minh has refused to comply with this
21 Court's Decision and Order and to reimburse Jim for her one-half ($\frac{1}{2}$)
22 portion of the children's school and extracurricular expenses pursuant to
23 the 30/30 rule. Second, Minh also has refused to provide or contribute to
24 the cost of the children's health insurance or to reimburse Jim for her one-
25 half ($\frac{1}{2}$) portion of the children's medical expenses that are not covered by
26 health insurance. Third, Minh has even refused to pay for her own health
27 insurance despite the fact the parties have been separated since January
28 2019. Lastly, Jim is requesting this Court find that Minh's withholding of

1 the children from Jim for five (5) weeks, twenty-four (24) days of which
2 were Jim's custody days, be determined wrongful, and award Jim twenty-
3 four (24) days of make up custody time to be exercised three (3) days at
4 a time. Each of these issues will be discussed in detail below.

5 B. Tax Issues

6 Minh's position that she is not obligated to reimburse Jim for the
7 portion of income taxes he paid on her separate property income for 2014
8 through 2018 is directly contrary to the parties' agreement in their
9 Premarital Agreement, which Minh admits is valid and binding. The
10 parties' Premarital Agreement provides:

11 If it is advantageous for the parties to file a joint income tax
12 return during their marriage, the parties shall file such a joint
13 tax return, and the tax liability shall be minimized by each
14 party's cooperation in claiming and itemizing as many
15 deductions as possible. Any tax obligation shall be divided
16 proportionately based upon the taxable income earned by the
17 respective party. In the event the parties file a joint federal
18 income tax return for any qualifying year, the parties'
19 accountant shall prepare calculations setting forth the amount
20 of tax due on each party's separate property income and gains,
21 and each party shall then be required to tender the appropriate
22 share of the total tax due.

23 Exhibit 2, Premarital Agreement, pg. 28, ¶ XVIII.

24 Pursuant to the parties' agreement, the parties filed a joint income
25 tax return for the 2014, 2015, 2016, 2017, and 2018 tax years. For each
26 of these tax years, each party paid one-half ($\frac{1}{2}$) the amount of the total tax
27 liability owed, with the understanding their accountant would prepare
28 calculations setting forth the amount of tax owed on each party's separate
property income and gains, and the party who paid less than the amount
owed on their separate property income and gains would then reimburse
the other party for their appropriate share of the total tax due. The parties
discussed this over the years, and despite not immediately doing so, it was
understood and agreed they would have their accountant calculate the

1 proper division of the tax obligations based on their proportionate taxable
2 separate property income. However, during the marriage, the parties were
3 both busy professionals who managed their own successful practices and
4 raised their three (3) children, and they deferred the proper calculation of
5 the division of the tax liability. Nevertheless, the parties discussed, not
6 only with each other, but also with Ty Anderson, their accountant, their
7 intention to eventually do so pursuant to their Premarital Agreement.

8 Mr. Anderson prepared calculations setting forth the amount of tax
9 each party owed for 2014, 2015, 2016, and 2017, based on each party's
10 separate property income and gains. Exhibit 3. For the 2014, 2015, 2016,
11 and 2017 tax years, the parties paid a total of \$2,097,903 in federal taxes.
12 Exhibit 3. The parties equally divided this tax liability, each contributing
13 \$1,048,951.50. Pursuant to Mr. Anderson's calculations, the portion of
14 taxes attributed to Jim's separate property amounted to \$751,702.00 and
15 the portion of taxes attributed to Minh's separate property amounted to
16 \$1,346,201.00. Exhibit 3. Thus, Jim overpaid \$297,249.50, and Minh
17 should reimburse this amount to Jim pursuant to the parties' Premarital
18 Agreement, which both parties admit is valid and binding. Once Mr.
19 Anderson calculates the proper allocation of taxes to each party for their
20 2018 taxes, the parties should be responsible for their share and if one
21 party paid more than their share, he or she should have to reimburse the
22 other party.

23 C. The Children's 529 Accounts

24 Minh requests the Court award the children's 529 accounts to her
25 as her separate property on behalf of the children with her being in control
26 of the accounts as the trustee. However, the parties previously reached an
27 agreement as to how the children's 529 accounts would be divided. Mr.
28 Dickerson provided a draft Marital Settlement Agreement to Minh's prior

1 counsel, Mr. Mullins. On May 29, 2019, Mr. Mullins emailed Mr.
2 Dickerson regarding the provision in the Marital Settlement Agreement
3 that divided the children's 529 accounts. **Exhibit 4.** Mr. Mullins stated:

4 Jim will get one-fourth of the 529 plans and Minh 3/4ths
5 (according to contributions), and with provisions that neither
6 will withdraw, except for college tuition and room and
7 boarding without both parties approving by email. And each
8 party would provide annual statements to the other. We
disagree Jim should get half, as such is even contrary to the the
[sic] PMA. But Jim should not mind, as we are protecting the
children anyway.

9 **Exhibit 4.** On May 31, 2019, Mr. Dickerson responded to Mr. Mullins
10 email and indicated that this was acceptable to Jim. **Exhibit 5.**

11 Thereafter, on July 23, 2019, Mr. Dickerson emailed Mr. Mullins
12 suggesting the parties agree to an actual dollar amount of the children's
13 529 accounts to be transferred to Jim, which would reduce the possibility
14 of the parties disputing in the future. **Exhibit 6.** Mr. Mullins responded
15 on August 16, 2019, stating:

16 [W]e are in agreement with placing an exact dollar amount to
17 be transferred from the children's 529 accounts in accordance
18 with our previous agreement. My client is in the process of
19 obtaining the records from the plan administrator so we can
calculate the exact figure to be transferred to a 529 account in
Jim's name only.

20 **Exhibit 7.** Mr. Dickerson responded to Mr. Mullins on August 19, 2019,
21 stating: "Please provide me with the current balance held in each 529
22 account and your client's suggestion as to the amount to be transferred to
23 the new 529 accounts to be opened by Jim." **Exhibit 8.**

24 Eighth Judicial District Court Rule 7.50 and District Court Rule 16
25 provide that an agreement or stipulation between the parties or their
26 attorneys is effective if it is "in writing subscribed by the party against
27 whom the same shall be alleged, or by the party's attorney." "When parties
28 to pending litigation enter into a settlement, they enter into a contract,"

1 which is subject to general principles of contract law. *Grisham v. Grisham*,
2 289 P.3d 230, 234 (Nev. 2012) (citing *Mack v. Estate of Mack*, 125 Nev. 80,
3 95, 206 P.3d 98, 108 (2009)). “[A] stipulated settlement agreement
4 requires mutual assent, or a ‘meeting of the minds,’ on ‘the contract’s
5 essential terms.’” *Id.* (internal citations omitted). If the material terms are
6 lacking or are insufficiently certain and definite for a court to ascertain
7 what is required of each party and to compel compliance, then a valid
8 contract cannot exist. *Id.* (citing *May v. Anderson*, 121 Nev. 668, 672, 119
9 P.3d 1254, 1257 (2005)).

10 Here, the parties had mutually assented to the essential terms of the
11 Marital Settlement Agreement, including the division of the children’s 529
12 accounts, and were finalizing the remaining, minor details. In fact, in the
13 August 16, 2019 letter from Mr. Mullins, he stated:

14 I have reviewed your comments regarding the revised *Marital*
15 *Settlement Agreement* (“MSA”) with my client that was attached
16 to your email dated July 23, 2019 (as well as the follow up
email dated August 9, 2019) and believe we are very close to
a full and final resolution of the non-custody related issues.

17 Exhibit 7, pg. 1. In the August 16, 2019 letter, Mr. Mullins provides
18 Minh’s responses to the comments and proposed revisions to the Marital
19 Settlement Agreement sent by Mr. Dickerson on July 23, 2019. Exhibit
20 7, pg. 1. Mr. Mullins lists nine (9) responses from Minh. Exhibit 7, pg. 1-
21 3. Of these nine (9) responses, only two (2) pertain to continued
22 disagreements between the parties, and they are minor disagreements
23 regarding nonessential issues and terms to be included in the Marital
24 Settlement Agreement. These disagreements concern the parties’ family
25 photos, of which Jim requested copies, and the children’s furniture and
26 personal property, which Jim believed Minh took a majority of when she
27 moved. These issues were not essential terms to the parties’ Marital
28 Settlement Agreement, which is demonstrated by Mr. Dickerson’s August

1 19, 2019 email responding to Mr. Mullin's August 16, 2019 letter. In the
2 August 19 email, Mr. Dickerson states:

3 5. We respectfully disagree with your comments and
4 conclusions. With that said, let's just forget the issue of the
photographs and move on to more important issues.

5 6. We respectfully disagree with your characterization of the
6 patio set being jointly purchased and your opinion that Jim is
7 "nickel-and-diming" your client In light of your client's
position, let's just forget the issue and move on to more
important things.

8 **Exhibit 8.**

9 Given the parties had mutually assented to the essential terms of the
10 Marital Settlement Agreement and were finalizing the remaining, minor
11 details, this Court should enforce the parties' agreement that one-fourth
12 of the amount of the children's 529 accounts would be transferred to a
13 529 account in Jim's name, which he would maintain for the benefit of the
14 children. The parties agreed Minh would obtain statements for the
15 children's 529 accounts to determine the amount equaling one-fourth
16 (1/4), which would then be transferred to Jim.

17 D. **Minh's Refusal to Contribute to the Children's Expenses**

18 The Court ordered that neither party would pay child support to the
19 other party. Decision and Order, pg. 32, lines 1-3. However, the Court
20 entered orders confirming the parties' agreement to share equally in the
21 cost of the children's private school tuition and related expenses. Decision
22 and Order, pg. 32, lines 2-4. The Court specifically noted that Jim

23 waives child support from Minh Luong in consideration for an
24 agreement that the parties share equally the significant private
25 school tuition and related expenses, all medical and dental
26 expenses for the children that are not covered by insurance,
27 expenses for the children's extracurricular activities that the
28 parties agree are best for the children, and tutoring or
education expenses that the parties agree are best for the
children.

...

1 Decision and Order, pg. 23, line 24, to pg. 24, line 4. The Court ordered
2 the parties shall follow the 30/30 rule for expenses, which requires the
3 parent who paid for the expense to provide the other parent a copy of the
4 receipt of payment within thirty (30) days of payment, and the other
5 parent to reimburse one-half (½) of such expenses within thirty (30) days.
6 Decision and Order, pg. 32, lines 7-13.

7 On multiple occasions, Jim has requested Minh reimburse him for
8 her one-half (½) portion of the children's expenses, but Minh has refused.
9 In addition to Jim contacting Minh directly, on May 26, 2020, Jim's
10 counsel sent Minh's counsel a letter specifically addressing these financial
11 issues. **Exhibit 9**. To date, Minh has not responded nor reimbursed Jim
12 for any of the expenses.

13 1. *Children's School Tuition and School Related Expenses*

14 Jim's assistant, Bo Bautista, initially sent an email to Minh on
15 October 30, 2019, providing receipts for payments made for the children's
16 private school tuition, school uniforms, and Matthew's martial arts class.
17 **Exhibit 10**. Attached to Ms. Bautista's email is a Summary of Charges
18 and Payments from Challenger School for the period of January 1, 2019
19 to October 30, 2019. **Exhibit 10**. Minh produced a Summary of Charges
20 and Payments from Challenger School for the period of October 1, 2019
21 to June 20, 2020 in her Appendix of Exhibits filed June 29, 2020. **Exhibit**
22 **11**. These Summaries of Charges and Payments show that Jim made the
23 following payments for the children's 2019-2020 school year:

- 24 1. August 20, 2019: \$3,892.00
- 25 2. September 3, 2019: \$3,913.00
- 26 3. October 1, 2019: \$3,892.00
- 27 4. October 8, 2019: \$388.00
- 28 5. November 1, 2019: \$4,318.00

- 1 6. December 16, 2019: \$4,256.00
2 7. January 15, 2020: \$4,318.00
3 8. February 18, 2020: \$4,356.00
4 10. March 16, 2020: \$4,318.00
5 **TOTAL:** **\$33,651.00**

6 These payments include the cost of Matthew's and Hannah's extended
7 care, which was recommended by Hannah's teacher, Ms. Baron. The total
8 cost of extended care was \$2,434.24 for the 2019-2020 school year.
9 **Exhibit 11.** Thus, if this Court does not find Minh should be equally
10 responsible for the cost of the children's extended care, the cost of the
11 children's tuition and application fees for the 2019-2020 school year
12 amounted to \$31,216.76 (= \$33,651.00 - \$2,434.24). Minh's one-half
13 ($\frac{1}{2}$) portion of this amount is \$15,608.38. In addition to the foregoing,
14 Ms. Bautista's October 2019 email also requested Minh reimburse Jim for
15 her one-half ($\frac{1}{2}$) portion of the children's school uniforms, which is
16 \$188.84 as Jim paid \$377.67. **Exhibit 10.**

17 On January 22, 2020, Jim emailed Minh requesting she reimburse
18 him for her one-half ($\frac{1}{2}$) portion of the cost of the Challenger School
19 applicant fees for the 2020-2021 school year, which totaled \$525, and
20 provided her a copy of the check with which he paid these fees. **Exhibit**
21 **11, 12, and 13.** Minh has not reimbursed Jim for her portion of the
22 Challenger School applicant fees, which is \$262.50.

23 Based on the foregoing, Minh must be ordered to reimburse Jim
24 \$15,608.38 for her portion of the children's school tuition for the 2019-
25 2020 school year, \$262.50 for her portion of the Challenger School
26 applicant fee for the 2020-2021 school year, and \$188.84 for her portion
27 of the children's school uniforms.

28 . . .

1 2. *Minh's Refusal to Contribute to the Children's Extracurricular*
2 *Activities*

3 Within a week of the Court entering its Decision and Order, Minh
4 informed Jim she no longer approved of the extracurricular activities in
5 which the children were enrolled in Nevada and would not contribute to
6 the cost. **Exhibit 14**. Minh's position is obviously not in the children's
7 best interest. Minh also had previously agreed to Matthew's participation
8 in his martial arts class. Jim's assistant, Bo Bautista, sent an email to Minh
9 on October 30, 2019, providing the receipt for the \$460.24 payment made
10 for Matthew's martial arts class. **Exhibit 10**. Thus, Minh must be ordered
11 to reimburse Jim \$230.12 for her one-half (½) portion of Matthew's
12 martial arts class. Given the Court ordered there would not be a child
13 support award based on the parties' agreement to equally divide private
14 school tuition and related expenses, all medical and dental expenses for the
15 children that are not covered by insurance, expenses for the children's
16 extracurricular activities that the parties agree are best for the children,
17 and tutoring or education expenses that the parties agree are best for the
18 children, Minh must reimburse Jim for her one-half (½) portion of
19 Matthew's martial arts class, to which she previously agreed was in
20 Matthew's best interest.

21 3. *Minh's Refusal to Contribute to the Children's Health Insurance and*
22 *Unreimbursed Medical Expenses*

23 The Court ordered both parties to provide health insurance for the
24 children if offered through employment. Decision and Order, pg. 31, lines
25 14-16. Jim provides health insurance for the children through his practice.
26 Minh does not provide health insurance for the children. Accordingly, Jim
27 is requesting the Court order Minh to pay one-half (½) of the health
28 insurance premium Jim pays for the children. The parties separated in

1 January 2019 and the Court's Decision and Order was entered in
2 September 2019. From January 2019 to November 2019, the cost of the
3 children's health insurance was \$806.91 per month (or \$268.97 per child
4 per month). **Exhibit 10**. From December 2019 to the present, the cost of
5 the children's health insurance is \$866.58 per month (or \$288.86 per
6 child per month). **Exhibit 15**. Accordingly, Minh's one-half ($\frac{1}{2}$) portion
7 of the children's health insurance from January to November 2019 is
8 \$4,438.01 ($\$806.91 \times 11\frac{1}{2}$), and from December 2019 to August 2020 is
9 \$3,899.61 ($\$866.58 \times 9\frac{1}{2}$), which together totals \$8,337.62. Thus, the
10 Court should order Minh to reimburse Jim \$8,337.62 for her one-half ($\frac{1}{2}$)
11 portion of the children's health insurance for the period of January 2019
12 to August 2020, and order Minh to pay one-half ($\frac{1}{2}$) of the children's
13 health insurance premium on the first of the month from September 1,
14 2020 going forward.

15 In addition, Jim has requested Minh reimburse him for several
16 medical expenses that were not covered by insurance. On December 19,
17 2019, Jim emailed Minh requesting she reimburse him for her one-half
18 ($\frac{1}{2}$) portion of the cost of the children's December 19, 2019 therapy
19 session with Dr. Gravley, and provided proof of the \$175.50 payment.
20 **Exhibit 16**. Minh's one-half ($\frac{1}{2}$) equals \$87.78. On February 19, 2020,
21 Jim sent Minh a text message with the receipt for Hannah's
22 ophthalmology appointment, which cost \$125. **Exhibit 17**. Minh's one-
23 half ($\frac{1}{2}$) equals \$62.50. On March 3 and 9, 2020, Jim sent Minh emails
24 requesting she reimburse him for one-half ($\frac{1}{2}$) the cost of Selena's
25 ophthalmology appointment and eye drops. **Exhibit 18**; **Exhibit 19**. Jim
26 paid \$70 for the ophthalmology appointment and \$15 for eye drops.
27 Thus, Minh's one-half ($\frac{1}{2}$) equals \$35.00 and \$7.50, respectively. The
28 Court should order Minh to reimburse Jim for each of these expenses.

1 E. Minh's Refusal to Pay for Her Own Health Insurance

2 Jim has been paying for the full cost of Minh's health insurance since
3 they separated in January 2019. Jim has requested Minh reimburse him
4 for the cost, but she has refused to do so. Jim also has requested Minh
5 obtain her own health insurance policy given they have been separated for
6 more than a year and a half, but Minh refuses. Minh claims Jim should
7 have to pay for her health insurance until they are divorced.

8 The parties agreed that beginning on and as of the date of their
9 marriage, Jim would contribute and pay for approximately seventy-five
10 percent (75%) of the "family living expenses," and Minh would contribute
11 and pay for approximately twenty-five percent (25%) of the "family living
12 expenses." Exhibit 2, pg. 14, ¶ VI(I)(2). The parties' Premarital
13 Agreement defines which expenses the parties agree constitute "family
14 living expenses":

15 The parties specifically intend for their Family Living Expenses
16 to include the following expenses for the parties' primary
17 family residence in which the parties jointly reside during their
18 marriage: all utility expenses and expenses for any service being
19 supplied or provided to the primary family residence (i.e., gas,
20 electricity, sewer, garbage/trash pick-up, telephone, cable
21 television, etc.), all expenses for the cleaning, maintenance,
22 and up-keep of the home, and the cost of all household
23 supplies purchased for use in the home. Additionally, Family
Living Expenses shall include all food for the parties and their
children, all clothing and other necessities for the parties'
children, family vacations participated in by both parties,
family vacations participated in with the consent of both
parties whereby one party is vacationing with one or more of
the parties' children, and all other family outings,
entertainment, and similar family events in which both parties
participate.

24 Exhibit 2, pg. 13-14, ¶ VI(I)(1). The Premarital Agreement further
25 provides that not be included in the above definition of "family living
26 expenses" are "any expenses incurred primarily for the benefit of one of
27 the parties and not the other party (such as the purchase of each party's
28 respective clothing and person supplies, each party's personal

1 entertainment or involvement in events or activities that do not include
2 the other party, and other such expenditures that primarily benefit one of
3 the parties and not the other). Exhibit 2, pg. 13, ¶ VI(I)(1). Most
4 importantly, the Premarital Agreement provides that “The parties agree
5 that the provisions of this subparagraph I(2) shall not apply if the parties
6 are separated or a divorce action is pending between the parties.” Exhibit
7 2, pg. 14, ¶ VI(I)(2).

8 Based on the parties’ agreements set forth in their Premarital
9 Agreement, Minh’s health insurance would not be considered part of the
10 “family living expenses.” Minh’s health insurance is an expense incurred
11 primarily for the benefit of her and not Jim or the parties’ children. Given
12 the Premarital Agreement specifically states that any expense incurred
13 primarily for the benefit of one of the parties and not the other party is
14 not included “family living expenses,” Minh’s health insurance is not a
15 family living expenses to be shared by the parties.

16 Even if this Court found Minh’s health insurance was a “family
17 living expense” to be shared by the parties, the Premarital Agreement
18 specifically states that the parties agree the provision regarding the sharing
19 of “family living expenses” shall not apply if the parties are separated or
20 a divorce action is pending between them. On December 13, 2018, Jim
21 filed his Complaint for Divorce, initiating the divorce action. In January
22 2019, the parties physically separated when Minh moved out of Jim’s
23 residence. Thus, given a divorce action has been pending between the
24 parties since December 2018 and the parties have been separated since
25 January 2019, the provisions regarding the sharing of “family living
26 expenses” shall not apply as of December 2018 pursuant to the parties’
27 Premarital Agreement. Moreover, even if Minh’s health insurance was a
28 “family living expense,” Minh has not been complying with the Premarital

1 Agreement, which states she must contribute twenty-five percent (25%)
2 toward the cost of the “family living expenses.”

3 The cost of Minh’s health insurance from January 2019 through
4 November 2019 was \$549.55 per month, which amounts to \$6,045.05 for
5 this period. Exhibit 15. From December 2019 to the present, Minh’s
6 health insurance increased to \$590.17 per month. Exhibit 15. Thus, for
7 the period of December 2019 to August 2020, Minh’s health insurance
8 totaled \$5,311.53. Jim is requesting the Court order Minh to reimburse
9 Jim for the health insurance premiums he paid from January 2019 to
10 August 2020, which totals \$11,356.58. Jim also is requesting the Court
11 order Minh to obtain her own health insurance policy for September 2020
12 going forward.

13 F. Makeup Custody Time for Jim

14 As this Court is well aware, there was an incident between the parties
15 on March 20, 2020, at approximately 4:00 p.m., when Minh arrived at
16 Jim’s house to pick up the children for their Spring Break vacation. During
17 this incident, Minh tried to take Jim’s kitesurf board, damaged Jim’s
18 kitesurf board by slamming it against the garage floor, struck Jim’s vehicle
19 with a U-shaped aluminum handle, tried to push a ladder onto Jim’s
20 vehicle, tried to pull a key rack off of his garage wall, grabbed the ladder
21 (which Jim had tried to place inside his house, but was still near the garage
22 door) and struck it on the door frame and wall inside Jim’s home, kicked
23 Jim in the shins, and tried to bait Jim to hit her. Minh also verbally
24 accosted Jim, telling him he was the “lowest scum ever” and a “son of a
25 bitch.” Thankfully, Jim audio recorded the incident and video recorded
26 part of the incident. Attached as Exhibit 20 is the audio recording and a
27 transcript of the audio recording, and attached as Exhibit 21 is the video
28 recording and a transcript of the video recording.

1 After the incident, and despite being the physical aggressor, Minh
2 then filed a police report accusing Jim of domestic violence. This resulted
3 in Jim's arrest and Jim had to spend a night in jail. Minh also obtained a
4 Protection Order Against Domestic Violence ("TPO") based on her false
5 allegations of domestic violence, and withheld the children from Jim for
6 thirty-four (34) days, twenty-four (24) of which were Jim's custody days.

7 At the April 22, 2020 hearing, Jim requested the Court award him
8 twenty-four (24) days of makeup custody time. The Court initially denied
9 Jim's request, finding that "Minh's withholding of the children from Jim
10 must be determined to be wrongful in order for Jim to be awarded makeup
11 time." Order from April 22, 2020 Hearing, pg. 5, lines 21-26. At that time,
12 it was unknown whether Jim would actually be charged with domestic
13 violence. Thankfully, after reviewing Minh's allegations and evidence
14 submitted, the prosecutor determined there was no factual or legal basis
15 to pursue charges against Jim and declined to prosecute Jim. The
16 prosecutor's decision to not pursue charges against Jim, and the audio and
17 video recordings of the incident demonstrate Minh's allegations of
18 domestic violence were untrue. Minh used her false allegations of domestic
19 violence to wrongfully obtain a TPO and deprive Jim of his custody time.
20 Minh not only withheld the children from Jim for over a month, but also
21 deprived Jim of communication with his children for approximately eleven
22 (11) days.

23 Based on the prosecutor's decision to not prosecute Jim, Jim renewed
24 his request for twenty-four (24) days of makeup custody time as the Court
25 can now determine Minh's withholding of the children was wrongful. At
26 the July 13, 2020 hearing, the Court clarified that Jim's request for
27 twenty-four (24) days of makeup custody time is denied without prejudice
28 as the Court had not yet made a finding that Minh's withholding of the

1 children from Jim was wrongful. The Court ordered that Jim will be
2 entitled to consideration for compensatory time if and when the Court
3 makes that finding. Once the Court reviews the audio and video
4 recordings at the evidentiary hearing, and based on the prosecutor
5 declining to pursue charges against Jim, this Court should award Jim
6 twenty-four (24) days of makeup custody time.

7 At the April 22, 2020 hearing, the Court stated it was “concerned it
8 would not be in the children’s best interest for the children to be away
9 from Minh for the same period of time as they have been away from Jim.”
10 Order from April 22, 2020 Hearing, pg. 5, line 28 - pg. 6, line 3. Jim is not
11 requesting this Court grant him twenty-four (24) consecutive days of
12 custody makeup time. Jim is willing to break up these makeup custody
13 days in groups of three (3) days.

14 G. Attorneys’ Fees

15 Jim also respectfully submits that he is entitled to an award of
16 attorneys’ fees pursuant to NRS 18.010 and EDCR 7.60(b). NRS
17 18.010(2)(b) permits litigants to recover their attorneys’ fees where the
18 Court finds that a claim or defense of an opposing party was brought
19 without reasonable ground or to harass the prevailing party. EDCR
20 7.60(b)(1) and (3) permit the Court to sanction a party for presenting or
21 maintaining a motion “which is obviously frivolous, unnecessary or
22 unwarranted,” or for multiplying “the proceedings in a case as to increase
23 costs unreasonably and vexatiously.”

24 Since March 2020, Jim has filed two (2) Emergency Motions to
25 address Minh’s actions and the detrimental effect they are having on the
26 children. Jim was first required to file an Emergency Motion in March
27 2020 after Minh made false allegations of domestic violence against Jim
28 and obtained a TPO to withhold the children from him. In his March

1 2020 Emergency Motion, Jim also brought to the Court's attention the
2 multiple issues he was having coparenting with Minh, including (1)
3 Minh's refusal to cordially, verbally communicate with Jim in front of the
4 children, which Minh has continued to do to this day; (2) Minh's
5 denigration and disparagement of Jim in front of the children, telling Jim
6 he is beneath her, beneath dirt, a low life, selfish, a son of a bitch, etc.; (3)
7 Minh's refusing to inform Jim of where the children will be staying when
8 they are away from her Irvine home; (4) Minh's refusal to return the
9 children's ski gear, which Jim provided to her; (5) Minh's refusal to
10 contribute to the children's school and extracurricular activities expenses;
11 (6) Minh's moving her and Hannah's seats at Selena's Christmas
12 performance after Jim sat next to them; (7) Minh's manipulation of the
13 children; and (8) Minh's refusal to facilitate communication between the
14 children and Jim while the children are with her, to name a few.

15 After the Court directed the parties to attempt to resolve the parent-
16 child issues at the April 22, 2020 hearing, Jim's counsel immediately sent
17 a letter on April 27, 2020 to address the most important parent-child
18 issues, particularly the issue of the children's therapy. Minh did not
19 respond at all to Jim's letter. Rather, on May 18, 2020, Minh's counsel
20 sent Jim's counsel a letter again falsely accusing Jim of abuse. Exhibit 22.
21 Jim responded the following day, again attempting to resolve the most
22 important issues. Exhibit 23. Attached to Jim's May 19, 2020 letter was
23 a Stipulation and Order addressing the parent-child issues the Court
24 directed the parties to resolve prior to the next hearing. Minh again
25 ignored Jim's attempts to resolve such issues.

26 On May 26, 2020, Minh sent a responsive letter to Jim's May 19,
27 2020 letter. Exhibit 24. Minh spent a vast majority of her five (5) page
28 letter continuing to accuse Jim of domestic violence, of lying to the

1 children about moving to California, and of being solely responsible for
2 Hannah's unhappiness. Needless to say, none of Jim's suggestions to
3 resolve the parent-child issues were acknowledged, and Minh's letter did
4 nothing to move the parties in the right direction of coparenting to meet
5 the best interests of the children. Minh even asks in the letter at one
6 point, "What is wrong with your client?" More concerning, despite
7 Hannah's alarming behavior, Minh stated she would no longer pay for the
8 cost of therapy with Dr. Gravley and blamed Jim for all of the parties'
9 problems. Based on this response, it was abundantly clear Minh had no
10 interest in resolving any parent-child issues, requiring Jim to file his second
11 Emergency Motion in June 2020.

12 In addition, Jim's counsel sent Minh's counsel a separate letter
13 regarding the financial issues on May 26, 2020. Exhibit 25. Minh never
14 responded to this letter. Jim has tried time and time again to coparent
15 with Minh and reduce the need for Court intervention. Minh not only
16 completely disregarded Jim's attempts to resolve the parent-child issues,
17 but continuously sent letters perpetuating her false allegations of domestic
18 abuse and blaming Jim for all of the parties' problems.

19 In addition, Minh is financially harassing Jim because she knows she
20 is in a superior financial position. Minh is refusing to comply with the
21 parties' Premarital Agreement regarding the proper allocation of each
22 party's tax liability based on their separate property for each year in which
23 the parties filed a joint tax return. Minh is also financially harassing Jim
24 by refusing to pay her health insurance despite the fact the parties have
25 been separated since January 2019. Accordingly, Minh's oppositions and
26 counter motions (in which she also unreasonably sought to modify custody
27 multiple times) were obviously frivolous, unnecessary, and unwarranted,
28 and brought without reasonable ground and to harass Jim. Minh has

1 multiplied the proceedings in this case as to increase costs unreasonably
2 and vexatiously, and forced Jim to file two Emergency Motions. Thus, Jim
3 is entitled to an award of attorneys' fees and costs pursuant to NRS
4 18.010 and EDCR 7.60(b).

5 Pursuant to *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349,
6 455 P.2d 31, 33 (1969), in awarding attorneys' fees and costs, this Court
7 will need to make specific findings regarding the quality of Jim's advocates,
8 the character of the work done, the work actually performed, and the
9 result. To assist the Court in making the necessary findings regarding the
10 quality of Jim's advocates, Robert P. Dickerson charges an hourly fee of
11 \$600 for his services. Sabrina M. Dolson's hourly fee is \$350. These fees
12 are customary and reasonable in this locality for similarly situated persons
13 and cases. Mr. Dickerson has been practicing law for forty-three (43)
14 years, with the last twenty-six (26) plus years devoted to the practice of
15 family law. He is a former President of the State Bar of Nevada, and Clark
16 County Bar Association, and is AV rated both as to skill and ethics. Ms.
17 Dolson has been licensed to practice law in Nevada since 2013, is a
18 member of the Family Law Section of the State Bar of Nevada, and has
19 practiced in the area of family law since becoming licensed. The Dickerson
20 Karacsonyi Law Group is an AV Preeminent rated law firm, the highest
21 level of professional excellence. All attorneys at the firm have extensive
22 experience in family law, and a reputation for competency.

23 **III. LIST OF EXHIBITS**

24 1. Email sent by Robert P. Dickerson, Esq., to Neil Mullins, Esq.,
25 on January 9, 2019, with attached "Parenting Agreement.006 (sent to NM
26 1-9-19).pdf" and "MSA.008 (sent to NM 1-9-19).pdf," Bates Nos.
27 PLTF002060 - PLTF002109.

28 . . .

1 2. Email sent by Neil Mullins, Esq., to Robert P. Dickerson, Esq.,
2 on May 29, 2019, Bates Nos. PLTF002110 - PLTF002111.

3 3. Email sent by Robert P. Dickerson, Esq., to Neil Mullins, Esq.,
4 on May 31, 2019, Bates Nos. PLTF001795 - PLTF001797.

5 4. Email sent by Robert Clapp to Robert P. Dickerson, Esq., on
6 June 24, 2019, with attached "MSA.008 (1-9-19) (Revised 6.24.19).wpd,"
7 and "MSA - redline 6.24.19 nmm.wpd," Bates Nos. PLTF002112 -
8 PLTF002155.

9 5. Email sent by Robert P. Dickerson, Esq., to Neil Mullins, Esq.,
10 on July 23, 2019, with attached "MSA.009A (Mullin's Revisions with
11 Bob's Comments).pdf," Bates Nos. PLTF002156 - PLTF002175.

12 6. Email sent by Robert P. Dickerson, Esq., to Neil Mullins, Esq.,
13 on August 9, 2019, Bates Nos. PLTF001798 - PLTF001801.

14 7. Correspondence from Neil Mullins, Esq., to Robert P.
15 Dickerson, Esq., dated August 16, 2019, Bates Nos. PLTF001802 -
16 PLTF001820.

17 8. Email from Robert P. Dickerson, Esq., to Neil Mullins, Esq.,
18 dated August 19, 2019, Bates Nos. PLFT001821 - PLTF001823.

19 9. Email from Robert P. Dickerson, Esq., to Neil Mullins, Esq.,
20 dated October 4, 2019, Bates Nos. PLFT002176 - PLTF002179.

21 10. Email sent by Neil Mullins, Esq., to Robert P. Dickerson, Esq.,
22 on October 7, 2019, Bates Nos. PLTF002180 - PLTF002183.

23 11. Email from Robert P. Dickerson, Esq., to Fred Page, Esq., dated
24 October 10, 2019, Bates No. PLFT002184.

25 12. Premarital Agreement, entered into by James W. Vahey and
26 Minh Nguyet Luong on June 14, 2006, Bates Nos. PLTF001973 -
27 PLTF002028.

28 ...

1 13. 2014 U.S. Individual Income Tax Return for James W. Vahey
2 and Minh Nguyet Luong, Bates Nos. PLTF001824 - PLTF001872.

3 14. 2015 U.S. Individual Income Tax Return for James W. Vahey
4 and Minh Nguyet Luong Bates Nos. PLTF002029 - PLTF002059.

5 15. 2016 U.S. Individual Income Tax Return for James W. Vahey
6 and Minh Nguyet Luong, Bates Nos. PLTF001873 - PLTF001926.

7 16. 2017 U.S. Individual Income Tax Return for James W. Vahey
8 and Minh Nguyet Luong, Bates Nos. PLTF000010 - PLTF000085.

9 17. 2018 U.S. Individual Income Tax Return for James W. Vahey
10 and Minh Nguyet Luong, Bates Nos. PLTF001927 - PLTF001972.

11 18. James Vahey and Minh Luong Income Comparison for tax
12 purposes produced by Ty Anderson in response to Subpoena Duces
13 Tecum, Bates No. PLTF002185.

14 19. Email from Minh Luong to James Vahey dated September 27,
15 2019, Bates Nos. PLTF002202 - PLTF002204.

16 20. January 17-18, 2020 email exchanges between Minh Luong
17 and James Vahey regarding reimbursement for private school tuition,
18 Bates Nos. PLTF002205 - PLTF002207.

19 21. October 30, 2019 email to Minh Luong regarding
20 reimbursement for school uniforms, extracurricular activities, and private
21 school tuition, and attached receipts and statements, Bates Nos.
22 PLTF002208 - PLTF002215.

23 22. January 22 and 24, 2020 emails exchanged between Minh
24 Luong and James Vahey regarding reimbursement for private school
25 tuition, Bates No. PLTF002264.

26 23. Photograph of check to pay Challenger School applicant fees,
27 Bates No. PLTF002265.

28 . . .

1 24. March 14, 2020 email from James Vahey to Minh Luong
2 regarding Challenger School tuition, Bates Nos. PLTF002266 -
3 PLTF002267.

4 25. December 19, 2019 Email from James Vahey to Minh Luong
5 regarding Dr. Gravely's bill, Bates Nos. PLTF002268 - PLTF002270.

6 26. February 19, 2020 text message from James Vahey to Minh
7 Luong regarding Hannah's ophthalmology appointment, Bates No.
8 PLTF002271.

9 27. March 3, 2020 email from James Vahey to Minh Luong
10 regarding Selena's ophthalmology appointment, Bates Nos. PLTF002272 -
11 PLTF002274.

12 28. March 9, 2020 email from James Vahey to Minh Luong
13 regarding Selena's eye drops, Bates Nos. PLTF002275 - PLTF002278.

14 29. Photographs of aluminum handle, Bates Nos. PLTF002219 -
15 PLTF002220.

16 30. Photograph of ladder, Bates No. PLTF002221.

17 31. Audio recording and transcript of March 20, 2020 incident,
18 Bates Nos. PLTF002222 - PLTF002228.

19 32. Video recording and transcript of March 20, 2020 incident,
20 Bates No. PLTF002229.

21 33. Photographs of damage caused by Minh Luong on March 20,
22 2020, Bates Nos. PLTF002230 - PLTF002236.

23 34. April 27, 2020 letter from Sabrina M. Dolson, Esq., to Fred
24 Page, Esq., Bates Nos. PLTF002279 - PLTF002281.

25 35. May 18, 2020 letter from Fred Page, Esq., to Sabrina M.
26 Dolson, Esq., Bates Nos. PLTF002285 - PLTF002286.

27 36. May 19, 2020 letter from Sabrina M. Dolson, Esq., to Fred
28 Page, Esq., Bates Nos. PLTF002287 - PLTF002297.

1 37. May 26, 2020 letter from Fred Page, Esq., to Sabrina M.
2 Dolson, Esq., Bates Nos. PLTF002321 - PLTF002325.

3 38. May 26, 2020 letter from Sabrina M. Dolson, Esq., to Fred
4 Page, Esq., Bates Nos. PLTF002326 - PLTF002330.

5 39. Hand Center of Nevada Health Insurance Current and
6 Renewal Rates.

7 40. Challenger School Summary of Charges and Payments from
8 October 1, 2019 to June 20, 2020.

9 **IV. LIST OF WITNESSES**

- 10 1. JAMES W. VAHEY, Plaintiff
11 c/o THE DICKERSON KARACSONYI LAW GROUP
12 1745 Village Center Circle
 Las Vegas, Nevada 89134
 Telephone: (702) 388-8600

13 Dr. Vahey is expected to testify as to the facts and circumstances
14 concerning all matters at issue in this action.

- 15 2. MINH NGUYET LUONG, Defendant
16 c/o PAGE LAW FIRM
17 6930 South Cimarron Road, Suite 140
 Las Vegas, Nevada 89113
 Telephone: (702) 469-3278

18 Dr. Luong is expected to testify as to the facts and circumstances
19 concerning all matters at issue in this action.

- 20 3. Ty Anderson
21 ANDERSON RICHARDSON & CO., PLLC
22 10091 Park Run Drive, Suite 200
 Las Vegas, Nevada 89145
 Telephone: (702) 308-3400

23 Mr. Anderson is expected to testify as to the facts and circumstances
24 regarding the taxes paid by the parties for the 2014, 2015, 2016, 2017,
25 and 2018 tax years, and how the taxes each party owed for these tax years
26 would be apportioned, if at all, to each party.

27 . . .

28 . . .

1 4. Neil Mullins, Esq.
2 KAINEN LAW GROUP, PLLC
3 3303 Novat Street, Suite 200
 Las Vegas, Nevada 89129
 Telephone: (702) 823-4900

4 Mr. Mullins is expected to testify as to the facts and circumstances
5 regarding the agreements reached by the parties as to the division of the
6 children's 529 plans.

7 5. Bowena Bautista
8 265 Trailing Putt Way
 Las Vegas, Nevada 89148
 (702) 326-0137

9
10 Ms. Bautista is expected to testify as to the facts and circumstances
11 regarding Jim's requests for reimbursement from Minh for her one-half
12 (1/2) portion of the children's expenses.

13 Jim reserves the right to call any necessary rebuttal witnesses or any
14 witness named or called by Minh.

15 **V. LIST OF SUBSTANTIAL PROPERTY, ALL SECURED AND**
16 **UNSECURED INDEBTEDNESS, AND THE PROPOSED**
 DISPOSITION OF ASSETS AND LIABILITIES

17 The parties' property and debt should be divided pursuant to the
18 June 14, 2006 Premarital Agreement, and as set forth in the Marital
19 Settlement Agreement, attached hereto as **Exhibit 26**, and the Decree of
20 Divorce attached hereto as **Exhibit 27**, both of which were provided to
21 Minh on January 28, 2020.

22 DATED this 6th day of August, 2020.

23 THE DICKERSON
24 KARACSONYI LAW GROUP

25 By /s/ Sabrina M. Dolson
26 ROBERT P. DICKERSON, ESQ.
27 Nevada Bar No. 000945
28 SABRINA M. DOLSON, ESQ.
 Nevada Bar No. 013105
 1745 Village Center Circle
 Las Vegas, Nevada 89134
 Attorneys for Plaintiff

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of THE
3 DICKERSON KARACSONYI LAW GROUP, and that on this 6th day of
4 August, 2020, I caused the above and foregoing document entitled
5 PLAINTIFF'S PRETRIAL MEMORANDUM to be served as follows:

6 [X] pursuant to NEFCR 9, NRCP 5(b)(2)(E) and Administrative
7 Order 14-2 captioned "In the Administrative Matter of
8 Mandatory Electronic Service in the Eighth Judicial District
Court," by mandatory electronic service through the Eighth
Judicial District Court's electronic filing system;

9 [X] pursuant to NRCP 5(b)(2)(C), by placing same to be deposited
10 for mailing in the United States Mail, in a sealed envelope
upon which first class postage was prepaid in Las Vegas,
Nevada;

11 [] pursuant to NRCP 5(b)(2)(F), to be sent via facsimile, by duly
12 executed consent for service by electronic means;

13 [] pursuant to NRCP 5(b)(2)(A), by hand-delivery with signed
14 Receipt of Copy.

15 To the attorney(s) and/or person(s) listed below at the address, email
16 address, and/or facsimile number indicated below:

17 FRED PAGE, ESQ.
18 PAGE LAW FIRM
6930 South Cimarron Road, Suite 140
19 Las Vegas, Nevada 89113
fpage@pagelawoffices.com
20 Attorney for Defendant

21 /s/ Edwardo Martinez
22 An employee of The Dickerson Karacsonyi Law Group
23
24
25
26
27
28