

IN SUPREME COURT OF THE STATE OF NEVADA

BARTHOLOMEW MAHONEY,

Appellant,

v.

BONNIE MAHONEY,

Respondent.

Supreme Court No. 82412, 82413

District Court Case No. D-13-477883-D

Electronically Filed

Feb 02 2022 11:10 p.m.

Elizabeth A. Brown

Clerk of Supreme Court

Appeal from the Eighth Judicial District Court

RESPONDENT'S APPENDIX

RADFORD J. SMITH, CHARTERED

KIMBERLY A. STUTZMAN, ESQ.

Nevada Bar No. 014085

2470 St. Rose Parkway, Suite 206

Henderson, Nevada 89074

(702)990-6448

Attorneys for Respondent

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Radford J. Smith, Chartered, and that on the 2 February 2022, a copy of Respondent's Appendix in the above entitled matter was e-mailed and was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list, to the attorney listed below at the address, email address and/or facsimile number indicated below:

Aaron Grigsby, Esq.
Attorney for Appellant

/s/ Kimberly A. Stutzman
An employee of Radford J. Smith, Chartered

Divorce - Complaint

COURT MINUTES

August 22, 2019

D-13-477883-D Bartholomew M Mahoney, Plaintiff
vs.
Bonnie M Mahoney, Defendant.

August 22, 2019 09:15 AM All Pending Motions

HEARD BY: Ochoa, Vincent COURTROOM: Courtroom 07

COURT CLERK: Clayton, Yvette

PARTIES PRESENT:

Bartholomew M Mahoney, Counter Defendant, Aaron D Grigsby, ESQ, Attorney, Present
Plaintiff, Not Present

Bonnie M Mahoney, Counter Claimant, Defendant, Radford J Smith, ESQ, Attorney, Not Present
Present

Brigitte Mahoney, Subject Minor, Not Present

Sophie Mahoney, Subject Minor, Not Present

JOURNAL ENTRIES

MOTION TO REDUCE ARREARS TO JUDGMENT...DEFENDANT'S MOTION TO REDUCE ARREARAGES, INTEREST, AND PENALTIES TO JUDGMENT; TO MODIFY ALIMONY; TO REVIEW CHILD SUPPORT, FOR SANCTIONS AND ATTORNEY'S FEES AND COSTS...PLAINTIFF'S OPPOSITION TO MOTION TO REDUCE ARREARAGES, INTEREST AND PENALTIES TO JUDGMENT; TO MODIFY ALIMONY; TO REVIEW CHILD SUPPORT, FOR SANCTIONS AND ATTORNEY'S FEES AND COST AND COUNTERMOTION TO STRIKE MOTION AND FOR ATTORNEY'S FEES AND COSTS

Kimberly Stutzman bar #14085 appeared for Attorney Smith on behalf of Defendant.

Mr. Grigsby stated he filed an opposition yesterday. Counsel stated Plaintiff has paid support and requested it be extended out. Court reviewed the motions.

Arguments by Ms. Stutzman regarding alimony. Counsel requested attorney's fees.

Discussion. Court noted if Plaintiff did not pay his 20 % it will go to 35 %.

Court noted the issue of alimony is properly raised and opposed and will be taken under advisement before it ends.

COURT ORDERED, as follows:

Plaintiff shall provide his W2 forms for 2015, 2016, 2017 and 2018.

Both sides shall exchange bank records.

Discovery is open under condition Plaintiff provide his W2 forms first.

Plaintiff shall file a Financial Disclosure Form (FDF).

Counsel may brief the issues.

Motions continued to 11-13-19 at 9:15 AM.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Nov 13, 2019 9:15AM Motion
Courtroom 07 Ochoa, Vincent

Nov 13, 2019 9:15AM Motion to Reduce Arrears to Judgment
Courtroom 07 Ochoa, Vincent

Nov 13, 2019 9:15AM Opposition & Countermotion
Courtroom 07 Ochoa, Vincent

Divorce - Complaint

COURT MINUTES

November 13, 2019

D-13-477883-D Bartholomew M Mahoney, Plaintiff
vs.
Bonnie M Mahoney, Defendant.

November 13, 2019 09:15 AM All Pending Motions

HEARD BY: Ochoa, Vincent

COURTROOM: Courtroom 07

COURT CLERK: Clayton, Yvette

PARTIES PRESENT:

Bartholomew M Mahoney, Counter Defendant, Aaron D Grigsby, ESQ, Attorney, Present
Plaintiff, Present

Bonnie M Mahoney, Counter Claimant, Defendant, Radford J Smith, ESQ, Attorney, Not Present
Present

Brigitte Mahoney, Subject Minor, Not Present

Sophie Mahoney, Subject Minor, Not Present

JOURNAL ENTRIES

DEFENDANT'S MOTION TO REDUCE ARREARAGES, INTEREST, AND PENALTIES TO JUDGEMENT; TO MODIFY ALIMONY; TO REVIEW CHILD SUPPORT, FOR SANCTIONS AND ATTORNEY'S FEES AND COSTS...MOTION TO REDUCE ARREARS TO JUDGEMENT...PLAINTIFF'S OPPOSITION MOTION TO REDUCE ARREARAGES. INTEREST AND [PENALTIES;TOES TO JUDGMENT,; TO MODIFY ALIMONY; TO REVIEW CHILD SUPPORT, FOR SANCTIONS AND ATTORNEY'S FEES AND COSTS AND COUNTERMOTION TO STRIKE MOTION AND FOR ATTORNEY'S FEES AND COSTS...PLAINTIFF'S REPLY IN SUPPORT OF HER MOTION TO REDUCE ARREARAGES, INTEREST, AND PENALTIES TO JUDGMENT; TO MODIFY ALIMONY; TO REVIEW CHILD SUPPORT, FOR SANCTIONS AND ATTORNEY'S FEES AND COSTS

Kimberly Stutzman bar #14085 appeared for Attorney Smith on behalf of Defendant.

Discussion regarding arrearages. Mr. Grigsby stated the numbers were off and requested an EH. Ms. Stutzman requested more time to conduct discovery. Ms. Stutzman confirmed the arrearages goes back to September 2015. Ms. Stutzman addressed the Plaintiff's bonuses and requested more information.

COURT ORDERED,as follows:

Evidentiary Hearing (EH) SET 5/7/20 at 1:30 PM, (1/2 day). Scheduling Order Issued and will be sent out by Court.

Discovery is OPEN. Defendant shall have 150 days to conduct discovery. Discovery shall end 45 days before the EH.

Plaintiff shall file a Financial Disclosure Form (FDF) within 20 days.

Within 30 days Plaintiff shall provide a list to Defendant of every banking institution, credit union and money order he used to pay and any thing not list on list, he cannot bring into the Evidentiary Hearing.

Ms. Stutzman shall write the Plaintiff regarding clarification on the bonuses. If Plaintiff does not cooperate, Ms. Stutzman may subpoena the bonus records. Defendant shall provide documentation to Plaintiff that she did inquire about the bonuses.

Ms. Stutzman shall prepare the Order and Mr. Grigsby shall review then sign off.

INTERIM CONDITIONS:

FUTURE HEARINGS:

May 07, 2020 1:30PM Evidentiary Hearing
Courtroom 07 Ochoa, Vincent

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint

COURT MINUTES

December 03, 2020

D-13-477883-D Bartholomew M Mahoney, Plaintiff
vs.
Bonnie M Mahoney, Defendant.

December 03, 2020 09:15 AM Evidentiary Hearing

HEARD BY: Ochoa, Vincent COURTROOM: Courtroom 07

COURT CLERK: Clayton, Yvette

PARTIES PRESENT:

Bartholomew M Mahoney, Counter Defendant, Aaron D Grigsby, ESQ, Attorney, Not Present
Plaintiff, Not Present

Bonnie M Mahoney, Counter Claimant, Defendant, Radford J Smith, ESQ, Attorney, Not Present
Not Present

Brigitte Mahoney, Subject Minor, Not Present

Sophie Mahoney, Subject Minor, Not Present

JOURNAL ENTRIES

Attorney Kimberly Stutzman appeared by audiovisual with Defendant.

Counsel stated she sent Plaintiff's Defendant's exhibits. Counsel noted Plaintiff does not have an attorney.

Court noted Plaintiff was fully notice about today's trial.

Defendant sworn and testified.

Testimony and exhibits presented (see worksheet)

COURT ORDERED, as follows:

Counsel shall send the Clerk the amended Exhibit C within 24 hrs.

Child support for (2) children set at \$2,534.98 from 6/1/19 - 8/1/20; then child support is set for one child at \$1,796.00 from 9/1/20.

A Wage Assignment is issued to collect all child support and child support arrearages from 6/1/19 until the oldest child graduates from high school.

The \$135,169.16 from the bonus Defendant is entitled to is reduced to JUDGMENT and collectible by any legal means.

Counsel shall submit a memorandum of fees and cost within two (2) weeks with the exact amount with an Affidavit. Counsel noted her fees are about \$20,000. Court is inclined to grant most of the attorney's fees for preparation of today's hearing.

The attorney's fees that has already accrued in the amount of \$6,628.00 is REDUCED to JUDGMENT and can be collectible by any legal means.

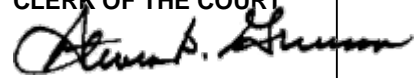
The sum for unpaid support in the amount of \$35,290.40 is REDUCED to JUDGMENT and collectible by any legal means

The unpaid (unreimbursed) orthodontics in the amount of \$3,200.00 is REDUCED to JUDGMENT.

Ms. Stutzman shall prepare the Order.

INTERIM CONDITIONS:

FUTURE HEARINGS:



MOT
Aaron D. Grigsby
Nevada Bar No. 9043
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A Professional Corporation
2880 West Sahara Ave,
Las Vegas, Nevada 89102
Telephone: (702) 202-5235
Facsimile: (702) 944-7856
aaron@grigsbylawgroup.com
Attorney for Bartholomew Mahoney

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

BARTHOLOMEW MAHONEY,

Plaintiff,

Case No. D-13-477883-D

vs.

Dept. No. S

BONNIE MAHONEY,

Defendant,

ORAL ARGUMENT REQUESTED: Yes X No

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

**MOTION TO SET ASIDE FINDINGS OF FACT, CONCLUSIONS OF
LAW, ORDER AND JUDGMENT FROM THE DECEMBER 3, 2020
EVIDENTIARY HEARING AND ORDER GRANTING ATTORNEY'S
FEES AND COSTS**

COMES NOW, Plaintiff, Bartholomew Mahoney, by and through his counsel, Aaron D. Grigsby, Esq., of the Grigsby Law Group A.P.C., hereby moves this Court to Set Aside the Findings of Fact, Conclusions of Law, Order and judgement from the December 3, 2020 Evidentiary Hearing and Order Granting Attorney's Fees and Costs. This motion is made and based upon the Points and Authorities herein, the papers and pleadings on file in this matter and any oral argument which may be entertained at the time of the hearing on this matter.

NOTICE OF MOTION

To: Bonnie Mahoney, Defendant.

To: Radford Smith, Counsel for Defendant.

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing before this court, on the _____ day of _____ 2021, at the hour of _____ .m, or as soon thereafter as counsel may be heard.

DATED this 25th day of January, 2021

By: /s/ Aaron Grigsby
Aaron D. Grigsby, Esq.
Bar No. 9043
2880 W. Sahara Ave.
Las Vegas, Nevada 89102

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

The parties were divorced by stipulated Decree on February 3, 2016¹. At the time of the divorce there were two minor children born the issue of the marriage: Brigitte Mahoney born October 29, 2001 and Sophia Mahoney born June 12, 2004. The Decree provided that the parties' share joint legal custody with Defendant having primary physical custody of the parties' minor children.

On May 9, 2019, Defendant filed a Motion to adjudicate arrears and for modification of alimony and child support. Mr. Mahoney filed an Opposition and Countermotion on August 21, 2019. The matter was set for an Evidentiary Hearing on May 7, 2020. Mr. Mahoney's attorney withdrew and filed a Notice of Entry of Order on April 28, 2020 after his Motion to Withdraw was granted.

On May 4, 2020 a Stipulation and Order was filed by Plaintiff, in Proper Person, and Defendant's Counsel to continue the Evidentiary Hearing. The Evidentiary Hearing was set for October 29, 2020. On September 17, 2020, the Court sent out a Notice of Rescheduling of Hearing moving the Evidentiary

¹ It is requested that pursuant to NRS 47.130(b) this Court take judicial notice of the Decree of Divorce filed February 3, 2016.

1 Hearing. The Notice was not addressed to Mr.
2 Mahoney. In 2020, Mr. Mahoney moved his residence.
3 Defendant came to his residence in September 2020 to
4 help their daughter move. She was aware that he was
5 no longer residing at the address listed with the
6 Court. She continued to serve him at an address she
7 knew he was not residing and would not receive any
8 pleadings.

9 It is unclear if the Order Setting Evidentiary
10 Hearing filed on October 4, 2020 was served on Mr.
11 Mahoney as the Certificate of Service does not
12 indicate how it was served. Mr. Mahoney was never
13 contacted by Court regarding appearance for the
14 December 3, 2020 Evidentiary Hearing. The Court
15 contacted Mr. Mahoney's counsel who had withdrawn
16 from the case. On January 5, 2021, Mr. Mahoney
17 reached out to Defendant's counsel requesting status
18 of the case and to date he has not received a
19 response.

20 II.

21 ARGUMENT

22 NRCP 60(b), provides a vehicle for a party to set
23 aside an order entered by a court. The Nevada Rules
24 of Civil Procedure provide in part:

25 On motion and upon such terms as are just, the
26 court may relieve a party or a party's legal
27 representative from a final judgment, order, or
28 proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence by which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud, misrepresentation or other misconduct of an adverse party;²
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

Normally, the above-referenced rule would allow Mr. Mahoney a period of six months after judgment, to seek relief from a final judgment. NRCP 60(b)'s "savings clause" permit[s] a party seeking to vacate a judgment because of fraud on the court to "proceed by motion or [to] bring an independent action." The "savings clause" embrace[s] only that species of fraud which does, or attempts to subvert the integrity of the Court itself, or is a fraud perpetrated by officers of the court so that judicial machinery can not perform in the usual manner its impartial task of adjudicating cases³.

In the case at bar, a Notice of Entry of Order was filed on December 28, 2020 and for the Attorney's

² NRCP 60(b)

³ NC-DSH. Inc. v. Garner, 125 Nev. 647 (2012)

1 fees on January 11, 2021. Mr. Mahoney is within the
2 time limit allowed for a motion to set aside. Mr.
3 Mahoney is asking this Court to find that Defendant
4 committed acts of misconduct of a sufficient degree
5 to Set Aside the Orders entered on December 28th and
6 January 11th. This Court has wide discretion to apply
7 the relief sought in NRCP 60 (b). Therefore, Mr.
8 Mahoney respectfully asks this Court to relieve him
9 of the judgment obtained without notice.

10 The constitutional guarantee of due process of
11 law, found in the Fifth and Fourteenth Amendments to
12 the U.S. Constitution, prohibits all levels of
13 government from arbitrarily or unfairly depriving
14 individuals of their basic constitutional rights to
15 life, liberty, and property. Procedural due process
16 limits the exercise of power by the state and federal
17 governments, by requiring that they follow certain
18 procedures in criminal and civil matters. In cases
19 where an individual has claimed a violation of due
20 process rights, the courts must determine whether a
21 citizen is being deprived of "life, liberty, or
22 property," and what procedural protections are "due"
23 that individual.

24 The most fundamental requirement of procedural
25 due process is the opportunity to be heard. Notice
26 must be both timely and sufficiently clear so that
27 affected individuals will be able to appear and
28 contest issues in a meaningful way. A fundamental,

1 constitutional guarantee that all legal proceedings
2 will be fair and that one will be given notice of the
3 proceedings and an opportunity to be heard before the
4 government acts to take away one's life, liberty, or
5 property.

6 Under the rules of civil procedure⁴, the District
7 court must analyze whether the moveant: (1) promptly
8 applied to remove the judgment; (2) lacked intent to
9 delay the proceedings; (3) demonstrated good faith;
10 (4) lacked knowledge of procedural requirements; and
11 (5) tendered a meritorious defense to the claim for
12 relief⁵.

13 Mr. Mahoney has promptly objected to the ruling
14 by filing this Motion. The record does not reflect
15 any attempts by Mr. Mahoney to unnecessarily delay
16 the proceedings. The procedural rules are in place
17 to protect the rights of litigants. Here, Mr.
18 Mahoney was deprived of his day in Court. As an
19 individual representing himself, the Court should
20 have ensured that he received proper notice of the
21 Evidentiary Hearing. Defendant was aware of his new
22 address and was aware that he was not receiving
23 anything that she was sending him to his prior
24 address.

25 ///

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27 ⁴ NRCP 60 (b)

28 ⁵ Kahn v. Orme, 108 Nev. 510, 835 P.2d 790 (1992)

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III.
CONCLUSION

Based on the foregoing, Mr. Mahoney respectfully requests that the instant Motion to Set Aside the Order be granted and the matter be heard on its merits.

DATED this 25th day of January, 2021

THE GRIGSBY LAW GROUP
A Professional Corporation

By: /s/Aaron Grigsby
Aaron Grigsby, Esq.
Nevada Bar No. 9043
2880 W. Sahara Ave.
Las Vegas, Nevada 89102
abira@grigsbylawgroup.com

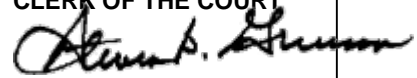
DECLARATION OF BARTHOLOMEW MAHONEY

I, Bartholomew Mahoney, do hereby declare under penalty of perjury that the assertions of this Declaration are true and correct to the best of my knowledge. As for those assertions based on belief, I believe them to be true.

1. That I am the Plaintiff in the above-referenced matter;

2. That I have read the foregoing Motion and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, as to those matters, I believe them to be true. The factual averments contained in the Opposition and Countermotion are incorporated here as if set forth in full.

/s/Bartholomew Mahoney
Bartholomew Mahoney



MOT
Aaron D. Grigsby
Nevada Bar No. 9043
The Grigsby Law Group
A Professional Corporation
2880 West Sahara Ave,
Las Vegas, Nevada 89102
Telephone: (702) 202-5235
Facsimile: (702) 944-7856
aaron@grigsbylawgroup.com
Attorney for Bartholomew Mahoney

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA
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Defendant,

ORAL ARGUMENT REQUESTED: Yes X No

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RESPONSE WITH THE CLERK OF THE COURT WITHIN
FOURTEEN (14) DAYS OF YOUR RECEIPT OF THIS MOTION
MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED
BY THE COURT WITHOUT HEARING PRIOR TO THE
SCHEDULED HEARING DATE.**

MOTION FOR STAY

COMES NOW Plaintiff, Bartholomew Mahoney, by and through his attorney, Aaron D. Grigsby, Esq., of the Grigsby Law Group, APC., and moves this Court for a stay of the Orders entered on December 24, 2020 and January 11, 2021. This motion is made and based upon all papers and pleadings on file herein, Points and Authorities submitted herewith, exhibits attached hereto, and such further argument as may be adduced at the hearing of this motion.

NOTICE OF MOTION

TO: Bonnie Mahoney, Defendant;
To: Radford Smith, Counsel for Defendant.

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE, that the foregoing Motion will be heard at the Clark County Family Court, 601 N. Pecos, Las Vegas, NV 89101, on the _____ day of _____, 2021, at the hour of _____ o'clock _____ m. or as soon thereafter as counsel may be heard in Department S of said Court.

Dated this 2nd day of February, 2021

The Grigsby Law Group
A Professional Corporation

/s/Aaron Grigsby
Aaron D. Grigsby
Nevada Bar No. 9043
2880 W. Sahara Ave
Las Vegas, Nevada 89102
aaron@grigsbylawgroup.com

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¹ It is requested that pursuant to NRS 47.130(b) this Court take judicial notice of the Decree of Divorce filed February 3, 2016.

1 served on Mr. Mahoney. In 2020, Mr. Mahoney moved
2 his residence. Defendant came to his residence in
3 September 2020 to help their daughter move. She was
4 aware that he was no longer residing at the address
5 listed with the Court. She continued to serve him at
6 an address she knew he was not residing and would not
7 receive any pleadings.

8 It is unclear if the Order Setting Evidentiary
9 Hearing filed on October 4, 2020 was served on Mr.
10 Mahoney as the Certificate of Service does not
11 indicate how it was served. Mr. Mahoney was never
12 contacted by Court regarding appearance for the
13 December 3, 2020 Evidentiary Hearing. The Court
14 contacted Mr. Mahoney's counsel who had withdrawn
15 from the case. On January 5, 2021, Mr. Mahoney
16 reached out to Defendant's counsel requesting status
17 of the case and to date he has not received a
18 response.

19 Thereafter, Mr. Mahoney filed a Notice of Appeal
20 of the order and for the order granting attorney's
21 fees and cost, which are currently pending.

22 **ARGUMENT**

23 **A. Standard**

24 Mr. Mahoney is in the process of petitioning for
25 judicial review of the Orders entered on December 24,
26 2020 and January 11, 2021. He is requesting that
27 this Court issue a stay of this Court's orders. If
28 Mr. Mahoney is forced to comply with specific

1 provisions before the appellate process can be
2 completed, there is a high probability that he will
3 be financially ruined and rendered incapable of
4 exercising the legal remedies and defenses available
5 to him. The ultimate effect will be to deny Mr.
6 Mahoney due process of law.

7 Pursuant to NRAP 8(a), an application for a stay
8 must ordinarily be made in the district court². NRAP
9 8(c) provides the list of factors to be considered in
10 determining whether a stay pending appeal should be
11 issued in a civil case that does not involve child
12 custody³. NRAP 8(c) contains the factors for
13 consideration in deciding whether to issue a stay:

14 In deciding whether to issue a stay or
15 injunction, the Supreme Court will generally
16 consider the following factors: (1) whether
17 the object of the appeal or writ petition
18 will be defeated if the stay or injunction is
19 denied; (2) whether appellant/petitioner will
20 suffer irreparable or serious injury if the
21 stay or injunction is denied; (3) whether
22 respondent/real party in interest will suffer
23 irreparable or serious injury if the stay or
24 injunction is granted; and (4) whether
25 appellant/petitioner is likely to prevail on
26 the merits in the appeal or writ petition⁴.

25 ² Fritz Hansen A/S v. Dist. Ct., 116 Nev. 650, 657, 6 P.3d 982
26 (2000)

27 ³ Fritz, at 657

28 ⁴ NRAP 8(2)(c)

1 These factors mandate a stay in the present case.

2 THE OBJECT OF THE APPEAL WILL BE DEFEATED IF A STAY
3 IS DENIED

4 The first factor is whether the object of the
5 appeal will be defeated if the stay is denied⁵. The
6 object of the appeal concerns money. If the stay is
7 not granted to maintain the status quo, Mr. Mahoney
8 would unnecessarily be deprived of a substantial
9 portion of his assets. The stay will avoid serious
10 harm that will result to Mr. Mahoney and further
11 avoid needless litigation. Accordingly, this factor
12 weighs in favor of issuing the stay.

13 MR. MAHONEY WILL SUFFER IRREPARABLE OR SERIOUS INJURY
14 IF THE STAY IS DENIED

15 The second factor under Rule 8 is whether
16 appellant will suffer irreparable or serious harm if
17 the stay is denied⁶. Without a stay in this case, Mr.
18 Mahoney will suffer irreparable injury. Mr. Mahoney
19 would be deprived of his interest in his assets if he
20 is forced to satisfy the judgement against him.
21 Additionally, it is unlikely that Defendant would be
22 able to reimburse Mr. Mahoney if he is forced to
23 satisfy the judgment but is ultimately successful on
24 his appeal. Accordingly, this factor also weights in
25 favor of issuing the stay.

26 _____
27 ⁵ NRAP 8(c) (1)

28 ⁶ NRAP 8(c) (2)

1 BONNIE MAHONEY WILL NOT SUFFER IRREPARABLE OR SERIOUS
2 INJURY IF THE STAY IS GRANTED

3 The third factor under Rule 8 is whether the
4 other party will suffer irreparable or serious injury
5 if the stay is granted⁷. No irreparable or even
6 serious harm will be suffered by Defendant if the
7 stay is granted. Defendant was less than candid in
8 her representation of the arrears. The arrears that
9 were reduced to judgement without Mr. Mahoney's
10 presence were not accurate. Defendant will not be
11 harmed by an additional delay for the appeal. As
12 such, she would not suffer any harm from awaiting
13 judgment from the appellate court. This factor also
14 weights in favor of issuing the stay.

15 MR. MAHONEY IS LIKELY TO PREVAIL ON THE MERITS OF THE
16 APPEAL

17 The final factor under Rule 8 is whether the Mr.
18 Mahoney is likely to prevail on the merits of the
19 appeal⁸. In order to satisfy this factor, Mr. Mahoney
20 does not have to show that it is certain he will
21 prevail on appeal. Rather he must show a probability
22 of success on the merits, or present a substantial
23 case on the merits when a serious legal question is
24 involved and show that the balance of equities weighs
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27 ⁷ NRAP 8(c)(3)

28 ⁸ NRAP 8(c)(4)

1 heavily in favor of granting the stay⁹. While the
2 appellate process holds many uncertainties, there are
3 a number of legal issues raised by the District
4 Court's order, which must be resolved in favor of
5 reversing the decision.

6 The district court denied Mr. Mahoney due
7 process. Mr. Mahoney is likely to prevail on the
8 appeal because the district court denied him notice
9 and an opportunity to be heard.

10 The constitutional guarantee of due process of
11 law, found in the Fifth and Fourteenth Amendments to
12 the U.S. Constitution, prohibits all levels of
13 government from arbitrarily or unfairly depriving
14 individuals of their basic constitutional rights to
15 life, liberty, and property. Procedural due process
16 limits the exercise of power by the state and federal
17 governments, by requiring that they follow certain
18 procedures in criminal and civil matters. In cases
19 where an individual has claimed a violation of due
20 process rights, the courts must determine whether a
21 citizen is being deprived of "life, liberty, or
22 property," and what procedural protections are "due"
23 that individual.

24 The most fundamental requirement of procedural
25 due process is the opportunity to be heard. Notice
26 must be both timely and sufficiently clear so that
27

28 ⁹Fritz, at 659

1 affected individuals will be able to appear and
2 contest issues in a meaningful way. A fundamental,
3 constitutional guarantee that all legal proceedings
4 will be fair and that one will be given notice of the
5 proceedings and an opportunity to be heard before the
6 government acts to take away one's life, liberty, or
7 property.

8 Under the rules of civil procedure¹⁰, the District
9 court must analyze whether the moveant: (1) promptly
10 applied to remove the judgment; (2) lacked intent to
11 delay the proceedings; (3) demonstrated good faith;
12 (4) lacked knowledge of procedural requirements; and
13 (5) tendered a meritorious defense to the claim for
14 relief¹¹.

15 Mr. Mahoney has promptly objected to the ruling
16 by filing this Motion. The record does not reflect
17 any attempts by Mr. Mahoney to unnecessarily delay
18 the proceedings. The procedural rules are in place
19 to protect the rights of litigants. Here, Mr.
20 Mahoney was deprived of his day in Court. As an
21 individual representing himself, the Court should
22 have ensured that he received proper notice of the
23 Evidentiary Hearing. Defendant was aware of his new
24 address and was aware that he was not receiving
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27 ¹⁰ NRCP 60 (b)

28 ¹¹ Kahn v. Orme, 108 Nev. 510, 835 P.2d 790 (1992)

1 anything that she was sending him to his prior
2 address.

3 **CONCLUSION**

4 A stay is needed in this matter otherwise Mr.
5 Mahoney will face serious and irreparable harm. A
6 stay will maintain the status quo and prevent serious
7 and necessary injury to Mr. Mahoney. The factors
8 relevant to a stay pending resolution of an appeal
9 justify an issuance of a stay in this case.

10 Based on the foregoing, Mr. Mahoney respectfully
11 requests that this Honorable Court grant a stay of
12 the Orders entered on December 24, 2020 and January
13 11, 2021.

14 DATED this 2nd day of February, 2021

15
16 Grigsby Law Group
17 A Professional Corporation

18 /s/Aaron Grigsby
19 Aaron D. Grigsby
20 Nevada Bar No. 9043
21 2880 W. Sahara Ave
22 Las Vegas, Nevada 89102
aaron@grigsbylawgroup.com
23
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DECLARATION OF BARTHOLOMEW MAHONEY

I, Bartholomew Mahoney, do hereby declare under penalty of perjury that the assertions of this Declaration are true and correct to the best of my knowledge. As for those assertions based on belief, I believe them to be true.

1. That I am the Plaintiff in the above-referenced matter;

2. That I have read the foregoing Motion and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, as to those matters, I believe them to be true. The factual averments contained in the Opposition and Countermotion are incorporated here as if set forth in full.

/s/Bartholomew Mahoney
Bartholomew Mahoney

The Grigsby Law Group
2880 W. Sahara Ave
Las Vegas, Nevada 89102
Tel: (702) 202-5235

CERTIFICATE OF SERVICE

I hereby certify that service of the Motion for Stay was made on the 2nd day of February, 2021, pursuant to NRCP 5(b) and pursuant to EDCR 8.05(2), EDCR 8.05(f) and Administrative Order 14-2, by mandatory electronic service through the Eighth Judicial District Court's electronic filing system or United States Mail to the following address.

Kimberly Stutzman, Esq
Radford J. Smith, Chartered
2470 St. Rose Parkway Suite 206
Henderson, Nevada 89014
kstutzman@radfordsmith.com

/s/ Jackson Newark

Employee of The Grigsby Law Group



OPPC

RADFORD J. SMITH, CHARTERED

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Attorneys for Defendant

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

BARTHOLOMEW M. MAHONEY, JR.,

Plaintiff,

vs.

BONNIE M. MAHONEY,

Defendant.

CASE NO.: D-13-477883-D

DEPT NO.: S

Date of Hearing: March 17, 2021

Time of Hearing: 9:15 am

Date of Hearing: March 25, 2021

Time of Hearing: 9:00 am

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO SET ASDIE
FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER AND JUDGMENT
FROM THE DECEMBER 3, 2020 EVIDENTIARY HEARING AND ORDER
GRANTING ATTORNEY'S FEES AND COSTS**

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR STAY;
COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS**

COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS

COMES NOW Defendant, BONNIE M. MAHONEY (“Bonnie”), by and through her attorneys, Kimberly A. Stutzman, Esq. of Radford J. Smith, Chartered, and hereby respectfully submits this Opposition to Defendant’s Motions and moves this Court for its orders as follows:

1. For an order denying Plaintiff’s Motion to Set Aside and Motion to Stay in its Entirety;
2. For an Order Granting Defendant, BONNIE MAHONEY, attorney’s fees and costs;
3. For such other and further relief as the Court finds just in the premises.

DATED this 8 February 2021.

RADFORD J. SMITH, CHARTERED

/s/ Kimberly A. Stutzman
KIMBERLY A. STUTZMAN, ESQ.
Nevada Bar No. 014085
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Attorneys for Defendant

I.

COUNTERSTATEMENT OF FACTS

The parties, Defendant, BONNIE MAHONEY (“Bonnie”) and Plaintiff, BARTHOLOMEW MAHONEY (“Bart”) were divorced by stipulated Decree of Divorce (“Decree”) filed February 3, 2016. The parties have two children, BRIGITTE MAHONEY

1 (“Brigitte”), born October 29, 2001 (age 19), and SOPHIA MAHONEY (“Sophia”), born
2 June 12, 2004 (age 16).

3 The parties were scheduled to attend an Evidentiary Hearing on October 29, 2020.
4 The court, however, rescheduled the Evidentiary Hearing to December 3, 2020. The court
5 mailed a Notice of Rescheduling Hearing on September 17, 2020 to Bart’s former counsel,
6 Attorney Aaron Grigsby. Undersigned realized that the Notice was not sent directly to Mr.
7 Mahoney. Thus, on September 28, 2020, Defendant’s counsel sent Mr. Mahoney the Notice
8 of Rescheduling of Hearing. *See* Amended Certificate of Service, filed September 28,
9 2020. This mail was never Returned to undersigned counsel.
10
11

12 Pursuant to Administrative Order 20-17, Mr. Mahoney was required to sign up for
13 electronic service. Though he failed to do so, this office ensured that he was sent documents
14 both in the mail and electronically.
15
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17 Additionally, this office emailed Mr. Mahoney to his correct email address at
18 bmmlv27@gmail.com on the following days:
19

- 20 - November 23rd
 - 21 ○ This email included trial exhibits and the trial date and time. The Law Clerk
 - 22 also addressed the hearing and that they would send the BlueJeans link prior
 - 23 to the hearing.
 - 24 ○ Another email sent this date included the Pre-Trial Memorandum.
- 25 - November 24th
 - 26 ○ This email included the List of Trial Exhibits.
- 27 - November 25th
 - 28 ○ This email included also included the Amended Trial Exhibits.
- December 2nd
 - This email included a link to the trial exhibits.

1 In those emails, he received documents for trial that included the trial date and time,
2 December 3rd, 2020 at 9:15 a.m. *See* Emails to Mr. Mahoney, dated November 23, 2020
3 through to December 2, 2020, filed hereto as Exhibit “A.”
4

5 On January 25, 2021, undersigned attempted to resolve this matter. *See* Letter to A.
6 Grigsby, e-served January 25, 2021, filed as Exhibit “B.” Bart failed to respond. He,
7 however, filed an Appeal and then a Motion to Stay, which is opposed herein.
8

9 Thus, it appears that Bart insists on misrepresenting the facts by claiming that he
10 had no notice of the rescheduling. As a result, Bonnie is forced to incur fees in order to
11 file an Opposition and Countermotion.
12

13 It is important to note that Bart fails to acknowledge that he was served with the
14 Notice of Rescheduling sent by undersigned in an effort to misrepresent the facts and
15 commit fraud upon this honorable court. He also fails to acknowledge the multiple emails
16 he received from counsel detailing the trial date and time, Bonnie’s exhibits in support of
17 her motion, and the evidence that was subpoenaed. Bart also fails to mention that he failed
18 to provide a Pre-Trial Memorandum or any exhibits in support of his Opposition.
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22 Moreover, Bart’s claims in his motion are also illogical and support that he was
23 aware of the December 3, 2020 date after the rescheduling. In his motion, Bart claims to
24 not know that the December 3, 2020 date went forward. He, however, failed to respond to
25 counsel’s emails with the December 3, 2020 trial documents **OR** question why the hearing
26 did not more forward on the October 29, 2020 date. It is illogical that Bart waited three
27 months after the October 29, 2020 evidentiary hearing to look into his pending litigation.
28

1 It is illogical that counsel would send trial documents (Exhibits, Pre-Trial, etc.) to Bart in
2 November if trial occurred October 29, 2020.

3 Bart's failure to appear is consistent with his behavior in this matter. When Bart
4 was represented by counsel, he failed to appear, even telephonically, at any hearing. He
5 failed to timely file a Financial Disclosure Form. He provided only his W2s but failed to
6 provide any documents to refute Bonnie's claims. He failed to file any other pleading or
7 exhibit. Bonnie subpoenaed Bart's records. She incurred over \$23,000 in attorney's fees
8 and costs to tediously review those subpoenas. Undersigned meticulously outlined every
9 transaction for Bart's payments to Bonnie (or lack thereof). Undersigned and Bonnie even
10 acknowledged additional payments from Bart to Bonnie that were unintentionally left out
11 of her exhibits/spreadsheet.

12 In her Motion in May 2019, Bonnie claimed that Bart was in arrears. She provided
13 a Schedule of Arrears. Bart claimed it was incorrect but failed to provide even a scintilla
14 of evidence to refute her claims. Though Bonnie provided the evidence to support her
15 claims, Bart's non-payments, and the other issues, it was Bart's burden to prove payment.
16 He failed to do so. It is more likely that Bart realized the evidence Bonnie prepared in
17 support of her Motion and purposefully failed to appear hoping the court would not move
18 forward. Regardless, even if he Bart appeared he failed to provide any evidence to support
19 his claims and meet his burden of proof. As a result, Bonnie submits that she still would
20 have prevailed.

1 Next, Bart fails to claim in his motion any error in the Findings of Fact and
2 Conclusions of Law. He fails to refute the subpoenas support his income and bonuses or
3 evidencing his bank statements and payments to Bonnie. Bart's only claim is that he did
4 not receive Notice, which is false. Additionally, Bart did not move prior to September.
5 When Bonnie moved the parties' daughter back in with her, he resided at the 7960 Rafael
6 Rivera Way residence. When Bonnie arrived at the Rafael apartment, he was sitting in the
7 living room watching TV. The only items that were moved from his residence were those
8 that belonged to Brigitte. Bonnie also went to his apartment a month later to retrieve items
9 and Bart's vehicle was in the parking lot, but he did not open the door. The only update
10 regarding Bart that Bonnie received was that he got remarried, but as of the date of this
11 Opposition, Bart has failed to provide Bonnie or this court with the new address. It is
12 important to note that Bart's apartment, South Beach, required code access. If necessary,
13 Bonnie will subpoena entry and surveillance records.
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19 Additionally, if Bart moved, he failed to update the court docket (even now). He
20 failed to forward his address because undersigned never received return mail during the
21 litigation. Bart also did not update his address with the children's medical providers. *See*
22 Sunrise Hospital and Medical Center Records, dated February 1, 2021, filed as Exhibit
23 "C."
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25 "C."

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II.

BART’S MOTION TO SET ASIDE SHOULD BE DENIED

In his motion, Bart claims that the Findings and Order filed December 24, 2020 and the Order Granting Attorney Fees should be set aside pursuant to NRCP 60(b). Bart’s reliance, however, is misplaced.

NRCP 60(b) states in relevant part:

(b) *Grounds for Relief From a Final Judgment, Order, or Proceeding.* On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

- (1)** mistake, inadvertence, surprise, or excusable neglect;
- (2)** newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3)** fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4)** the judgment is void;
- (5)** the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6)** any other reason that justifies relief.

Here, Bart fails to claim that the court erred in its Findings and Order. Bart also fails to present new evidence, or *any* evidence. Bart claims that Bonnie committed “acts of misconduct of a sufficient degree” but fails to explain what generally or specially Bonnie ostensibly did. This is because Bonnie did not commit any fraud, misrepresentation or misconduct.

Bart also fails to claim whether the judgment is void or satisfied. Bart’s motion may fall under subsection 6, “any other reason.” Bart claims he did not receive notice, but Bart fails to mention the Notice mailed to him by counsel and all of the emails and documents

undersigned sent to him throughout the parties' litigation. Thus, NRCP 60(b) does not apply.

In his motion, he provides a bare citation to *Kahn v. Orme*, 108 Nev. 510, 835 P.2d 790 (1992). This case, however, addresses NRCP 60(b) motions brought pursuant to section 1. In *Kahn*, Mr. Kahn was unrepresented. He did not appear at the hearing, and a judgment was entered against him. Thereafter, he filed a motion to set aside pursuant to NRCP 60(b), but the district court denied his motion.

In *Kahn*, the Supreme Court noted that the standard of review for an order Denying a NRCP 60(b) Motion for Relief is whether the district court abused its discretion. *Id.* citations omitted. The *Kahn* court held:

First, there must have been "a prompt application to remove the judgment." Second, there must be an "absence of an intent to delay the proceedings." Third, there must be evidence of "a lack of knowledge of procedural requirements" on the part of the moving party. Fourth, the motion must be made in "good faith." Fifth, "the moving party must promptly tender a 'meritorious defense' to the claim for relief."

Id. (citations omitted). In the *Kahn* case, the court discussed whether Kahn had notice of the hearing. The Court found that Kahn unquestionably had full notice of the hearing and that he had sufficient knowledge to act responsibly. The Court could not conclude that Kahn was ignorant of procedural requirements and held that the district court did not abuse its discretion.

Here, Bart received Notice of Rescheduling the Hearing from undersigned counsel's office in September and then received multiple emails with all necessary documents

1 regarding the December 3, 2020 Evidentiary Hearing. He had sufficient knowledge to act
2 responsibly. Instead, Bonnie submits that Bart is intentionally misrepresenting the facts to
3 the court in an effort to defraud Bonnie of the funds that she is due under the parties' Decree
4 of Divorce.
5

6 Next, the *Kahn* Court discussed whether Kahn produced a meritorious defense. It
7 stated that the elements of a meritorious defense were as follows:
8

- 9 (1) the fact testimony or affidavit of one possessing testimonial qualifications,
10 which factual information, if true, would tend to establish a defense to all or
11 part of the claim for relief asserted; or
12 (2) the opinion of counsel for a party, based upon facts related to him (without
13 setting forth such facts), that a meritorious defense exists to all or part of the
14 claim for relief asserted; or
15 (3) the tendering of a responsive pleading in good faith, with the moving
16 papers, which responsive pleading, if true, would tend to establish a
17 meritorious defense to all or part of the claim for relief asserted; or
18 (4) any combination of the above.

19 *Id.* Here, Bart failed to provide any evidence or analysis that his defense is meritorious. In
20 fact, Bart misrepresented to the court that he had no knowledge of the December 3, 2020
21 hearing because he purposefully and intentionally did not disclose that counsel mailed him
22 the notice and that he received multiple emails and documents with the trial date and time.
23 Thus, he failed to any provide a “meritorious” defense otherwise.

24 Next, the *Kahn* court held that Kahn failed to show that the district court abused its
25 discretion in denying his Motion to Set Aside. The Court held that Kahn had every
26 opportunity to properly defend this action and appears to have made a voluntary choice not
27
28

1 to. Likewise, Bart made a voluntary choice not to defend this action or meet his burden of
2 proof. Thus, Bonnie submits that his Motion to Set Aside should be denied.

3
4 Moreover, in *Smith v. Smith*, 102 Nev. 110, 716 P.2d 229 (1986), the Supreme Court
5 held that the decision of the district court would be affirmed if there was sufficient evidence
6 contained in the record to support that decision. *Id.*

7
8 Here, there is sufficient evidence in the record to support the Finding and Order.
9 Though it was Bart's burden to prove payment for the support arrears, Bonnie presented
10 evidence, including subpoenas of Bart's work records and bank statements. This evidence
11 supported her Schedule of Arrears and Exhibit outlining the bonuses he received and failed
12 to pay to Bonnie. On the other hand, there is no evidence in the record to support Bart's
13 position in his Opposition that he was not in arrears.
14
15

16 In another case, *Union Petrochemical Corp. v. Scott*, 96 Nev. 337, 609 P.2d 323
17 (1980), the Supreme Court held that to condone the actions of a party who has sat on its
18 rights only to make a last-minute rush to set aside judgment would be to turn NRCP 60(b)
19 into a device for delay rather than the means for relief from an oppressive judgment that it
20 was intended to be. *See Union Petrochemical Corp. v. Scott*, 96 Nev. 337, 339, 609 P.2d
21 323, 324 (1980). Here, Bart clearly sat on his rights only to make a last-minute rush to set
22 aside a judgment, which is supported by substantial evidence. Again, it is important to note
23 that Bart fails to mention how the order itself is incorrect. This is because it is supported
24 by significant evidence that cannot be refuted. The judgment is also not oppressive because
25 it enforces the money he stipulated to pay to Bonnie but failed to do. If the court set aside
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1 this judgment, it would essentially set aside the parties' obligations and responsibilities
2 from their stipulated Decree. Bonnie submits that Bart's motion is a device to delay her
3 from receiving the funds she's waited years to receive.
4

5 Finally, Bonnie submits that the grounds to set aside, if any, are far outweighed by
6 *res judicata*. In *Pickett v. Comanche Constr. Inc.*, 108 Nev. 422, 836 P.2d 42 (1992), the
7 Supreme Court held that if any of the grounds set forth in Rule 60(b) are shown, the
8 purposes of *res judicata* can be outweighed by the policies for granting relief. *Id.* at 427,
9 836 P.2d at 45. Here, the case was heard and adjudicated by a competent court and the
10 findings and orders were supported by sufficient evidence. Thus, Bonnie submits that it
11 should not be pursued further.
12
13
14

15 As a result, Bonnie submits that Bart's Motion to Set Aside should be denied in its
16 entirety.
17

18 III.

19 **BART'S MOTION TO STAY SHOULD BE DENIED**

20 On January 26, 2021, Bart filed a Notice of Appeal to the December 24, 2021
21 Findings and Order and to the January 11, 2021 Order Granting Attorney's Fees. The two
22 orders, however, are composed of 78 pages (64 and 14) and provides clear citations to the
23 evidence upon which it made its findings and the law upon which it based its conclusion.
24 The law in many instances is clear and applicable Nevada precedent.
25
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28 Bart's Case Appeal Statement suggests that he is challenging the Court's orders
without any explanation, but he does not provide any other information as to what errors

1 he believes were made. Bart now moves to enter a stay of the two Orders pursuant to NRAP
2 8(a). As addressed below, the factors upon which the Rules of Appellate Procedure state
3 that the Court should consider in addressing Dennis's request for stay do not support his
4 request.
5

6 ***A. Bart cannot demonstrate a need for the Stay Under the Designated Factors***
7

8 NRAP (8) states in relevant part:

9 ***(a) Motion for stay.***

10 ***(1) Initial motion in the district court.*** A party must ordinarily move
11 first in the district court for the following relief:

12 ***(A)*** a stay of the judgment or order of, or proceedings in, a
13 district court pending appeal or resolution of a petition to the
Supreme Court or Court of Appeals for an extraordinary writ;

14 ***(B)*** approval of a supersedeas bond; or

15 ***(C)*** an order suspending, modifying, restoring or granting an
injunction while an appeal or original writ petition is pending.

16 . . .

17 ***(c)*** Stays in civil cases not involving child custody. In deciding whether to
18 issue a stay or injunction, the Supreme Court or Court of Appeals will
generally consider the following factors: (1) whether the object of the appeal
19 or writ petition will be defeated if the stay or injunction is denied; (2) whether
appellant/petitioner will suffer irreparable or serious injury if the stay or
20 injunction is denied; (3) whether respondent/real party in interest will suffer
irreparable or serious injury if the stay or injunction is granted; and (4)
21 whether appellant/petitioner is likely to prevail on the merits in the appeal or
22 writ petition.

23 The stated factors do no support Bart's motion.
24

25 ***(1) Whether the object of the appeal or writ petition will be defeated if the stay is***
26 ***denied;***

27 Here, Bart seeks to avoid the distribution of monies granted to Bonnie under the
28 parties' Stipulated Decree and subsequent Findings and Order filed December 24, 2020.

1 Bonnie is currently unemployed¹. Bart, however, is the Vice President of Food and
2 Beverage at Resorts World, Las Vegas, and earns, at minimum, \$132.21/hour. He also
3 receives substantial bonuses as a VP, which were identified at trial. Because Bart failed to
4 file a docketing statement, it is not clear what Bart is challenging. Thus, Bonnie reserves
5 the right to update this section. Bart's motion simply states that the object concerns money
6 and that he would unnecessarily be deprived of a substantial portion of assets. Bart,
7 however, fails to explain or provide any evidence to support this statement. Bart lives a
8 lavish lifestyle earning 6 figures and 5 figure bonuses while Bonnie financially struggles
9 because Bart fails to pay her the appropriate amount each month.

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(2) *Whether appellant/petitioner will suffer irreparable or serious injury if the stay is denied;*

Here, Bart claims that he will suffer if the stay is denied. This is false. As addressed above, he earns a significant salary. He will not be injured or harmed. Bart will be simply forced to pay the funds he owes Bonnie since their stipulated Decree. Moreover, nothing in the Court's findings or Bonnie's history suggests she will spend money frivolously. Moreover, if Bart refuses to pay Bonnie (even the amounts that are presently due such as child support), he should be ordered at minimum to put the funds into an interest-bearing account pending the appeal as security.

¹ Given her continued unemployment Bonnie affirms that pursuant to EDCR 5.507(f) there has been no material change in her financial condition since the filing of her FDF on 11/30/20.

1 Further, Bart has not identified an “irreparable injury.” In *Dixon v. Thatcher*, 103
2 Nev. 414, 415, 742 P.2d 1029, 1029-30 (1987), the court noted that with respect to
3 injunctive relief, irreparable harm is harm for which compensatory damages would be
4 inadequate, such as the sale of a home at trustee's sale, because real property is unique.
5 That notion is applicable here; Bart will not suffer irreparable harm because he challenges
6 an award of funds.
7
8

9 Bart argues that he will suffer irreparable injury or harm because Bonnie may not
10 be able to reimburse Bart. Regardless, Bart owes Bonnie for undisputed amounts based
11 on the subpoenas and evidence in the record. Bart can continue to pay towards his debt
12 without causing any irreparable injury to himself even if the amount is adjusted in the
13 future. Moreover, Bonnie will handle the distribution funds that she receives in a prudent
14 and reasonable manner, and she will be able to pay any amounts she is ordered to pay after
15 appeal, if any. Bonnie, however, will be harmed from not being able to access these funds.
16 At trial, Bonnie testified about her financial struggles and that she had to use her retirement
17 funds and credit cards to survive since Bart failed to pay in full and on time or pay her
18 portion of the bonus money to her.
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23 *(3) Whether respondent/real party in interest will suffer irreparable or serious*
24 *injury if the stay is granted; and*
25

26 The presumption underlying the motion is that Bonnie has sufficient funds, and she
27 will not be prejudiced if some of those funds are limited to a blocked account. Bonnie is
28 prejudiced by her inability to access or use those funds. She has been granted a judgment,

1 and if she is not going to realize the use of the funds granted, then she should be afforded
2 legal interest on funds held, if any. The effect of a stay is no different than Bart not paying
3 the judgment granted.
4

5 (4) *Whether appellant/petitioner is likely to prevail on the merits in the appeal or*
6 *writ petition.*
7

8 In *Hansen v. Eighth Judicial Dist. Court*, 116 Nev. 650, 6 P.3d 982 (2000), the
9 Nevada Supreme Court held that although, when moving for a stay pending an appeal or
10 writ proceedings, a movant does not always have to show a probability of success on the
11 merits, but the movant must "present a substantial case on the merits when a serious legal
12 question is involved and show that the balance of equities weighs heavily in favor of
13 granting the stay." (quoting *Ruiz v. Estelle*, 650 F.2d 555, 565 (5th Cir. 1981)). Here, the
14 equities of the case strongly support the Court's findings granting Bonnie's motion.
15 Moreover, the record supports that Bart received Notice of the Hearing and had an
16 opportunity to be heard. He also received emails and documents noting the date and time
17 of the hearing. Thus, it is likely that Bart will not prevail on the merits in the appeal.
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22 For these reasons, Bonnie submits that Bart's motion for Stay should also be denied.
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IV.

**BONNIE'S COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS
SHOULD BE GRANTED**

As outlined in her Memorandum of Fees and Costs, Bart multiplied these proceedings, and he continues to do so. As a result, Bonnie incurred attorney's fees and costs in the defense of Bart's Motions to Set Aside and To Stay.

A request for an order directing another party to pay attorney's fees must be based upon statute, rule or contractual provision. *See, e.g., Rowland v. Lepire*, 99 Nev. 308, 662 P.2d 1332 (1983). Here, there is a statutory mandate for an award of fees against a party shown to be in arrearages in child support (NRS 125B.140). NRS 18.010 states in relevant part –

1. The compensation of an attorney and counselor for his or her services is governed by agreement, express or implied, which is not restrained by law.

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

(a) When the prevailing party has not recovered more than \$20,000; or

(b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party. The court shall liberally construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

1 3. In awarding attorney's fees, the court may pronounce its decision on the
2 fees at the conclusion of the trial or special proceeding without written motion
and with or without presentation of additional evidence.

3 4. Subsections 2 and 3 do not apply to any action arising out of a written
4 instrument or agreement which entitles the prevailing party to an award of
reasonable attorney's fees.

5
6 NRS 18.010 [emphasis added]. NRS 18.100 states in relevant part that –

7 1. The party in whose favor judgment is rendered, and who claims costs, must
8 file with the clerk, and serve a copy upon the adverse party, within 5 days after
9 the entry of judgment, or such further time as the court or judge may grant, a
10 memorandum of the items of the costs in the action or proceeding, which
11 memorandum must be verified by the oath of the party, or the party's attorney
or agent, or by the clerk of the party's attorney, stating that to the best of his
12 or her knowledge and belief the items are correct, and that the costs have been
necessarily incurred in the action or proceeding.

13 2. The party in whose favor judgment is rendered shall be entitled to recover
14 the witness fees, although at the time the party may not actually have paid
15 them. Issuance or service of subpoena shall not be necessary to entitle a
prevailing party to tax, as costs, witness fees and mileage, provided that such
16 witnesses be sworn and testify in the cause.

17 3. It shall not be necessary to embody in the memorandum the fees of the
18 clerk, but the clerk shall add the same according to the fees of the clerk fixed
by statute.

19 4. Within 3 days after service of a copy of the memorandum, the adverse party
20 may move the court, upon 2 days' notice, to retax and settle the costs, notice
of which motion shall be filed and served on the prevailing party claiming
21 costs. Upon the hearing of the motion the court or judge shall settle the costs.

22 In the instant matter, Bonnie will be the prevailing party. Therefore, she should be
23 awarded her attorney's fees and costs. Moreover, the Eighth Judicial District Rules are also
24 a basis for an award of fees and a fine (a penalty above the amount of reasonable attorneys
25 and costs) based upon Bart's breach of the Court's Decree. EDCR 7.60 states –

26
27 (a) If without just excuse or because of failure to give reasonable attention to
28 the matter, no appearance is made on behalf of a party on the call of a calendar,

1 at the time set for the hearing of any matter, at a pre-trial conference, or on
2 the date of trial, the court may order any one or more of the following:

3 (1) Payment by the delinquent attorney or party of costs, in such
4 amount as the court may fix, to the clerk or to the adverse party.

5 (2) Payment by the delinquent attorney or party of the reasonable
6 expenses, including attorney's fees, to any aggrieved party.

7 (3) Dismissal of the complaint, cross-claim, counter-claim or motion
8 or the striking of the answer and entry of judgment by default, or the
9 granting of the motion.

10 (4) Any other action it deems appropriate, including, without
11 limitation, imposition of fines.

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

16 (1) Presents to the court a motion or an opposition to a motion which
17 is obviously frivolous, unnecessary or unwarranted.

18 (2) ***Fails to prepare for a presentation.***

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

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

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

23 [Emphasis added.] Here, Bart did not appear for the Evidentiary Hearing. His Motion to Set
24 Aside and To Stay are not supported by applicable law. Thus, he failed to prepare for the
25 presentation. Bart continues to refuse to comply with the parties' Stipulated Decree
26 requiring that he pay child support, alimony, attorney fees, and health insurance to Bonnie.

27 In *Miller v. Wilfong*, 121 Nev. 619, 621, 119 P.3d 727, 730 (2005), the Court stated:

28 [I]t is within the trial court's discretion to determine the reasonable amount
of attorney fees under a statute or rule, in exercising that discretion, the court
must evaluate the factors set forth in *Brunzell v. Golden Gate National Bank*,
85 Nev. 345, 349, 455 P.2d 31, 33 (1969). Under *Brunzell*, when courts
determine the appropriate fee to award in civil cases, they must consider
various factors, including the qualities of the advocate, the character and
difficulty of the work performed, the work actually performed by the
attorney, and the result obtained. We take this opportunity to clarify our

jurisprudence in family law cases to require trial courts to evaluate the *Brunzell* factors when deciding attorney fee awards. Additionally, in *Wright v. Osburn*, this court stated that family law trial courts must also consider the disparity in income of the parties when awarding fees. Therefore, parties seeking attorney fees in family law cases must support their fee request with affidavits or other evidence that meets the factors in *Brunzell* and *Wright*.

Miller v. Wilfong, 121 Nev. 619, 623-24, 119 P.3d 727, 730 (2005).

Bonnie seeks reimbursement of his attorney's fees and costs in this matter and as the prevailing party under the criteria set forth in *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

With regard to fees, the Supreme Court has adopted "well known basic elements," which in addition to hourly time schedules kept by the attorney, are to be considered in determining the reasonable value of an attorney's services qualities, commonly referred to as the *Brunzell* factors.²

1. *Quality of the Advocate*: his ability, his training, education, experience, professional standing and skill. This factor logically addresses the rate at which counsel charges for services. A skilled and experienced attorney can justify an hourly rate greater than an attorney with less skill and experience. A party may contend that a rate is either reasonable or excessive in the market based upon the education, skill and experience of an attorney, or lack thereof.

Radford J. Smith, Chartered, is A/V rated firm. The attorneys have litigated almost every aspect of Nevada family law during the course of their respective careers. Its senior

² *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31, 33 (1969).

1 attorney, and the lead attorney in the present case, Kimberly A. Stutzman, Esq. (formerly
2 Kimberly A. Medina, KAM on the Bill History) is a graduate of the Golden Gate University
3 School of Law. She received a Specialization Certificate in Family Law and Intellectual
4 Property upon graduation. She exclusively practices family law in the four years that she
5 has been licensed in Nevada. She is also licensed in the state of California. Her rate of \$300
6 per hour is reasonable based on her qualifications, experience, and quality of work
7 performed in this matter.
8

9
10 2. *The Character of the Work to be Done* – its difficulty, its intricacy, its
11 importance, time and skill required, the responsibility imposed and the prominence and
12 character of the parties where they affect the importance of the litigation. The “character
13 of the work” goes to whether the fee charged was commensurate to the “difficulty, intricacy
14 and importance” of the issues raised. Bonnie incurred the fees addressed above due to
15 Bart’s actions and his failure to comply with basic court orders as well as the parties’
16 *stipulated* Decree of Divorce. Bonnie’s counsel worked diligently to prosecute her Motion,
17 reviews thousands of pages of Bart’s financial records that had to be subpoenaed, and to
18 seek Bart’s compliance in this case. Bonnie’s counsel continues to work to defend against
19 Bart’s Motion to Stay and to Set Aside as well as the Appeals he filed.
20
21
22
23
24

25 3. *The Work Actually Performed by the Lawyer* – the skill, time and attention
26 given to the work. Bonnie’s counsel submits that the work done in this case was performed
27 in a competent and professional matter. The fees incurred were necessary, reasonable, and
28

1 commensurate to the work performed. Bonnie will submit a new Billing History upon the
2 court's request.

3 4. *The Result:* Whether the attorney was successful and what benefits were
4 derived.
5

6 Based on the foregoing, Bonnie will be successful in the prosecution of her
7 Opposition and Countermotion. Thus, she will be the prevailing party.
8

9 V.

10 **CONCLUSION**
11

12 Based on the foregoing, Bonnie requests that the Court deny Plaintiff's Motions and
13 enter an order granting her all attorney's fees and costs incurred for defendant of this
14 matter.
15

16 DATED this 8th day of February 2021.

17 RADFORD J. SMITH, CHARTERED
18

19 /s/ Kimberly A. Stutzman
20 KIMBERLY A. STUTZMAN, ESQ.
21 Nevada Bar No. 014085
22 2470 St. Rose Parkway, Suite 206
23 Henderson, Nevada 89074
24 *Attorneys for Defendant*
25
26
27
28

1 **UNSWORN DECLARATION OF KIMBERLY A. STUTZMAN, ESQ.**

2 STATE OF NEVADA)
3) ss:
4 COUNTY OF CLARK)

5 KIMBERLY A. STUTZMAN, declares and stated as follows:

6 1. I have personal knowledge of the facts contained herein, and I am competent
7
8 to testify thereto.

9 2. I am the attorney for the Defendant, Bonnie Mahoney, in this matter. I read
10 the foregoing Opposition and Countermotion and can testify that the facts contained therein
11 are true and correct to the best of my knowledge. I hereby reaffirm and restate said facts
12 as if fully set forth herein.
13

14
15 3. **Pursuant to NRS 53.045, I declare under penalty of perjury that the**
16 **foregoing is true and correct.**

17
18 /s/ Kimberly A. Stutzman
19 KIMBERLY A. STUTZMAN, ESQ.

20 Dated 2/8/21

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BONNIE MAHONEY, declares and stated as follows:

4. I have personal knowledge of the facts contained herein, and I am competent to testify thereto.

5. I Defendant in this matter. I have read the foregoing Opposition and Countermotion and can testify that the facts contained therein are true and correct to the best of my knowledge. I hereby reaffirm and restate said facts as if fully set forth herein.

6. **Pursuant to NRS 53.045, I declare under penalty of perjury that the foregoing is true and correct.**

Dated 2/8/21

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Radford J. Smith, Chartered (“the Firm”). I am over the age of 18 and not a party to the within action. I am “readily familiar” with firm’s practice of collection and processing correspondence for mailing. Under the Firm’s practice, mail is to be deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid.

I served the foregoing documents described as **OPPOSITION TO MOTION TO SET ASIDE AND MOTION TO STAY** on this 8th day of February 2021: , to all interested parties by via US Mail, postage prepaid and addressed to the following:

☐ BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

☒ BY ELECTRONIC SERVICE: I transmitted a copy of the foregoing document this date via the Eighth Judicial District Court's electronic filing system;

The Grigsby Law Group
Aaron D. Grigsby, Esq.
624 South 10th Street
Las Vegas, Nevada 89101
aaron@grigsbylawgroup.com
Attorney for Plaintiff

/s/ Courtney Janson
An employee of Radford J. Smith, Chartered



EXHS

RADFORD J. SMITH, CHARTERED

KIMBERLY A. STUTZMAN, ESQ.

Nevada Bar No. 014085

2470 St. Rose Parkway, Suite 206

Henderson, Nevada 89074

Telephone: (702) 990-6448

Facsimile: (702) 990-6456

firm@radfordsmith.com

Attorneys for Defendant

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

BARTHOLOMEW M. MAHONEY, JR.,

Plaintiff,

vs.

BONNIE M. MAHONEY,

Defendant.

CASE NO.: D-13-477883-D

DEPT NO.: S

Date of Hearing: March 17, 2021

Time of Hearing: 9:15 am

Date of Hearing: March 25, 2021

Time of Hearing: 9:00 am

**APPENDIX OF EXHIBITS TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S
MOTION TO SET ASDIE FINDINGS OF FACT, CONCLUSIONS OF LAW,
ORDER AND JUDGMENT FROM THE DECEMBER 3, 2020 EVIDENTIARY
HEARING AND ORDER GRANTING ATTORNEY'S FEES AND COSTS**

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR STAY;
COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS**

COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS

COMES NOW Defendant, BONNIE M. MAHONEY (“Bonnie”), by and through her attorneys, Kimberly A. Stutzman, Esq. of Radford J. Smith, Chartered, and hereby files her Appendix of Exhibits to her Opposition and Countermotion.

EXHIBIT	DESCRIPTION
A.	Emails to Mr. Mahoney, dated November 23, 2020 through to December 2, 2020
B.	Letter to A. Grigsby, e-served January 25, 2021
C.	Sunrise Hospital and Medical Center Records, dated February 1, 2021

DATED this 8 February 2021.

RADFORD J. SMITH, CHARTERED

/s/ Kimberly A. Stutzman
KIMBERLY A. STUTZMAN, ESQ.
Nevada Bar No. 014085
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Attorneys for Defendant

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Radford J. Smith, Chartered (“the Firm”). I am over the age of 18 and not a party to the within action. I am “readily familiar” with firm’s practice of collection and processing correspondence for mailing. Under the Firm’s practice, mail is to be deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid.

I served the foregoing documents described as **APPENDIX OF EXHIBITS TO OPPOSITION TO MOTION TO SET ASIDE AND MOTION TO STAY** on this 8th day of February 2021, to all interested parties by via US Mail, postage prepaid and addressed to the following:

☐ BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

☒ BY ELECTRONIC SERVICE: I transmitted a copy of the foregoing document this date via the Eighth Judicial District Court's electronic filing system;

The Grigsby Law Group
Aaron D. Grigsby, Esq.
624 South 10th Street
Las Vegas, Nevada 89101
aaron@grigsbylawgroup.com
Attorney for Plaintiff

/s/ Courtney Janson
An employee of Radford J. Smith, Chartered

EXHIBIT “A”

From: [Malia Banks](#)
To: bmm1v27@gmail.com
Cc: [Kimberly Stutzman](#); [Courtney Janson](#)
Subject: Mahoney adv. Mahoney - D's Pre-Trial Memo
Date: Monday, November 23, 2020 3:32:40 PM
Attachments: [Mahoney - PMEM \(ef\).pdf](#)

Good afternoon Mr. Mahoney,

Attached please find the Defendant's Pre-Trial Memorandum our firm has filed today November 23, 2020.

Thank you,

[Malia Banks, Legal Assistant](#)

Radford J. Smith, Chartered
2470 St. Rose Parkway, #206
Henderson, NV 89074
T: 702-990-6448
F: 702-990-6456

****NOTICE****

This message is intended for the use of the individual or entity to which it is addressed and may contain attorney/client information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone (702) 990-6448, and immediately delete this message and all its attachments.

From: [Kimberly Stutzman](#)
To: bmmlv27@gmail.com
Cc: [Courtney Janson](#); [Malia Banks](#)
Bcc: [Bonnie Mahoney \(peacefulrays@gmail.com\)](mailto:Bonnie.Mahoney@peacefulrays@gmail.com)
Subject: RE: Mahoney adv. Mahoney - D's Pre-Trial Memo
Date: Tuesday, November 24, 2020 5:27:00 PM
Attachments: [Mahoney - List of Trial Exhibits \(ef\).pdf](#)
[image001.png](#)

Please see attached.

Sincerely,

Kimberly A. Stutzman, Esq.†
Radford J. Smith, Chartered
[2470 St. Rose Parkway, Suite 206](#)
[Henderson, Nevada 89074](#)
Phone [\(702\) 990-6448](tel:(702)990-6448)
Facsimile [\(702\) 990-6456](tel:(702)990-6456)



†Ms. Stutzman is also licensed in the State of California.

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From: Malia Banks <mbanks@radfordsmith.com>
Sent: Monday, November 23, 2020 3:33 PM
To: bmmlv27@gmail.com
Cc: Kimberly Stutzman <kstutzman@radfordsmith.com>; Courtney Janson <cjanson@radfordsmith.com>
Subject: Mahoney adv. Mahoney - D's Pre-Trial Memo

Good afternoon Mr. Mahoney,

Attached please find the Defendant's Pre-Trial Memorandum our firm has filed today November 23, 2020.

Thank you,

[Malia Banks, Legal Assistant](#)

Radford J. Smith, Chartered
2470 St. Rose Parkway, #206
Henderson, NV 89074
T: 702-990-6448
F: 702-990-6456

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From: [Courtney Janson](#)
To: bmmlv27@gmail.com
Cc: [Kimberly Stutzman](#); [Malia Banks](#)
Subject: Mahoney - Disclosure and 2nd Amended Exhibit List
Date: Wednesday, November 25, 2020 10:22:43 AM
Attachments: [Mahoney - Second Amended List of Trial Exhibits \(e\).pdf](#)
[Mahoney - D's 2nd Amended List of Trial Exhibits \(ef\).PDF](#)

Mr. Mahoney,

Attached please find Defendant's 2nd Supplemental Disclosure and 2nd Amended List of Trial Exhibits.

Regards,

[Courtney Janson, Paralegal](#)
Radford J. Smith, Chartered
2470 St. Rose Parkway, #206
Henderson, NV 89074
T: 702-990-6448
F: 702-990-6456

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From: [Kimberly Stutzman](#)
To: [Bart Mahoney](#)
Cc: [Courtney Janson](#)
Bcc: [Bonnie Mahoney \(peacefulrays@gmail.com\)](#); [Bonnie Mahoney](#)
Subject: Mahoney - Exhibits
Date: Wednesday, December 2, 2020 1:38:40 PM
Attachments: [image001.png](#)

Good afternoon:

I wanted to ensure you received the electronic copies since I was not certain if the Adobe link worked:

<https://www.dropbox.com/sh/rasynpfichtki4t/AADc7MPzP9WUMfGDs24Z2g9Ga?dl=0>

Sincerely,

Kimberly A. Stutzman, Esq.†
Radford J. Smith, Chartered
[2470 St. Rose Parkway, Suite 206](#)
[Henderson, Nevada 89074](#)
Phone [\(702\) 990-6448](#)
Facsimile [\(702\) 990-6456](#)



†Ms. Stutzman is also licensed in the State of California.

****NOTICE****

This message is intended for the use of the individual or entity to which it is addressed and may contain attorney/client information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by reply email or by telephone [\(702\) 990-6448](#), and immediately delete this message and all its attachments.

RA061

EXHIBIT “B”

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.
GARIMA VARSHNEY, ESQ.
KIMBERLY A. STUTZMAN, ESQ.†
COURTNEY JANSON, PARALEGAL
MALIA BANKS, LEGAL ASSISTANT

A Professional Corporation
2470 ST. ROSE PARKWAY – STE. 206
HENDERSON, NEVADA 89074

TELEPHONE: (702) 990-6448
FACSIMILE: (702) 990-6456
RSMITH@RADFORDSMITH.COM
GVARSHNEY@RADFORDSMITH.COM
KSTUTZMAN@RADFORDSMITH.COM

EDCR 5.501 – ATTEMPT TO RESOLVE

January 25, 2021

VIA E-SERVICE

Mr. Aaron Grigsby
aaron@grigsbylawgroup.com

Re: Mahoney v. Mahoney

Dear Mr. Grigsby:

I received the Motion filed today to Set Aside the Mahoney Orders. It appears that Mr. Mahoney was not forthcoming in his discussion with you. Additionally, please review the docket.

On September 28, 2020, undersigned ensured Mr. Mahoney received the Notice of Rescheduling the Hearing. *See* Certificate of Service, filed September 28, 2020.

Additionally, this office emailed Mr. Mahoney to his correct email address at bmmlv27@gmail.com on the following days:

- November 23rd
- November 24th
- November 25th
- December 2nd

In those emails, he received documents for trial that included the trial date and time, December 3rd, 2020 at 9:15 a.m.

Pursuant to Administrative Order 20-17, Mr. Mahoney was required to sign up for electronic service. Though he failed to do so, this office ensured that he was sent documents both in the mail and electronically.

[This space intentionally left blank.]

†Ms. Stutzman is also licensed in the State of California.

Aaron Grigsby, Esq.

January 25, 2021

Page 2

If Mr. Mahoney insists on misrepresenting the facts and does not withdraw his Motion, then my client will be forced to incur fees in order to file an Opposition and Countermotion. She will seek additional fees and sanctions in her Opposition.

Please let us know what Mr. Mahoney decides no later than end of business, Friday, January 29, 2021.

Sincerely,

RADFORD J. SMITH, CHARTERED

/s/ Kimberly A. Stutzman, Esq.

Enc: As stated

Cc: Client (via email)

RA064

EXHIBIT “C”

Sunrise Hospital and Medical Center
3186 South Maryland Parkway, Las Vegas, Nevada 89109 (702)961-5000

IN / OUT / ER PATIENT ADMISSION RECORD
ACCOUNT#: **D00124217755** ADM DATE: 02/01/21 UNIT RCRD #: **D001479929** ARRIVAL:
ROOM/BED: ADM TIME: 1100 MARKET URN: D899235 CONF: VIP:
PT. TYPE: REG CLI ADMIT PRI/SRC: EL / CR LOCATION(S): D.EEG FC: 08

PATIENT INFORMATION
NAME: **MAHONEY, BRIGITTE CAMILLE** PREFERRED NAME: **BRIDGETTE**
STREET: 8305 OASIS BLOOM STREET DOB: 10/29/2001 SS#: xxx-xx-7777
STREET: AGE: 19 RACE: WHITE/CAUC
C/S/ZP: NORTH LAS VEGAS, NV 89085 SEX: F MAR STATUS: S
PHONE#: (702)355-8268 (702)355-8268 REL: NONE LANG: ENGLISH
SPOUSE / NOK / COMPANION PERSON TO NOTIFY
MAHONEY, BARTHOLOMEW
999 UNKNOWN ADDRESS MAHONEY, BONNIE
LAS VEGAS, NV 99999 507 VENADO VISTA DR
(702)296-3613 RELTN: FATHER LOS ANGELES, CA 91011
WORK PH: (702)355-7774 RELTN: MOTHER
PATIENT EMPLOYER GUARANTOR
STUDENT MAHONEY, BRIGITTE CAMILLE
NONE 8305 OASIS BLOOM STREET
NONE, NV 99999 NORTH LAS VEGAS, NV 89085
999-9999 OCC: STUDENT PH: (702)355-8268 RELTN: SELF
GUARANTOR EMPLOYER OCCURRENCE CODES CONDITION CODES
STUDENT 11 12/02/20
NONE
NONE, NV 99999
999-9999

INSURANCE INFORMATION
PRIMARY: UHCSIEPPO - 85891 SECONDARY: TERTIARY:
SIERRA PPO
PO BOX 15645
LAS VEGAS, NV 89114
POLICY #: 19004788301 POLICY #: POLICY #:
COVERAGE #: SIERRA PPO COVERAGE #: COVERAGE #:
INS PHONE #: (702)242-7300 INS PHONE #: INS PHONE #:
GRP #: 60006477 GRP #: GRP #:
AUTH #: W09526545/95819 AUTH #: AUTH #: AUTH DT: VER DT:
AUTH DT: 01/28 VER DT: 01/27 AUTH DT: VER DT:
SUB: MAHONEY, BARTHOLOMEW SUB: SUB: SUB: VER DT:
RELAT: FA DOB: 06/10/1966 RELAT: DOB: RELAT: DOB:

PHYSICIAN INFORMATION / DOCUMENTATION
ADM: PCP: NO PCP NO PRIMARY OR FAMILY PHYSICIAN
HCS: HCS: 7943
ATT: GREGA Gregory, Gabriela MD PUGLIESE REF: .DNK Does Not Know
HCS: 2663 (702)961-7310 HCS: 7777
ER:
REASON FOR VISIT/CHIEF COMPL: EEG AWAKE/ASLEEP, DX: FOCAL SEIZURE, ADV EFFECT MEDS

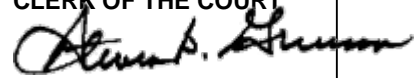
COMMENTS:
PRT BY: R.SZ.CRW ON: 02/01/21 1106



ADVANCE DIRECTIVE:
DISCH DATE: TIME: DISPO:



RA066



RPLY
Aaron D. Grigsby
Nevada Bar No. 9043
The Grigsby Law Group
A Professional Corporation
2880 West Sahara Ave,
Las Vegas, Nevada 89102
Telephone: (702) 202-5235
Facsimile: (702) 944-7856
aaron@grigsbylawgroup.com
Attorney for Bartholomew Mahoney

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

BARTHOLOMEW MAHONEY,

Plaintiff,

Case No. D-13-477883-D

vs.

Dept. No. S

BONNIE MAHONEY,

Defendant,

_____ /

REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION
TO SET ASIDE FINDINGS OF FACT, CONCLUSIONS OF LAW,
ORDER AND JUDGMENT FROM THE DECEMBER 3, 2020
EVIDENTIARY HEARING AND ORDER GRANTING ATTORNEY'S
FEES AND COSTS; DEFENDANT'S OPPOSITION TO PLAINTIFF'S
MOTION FOR STAY AND OPPOSITION TO COUNTERMOTION FOR
ATTORNEY'S FEES AND COSTS

COMES NOW, Plaintiff, Bartholomew Mahoney, by and
through his counsel, Aaron D. Grigsby, Esq., of the
Grigsby Law Group A.P.C., hereby moves this Court to

1 issue a stay and deny Defendant's counter-motion for
2 attorney's fees and costs. This motion is made and
3 based upon the Points and Authorities herein, the
4 papers and pleadings on file in this matter and any
5 oral argument which may be entertained at the time of
6 the hearing on this matter.

7 **MEMORANDUM OF POINTS AND AUTHORITIES**

8 **I.**

9 **STATEMENT OF FACTS**

10 The parties were divorced by stipulated Decree on
11 February 3, 2016. At the time of the divorce there
12 were two minor children born the issue of the
13 marriage: Brigitte Mahoney born October 29, 2001 and
14 Sophia Mahoney born June 12, 2004.

15 On May 9, 2019 Ms. Mahoney filed a Motion to
16 adjudicate the arrears. Mr. Mahoney filed an
17 Opposition and Counter-motion. An evidentiary hearing
18 was set on the Motion and Counter-motion. Counsel for
19 Mr. Mahoney withdrew in April 2020. In May 2020, a
20 Stipulation and Order to continue evidentiary hearing
21 was filed between Defendant's counsel and Mr. Mahoney
22 in proper person. The evidentiary hearing was
23 rescheduled several times. Mr. Mahoney was not
24 provided notice of the evidentiary hearing by the
25 Court when he was in proper person. Mr. Mahoney was
26 not present for the evidentiary hearing and an
27 adverse ruling was entered by the District Court.
28 Mr. Mahoney is appealing that judgment.

1 Thereafter, Mr. Mahoney filed a Motion to Set
2 Aside the Orders entered against him and request an
3 Order Shortening Time. After the Order Shortening
4 Time was denied, Mr. Mahoney filed his Notice of
5 Appeal and Motion for Stay. After the Notice of
6 Appeal was filed, his motion to Set Aside became moot
7 and the District Court lost the jurisdiction to
8 address the motion. Mr. Mahoney was trying to
9 address the orders without having to file an appeal.

10 **II.**

11 **ARGUMENT**

12 **A. JURISDICTION TO HEAR MOTION TO SET ASIDE**

13 Mr. Mohoney's intent was to resolve the matter
14 without having to file an appeal. After he filed the
15 appeal the Court lost jurisdiction to hear the Motion
16 to Set Aside. In Huneycutt v. Huneycutt¹, the Nevada
17 Supreme Court held that the District Court is
18 divested of jurisdiction to consider any issues that
19 are pending before the Nevada Supreme Court for
20 appeal and adopted the criminal court process for
21 post-trial motions in civil cases. The Nevada
22 Supreme Court Further clarified Huneycutt in Mack-
23 Manley v. Manley².

24 In Mack-Manley, the Supreme Court held that "a
25 timely notice of appeal divests the district court of
26

27

¹ Huneycutt v. Huneycutt, 94 Nev. 79 at 80, 575 P.2d 585 (1978)

28 ² Mack-Manley v. Manley, 122 Nev. 849, 138 P.3d 525 (2006)

1 jurisdiction to act and vests jurisdiction in this
2 court.³ "When an appeal is perfected, the district
3 court is divested of jurisdiction to revisit issues
4 that are pending before this court, the district
5 court retains jurisdiction to enter orders on matters
6 that are collateral to and independent from the
7 appealed order, *i.e.*, matters that in no way affect
8 the appeal's merits⁴."

9 The issues before this Court are identical to
10 those in Mack-Manley. There is a pending, perfected
11 appeal to the Nevada Supreme Court regarding the
12 orders that are the subject of the Motion to Set
13 Aside. Therefore, as in Mack-Manely, since the
14 issues on appeal in this case are squarely before the
15 Nevada Supreme Court, the District Court is divested
16 of jurisdiction to consider any issues that are on
17 appeal. Mr. Mahoney expected that this Court would
18 vacate the motion hearing due to lack of jurisdiction
19 to either grant or deny the motion.

20 **B. MOTION TO STAY**

21 Ms. Mahoney appears to have combined her
22 oppositions to Motion to Set Aside and Motion for
23 Stay without providing any authority that the joinder
24 is allowed under the law. As discussed above, this
25 Court is divested of jurisdiction to hear the Motion
26

27 ³ Id. at 854

28 ⁴ Id

1 to Set Aside but it does have jurisdiction to hear
2 the Motion for Stay. Mr. Mahoney is in the process
3 of petitioning for judicial review of the Orders
4 entered on December 24, 2020 and January 11, 2021.
5 He is requesting that this Court issue a stay of this
6 Court's orders. Pursuant to NRAP 8(a), an
7 application for a stay must ordinarily be made in the
8 district court⁵. Mr. Mahoney responds to Defendant's
9 opposition under each factor as follows:

10 THE OBJECT OF THE APPEAL WILL BE DEFEATED IF A STAY
11 IS DENIED

12 The first factor is whether the object of the
13 appeal will be defeated if the stay is denied⁶. The
14 object of the appeal concerns money. If the stay is
15 not granted to maintain the status quo, Mr. Mahoney
16 would unnecessarily be deprived of a substantial
17 portion of his assets. Defendant in her opposition
18 has confirmed that she will spend any money paid to
19 her pursuant to the Orders on appeal as she is
20 currently unemployed. If the appeal is granted a
21 trial held, it will show that the arrears awarded to
22 Defendant are not accurate. Once that happens, there
23 will be absolutely no way for Mr. Mahoney to get the
24 money back as it will have been spent according of
25

26 ⁵ Fritz Hansen A/S v. Dist. Ct., 116 Nev. 650, 657, 6 P.3d 982
27 (2000)

28 ⁶ NRAP 8(c)(1)

1 Defendant. The stay will avoid serious harm that
2 will result to Mr. Mahoney. Accordingly, this factor
3 weighs in favor of issuing the stay.

4 MR. MAHONEY WILL SUFFER IRREPARABLE OR SERIOUS INJURY
5 IF THE STAY IS DENIED

6 The second factor under Rule 8 is whether
7 appellant will suffer irreparable or serious harm if
8 the stay is denied⁷. Without a stay in this case, Mr.
9 Mahoney will suffer irreparable injury. Mr. Mahoney
10 would be deprived of his interest in his assets if he
11 is forced to satisfy the judgement against him.
12 Additionally, it is unlikely that Defendant would be
13 able to reimburse Mr. Mahoney if he is forced to
14 satisfy the judgment but is ultimately successful on
15 his appeal. Defendant has argued in her opposition
16 that she will spend the funds reasonably. That only
17 supports this factor as she will be spending the
18 money paid to her. There will not be anything there
19 to reimburse Mr. Mahoney. Accordingly, this factor
20 also weights in favor of issuing the stay.

21 BONNIE MAHONEY WILL NOT SUFFER IRREPARABLE OR SERIOUS
22 INJURY IF THE STAY IS GRANTED

23 The third factor under Rule 8 is whether the
24 other party will suffer irreparable or serious injury
25 if the stay is granted⁸. No irreparable or even
26

27 ⁷ NRAP 8(c)(2)

28 ⁸ NRAP 8(c)(3)

1 serious harm will be suffered by Defendant if the
2 stay is granted. Defendant was less than candid in
3 her representation of the arrears. The arrears that
4 were reduced to judgement without Mr. Mahoney's
5 presence were not accurate. Defendant will not be
6 harmed by an additional delay for the appeal. In her
7 opposition, she has failed to present anything to
8 show the court that she will suffer irreparable or
9 serious injury. This factor also weights in favor of
10 issuing the stay.

11 MR. MAHONEY IS LIKELY TO PREVAIL ON THE MERITS OF THE
12 APPEAL

13 The final factor under Rule 8 is whether the Mr.
14 Mahoney is likely to prevail on the merits of the
15 appeal⁹. In order to satisfy this factor, Mr. Mahoney
16 does not have to show that it is certain he will
17 prevail on appeal. Rather he must show a probability
18 of success on the merits, or present a substantial
19 case on the merits when a serious legal question is
20 involved and show that the balance of equities weighs
21 heavily in favor of granting the stay¹⁰. While the
22 appellate process holds many uncertainties, there are
23 a number of legal issues raised by the District
24 Court's order, which must be resolved in favor of
25 reversing the decision.

26 _____
27 ⁹ NRAP 8(c)(4)

28 ¹⁰ Fritz, at 659

1 The district court denied Mr. Mahoney due
2 process. Mr. Mahoney is likely to prevail on the
3 appeal because the district court denied him notice
4 and an opportunity to be heard. Defendant summarily
5 argues that he was provided notice and had an
6 opportunity to be heard. She references emails that
7 are submitted as Exhibits. First, emails are not
8 proper notice. Second, there is nothing presented to
9 show that Mr. Mahoney received these emails. For
10 example, if the emails were sent through the Odyssey
11 electronic filing, Ms. Mahoney could print out the
12 date that the filing was opened by Mr. Mahoney. The
13 only logical conclusion is that Mr. Mahoney did not
14 receive the email. It does not change the fact that
15 this Court did not send him notice of rescheduling of
16 hearing or bluejeans link to attend the hearing.

17 This Court can take judicial notice of the fact
18 that no in-person hearings were taking place at the
19 time. The only way Mr. Mahoney could have
20 participated was through the bluejeans link. It does
21 not appear that the court made any efforts to contact
22 him through telephone at the time of the hearing.

23 The constitutional guarantee of due process of
24 law, found in the Fifth and Fourteenth Amendments to
25 the U.S. Constitution, prohibits all levels of
26 government from arbitrarily or unfairly depriving
27 individuals of their basic constitutional rights to
28 life, liberty, and property. Procedural due process

1 limits the exercise of power by the state and federal
2 governments, by requiring that they follow certain
3 procedures in criminal and civil matters. In cases
4 where an individual has claimed a violation of due
5 process rights, the courts must determine whether a
6 citizen is being deprived of "life, liberty, or
7 property," and what procedural protections are "due"
8 that individual.

9 The most fundamental requirement of procedural
10 due process is the opportunity to be heard. Notice
11 must be both timely and sufficiently clear so that
12 affected individuals will be able to appear and
13 contest issues in a meaningful way. A fundamental,
14 constitutional guarantee that all legal proceedings
15 will be fair and that one will be given notice of the
16 proceedings and an opportunity to be heard before the
17 government acts to take away one's life, liberty, or
18 property.

19 Mr. Mahoney was clearly denied due process. He
20 was not provided notice or an opportunity to be
21 heard. The Court was aware that Mr. Mahoney was
22 opposing Defendant's motion for arrears and wanted to
23 present evidence at the hearing. Nevada's public
24 policy is also to hear cases on the merit. Therefore,
25 this factor weighs in granting a stay.

26 **C. ATTORNEY'S FEES AND COSTS**

27 Defendant has requested attorneys' fees for
28 responding to Motion to Set Aside and Motion for

1 Stay. As Defendant is represented by an A/V rated
2 firm and the Mr. Smith has extensive experience in
3 appellate court, Defendant was well aware that this
4 Court was divested of jurisdiction to hear the Motion
5 to Set Aside once Notice of Appeal was filed. She
6 unnecessarily wasted attorney's fees by filing an
7 opposition. Also, she combined two oppositions
8 without any authority for the joinder.

9 As this case is on appeal the Nevada Rules of
10 Appellate Procedure apply here. There is nothing in
11 the rules that allows fees for moving for a Motion
12 for a Stay. The rules command that a Motion for Stay
13 be brought in the District Court and if denied then
14 in the Appellate Court. As provided by the rules,
15 the motion is not frivolous. Therefore, no
16 attorneys' fees should be granted to either party no
17 matter who prevails. Additionally, as discussed
18 above this court lacks jurisdiction to grant the
19 request for fees at this time.

20 Additionally, Defendant has the ability to save
21 both parties substantial amount of attorneys' fees
22 and costs by stipulating to set aside the orders
23 being appealed and setting the matter for an
24 Evidentiary Hearing to allow the matter to be heard
25 on the merits.

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III.
CONCLUSION

Based on the foregoing, Mr. Mahoney respectfully requests that the Motion for Stay be granted.

DATED this 11th day of March, 2021

THE GRIGSBY LAW GROUP
A Professional Corporation

By: /s/Aaron Grigsby
Aaron Grigsby, Esq.
Nevada Bar No. 9043
2880 W. Sahara Ave.
Las Vegas, Nevada 89102
abira@grigsbylawgroup.com

DECLARATION OF BARTHOLOMEW MAHONEY

I, Bartholomew Mahoney, do hereby declare under penalty of perjury that the assertions of this Declaration are true and correct to the best of my knowledge. As for those assertions based on belief, I believe them to be true.

1. That I am the Plaintiff in the above-referenced matter;

2. That I have read the foregoing Reply and Opposition and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, as to those matters, I believe them to be true. The factual averments contained in the Opposition and Countermotion are incorporated here as if set forth in full.

/s/Bartholomew Mahoney
Bartholomew Mahoney

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint**COURT MINUTES**

March 15, 2021

D-13-477883-D Bartholomew M Mahoney, Plaintiff
vs.
Bonnie M Mahoney, Defendant.

March 15, 2021 9:00 AM Minute Order

HEARD BY: Ochoa, Vincent**COURTROOM:** Chambers**COURT CLERK:** Diana Gonzales**PARTIES:**

Bartholomew Mahoney, Plaintiff, Counter Defendant, not present	Aaron Grigsby, Attorney, not present
Bonnie Mahoney, Defendant, Counter Claimant, not present	Radford Smith, Attorney, not present
Brigitte Mahoney, Subject Minor, not present	
Sophie Mahoney, Subject Minor, not present	

JOURNAL ENTRIES

MINUTE ORDER-NO HEARING HELD

NRCP 1 and EDCR 1.10 state that the procedure in district courts shall be administered to secure efficient, speedy, and inexpensive determinations in every action. Pursuant to EDCR 2.23(c) and 5.501(b), this Court can consider a motion and issue a decision on the papers at any time without a hearing.

Court finds that the parties have hearings set on March 17, 2021 and March 25, 2021. For judicial economy, the Court hereby Orders that all matters shall be heard on March 25, 2021, at 9:15 AM.

A copy of this Minute Order shall be provided to all parties.

CLERK'S NOTE; a copy of this minute order has been provided to parties. (dg)

PRINT DATE:	03/15/2021	Page 1 of 2	Minutes Date:	March 15, 2021
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

RA080

FUTURE HEARINGS:

Canceled: March 17, 2021 9:15 AM Motion

Canceled: March 17, 2021 9:15 AM Opposition & Countermotion

March 25, 2021 9:15 AM Motion
Courtroom 07
Clayton, Yvette
Ochoa, Vincent

March 25, 2021 9:15 AM Motion
Courtroom 07
Clayton, Yvette
Ochoa, Vincent

March 25, 2021 9:15 AM Opposition & Countermotion
Courtroom 07
Clayton, Yvette
Ochoa, Vincent

PRINT DATE:	03/15/2021	Page 2 of 2	Minutes Date:	March 15, 2021
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Divorce - Complaint**COURT MINUTES**

March 25, 2021

D-13-477883-D Bartholomew M Mahoney, Plaintiff
vs.
Bonnie M Mahoney, Defendant.

March 25, 2021 9:15 AM All Pending Motions

HEARD BY: Ochoa, Vincent**COURTROOM:** Courtroom 07**COURT CLERK:** Gabriella Konicek**PARTIES:**

Bartholomew Mahoney, Plaintiff, Counter Defendant, not present	Aaron Grigsby, Attorney, not present
Bonnie Mahoney, Defendant, Counter Claimant, present	Radford Smith, Attorney, not present
Brigitte Mahoney, Subject Minor, not present	
Sophie Mahoney, Subject Minor, not present	

JOURNAL ENTRIES

- Defendant/Mom, Ms. Grigsby, Ms. Stutzman and The Honorable Judge Vincent Ochoa all present by video.

Plaintiff's Motion for Stay...Pltf's Motion to Set Aside Findings of Fact, Conclusions of Law, Order and Judgment from the December 3, 2020 Evidentiary Hearing and Order Granting Attorney's Fees and Costs...Defendant's Opposition To Plaintiff's Motion To Set Aside Findings Of Fact, Conclusions Of Law, Order And Judgment From The December 3, 2020 Evidentiary Hearing And Order Granting Attorney's Fees And Costs; Defendant's Opposition To Plaintiff's Motion For Stay; Countermotion For Attorney's Fees And Costs; Countermotion For Attorney's Fees And Costs...Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion to Set Aside Findings of Fact, Conclusion of Law, Order and Judgement et al.

PRINT DATE:	03/25/2021	Page 1 of 3	Minutes Date:	March 25, 2021
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RA082

Upon Court's inquiry, Ms. Grigsby represented the motion to set aside is now moot due to the matter being on appeal with the Supreme Court of Nevada. Ms. Grigsby is requesting the motion to stay be granted pending the appeal. Further, counsel represented parties are still waiting for a settlement conference to be set.

Discussion regarding financials, appellate court, for the matter to be heard on the merits instead, Ms. Grigsby's representation Mom will not suffer irreparable damage due to Dad's non-payment and Dad not being notified of today's proceedings.

The Court clarified for the record its multiple attempts via telephone and mail to notify Dad of the court's proceedings; however Dad has failed to file his updated mailing address and failed to appear to multiple court proceedings in the case. Moreover, the Court noted even if the motion to stay is granted it is still subject to interest.

Ms. Stutzman argued Mom is unemployed as her industry is hurting during this pandemic, parties having an stipulated agreement, oldest child now being in college and youngest child still attending high school, last payment from Dad of \$591 received in February, Mom's counsel providing extensive exhibits regarding all payment from Dad, Dad not appearing for the court's proceedings multiple times and Dad's request for continuance is hurting Mom as she continues to accrue attorney's fees.

COURT ORDERED the following:

1. The Court CONTINUED the matter to address the Motion to Stay to 03/26/2021 at 9:30 a.m.
2. CHILD SUPPORT payment shall continue as previously ordered.
3. Dad shall file his updated Financial Disclosure Form (FDF) by 03/29/2021.

No order needed the court minutes shall suffice.

INTERIM CONDITIONS:

FUTURE HEARINGS:

March 26, 2021 9:30 AM Motion
Courtroom 07
Clayton, Yvette
Ochoa, Vincent

PRINT DATE:	03/25/2021	Page 2 of 3	Minutes Date:	March 25, 2021
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RA083

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RA084

**DISTRICT COURT
CLARK COUNTY, NEVADA
COURT MINUTES**

Divorce - Complaint

March 26, 2021

D-13-477883-D Bartholomew M Mahoney, Plaintiff
vs.
Bonnie M Mahoney, Defendant.

March 26, 2021 9:30 AM Motion

HEARD BY: Ochoa, Vincent**COURTROOM:** Courtroom 07**COURT CLERK:** Antoria Pickens**PARTIES:**

Bartholomew Mahoney, Plaintiff, Counter Defendant, present	Aaron Grigsby, Attorney, present
Bonnie Mahoney, Defendant, Counter Claimant, not present	Radford Smith, Attorney, not present
Brigitte Mahoney, Subject Minor, not present	
Sophie Mahoney, Subject Minor, not present	

JOURNAL ENTRIES

- MOTION TO STAY (CONTINUED FROM 03/25/21)

The Court, Counsel, and Plaintiff appeared via Blue Jeans.

The Court reviewed the case history and the pleadings on file. Court noted the matter was continued from March 25, 2021, until today for Attorney Grigsby to speak with his client.

Attorney Stutzman stated her client would not appear for today's hearing.

Court and Counsel engaged in discussing Plaintiff's request for the Court to stay the order as it would cause Plaintiff/Dad irreparable harm. Court noted the orders issued addressed child support, child support arrears, alimony, and attorney fees and costs.

Discussion.

Court stated case law as to Berryman vs. Ibew 82 Nev 277 @288 regarding irreparable harm.

Attorney Stutzman stated she was going off the Plaintiff's/Dad's FDF filed in December of 2019, as he

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RA085

has failed to provide any financial information or update his FDF with the Court.

Court noted Defendant/Mom is currently living with friends and has been unemployed due to Covid. Court further noted Attorney Grigsby stated the matter was set for a Supreme Court Settlement Conference for April 30, 2021.

Court advised Counsel based on the statements presented to the Court; the Court is inclined to trail the matter to allow Counsel time to speak.

Matter Trailed.

Matter Recalled.

Upon the Court's inquiry, Counsel stated they were not able to reach an agreement.

Court stated its concerns as this being a ploy to prolong the proceedings. Court noted the parties have been litigating this motion since 2019.

Based on the statements presented to the Court and Counsel's inability to resolve the matter, the Court is inclined to stay the matter for thirty days. However, the Court FINDS there was nothing erroneous within the order and that the order was proper. The Court further FINDS Plaintiff, and his Counsel was given adequate notice of the pending trial but failed to provide any documents to the Court or opposing party.

COURT ORDERED,

The Court shall temporarily stay the order until April 30, 2021, to allow Defendant due process of law.

Attorney Stutzman shall prepare the order from today's hearing; Attorney Grigsby shall review and countersign.

INTERIM CONDITIONS:

FUTURE HEARINGS:

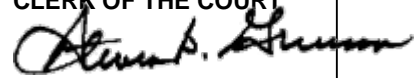
PRINT DATE:	03/26/2021	Page 2 of 2	Minutes Date:	March 26, 2021
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RA086

The Grigsby Law Group
2880 West Sahara Ave.
Las Vegas, Nevada 89102
Tel: (702) 202-5235

Electronically Filed
4/6/2021 1:01 PM
Steven D. Grierson
CLERK OF THE COURT



NOTC
Aaron D. Grigsby, Esq.
Nevada Bar No. 9043
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Telephone: (702) 202-5235
Fax: (702) 944-7856
aaron@grigsbylawgroup.com
Attorney for Bartholomew Mahoney

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

BARTHOLOMEW MAHONEY,

Plaintiff,

Case No. D-13-477883-D

vs.

Dept. No. S

BONNIE MAHONEY,

Defendant,

NOTICE OF CHANGE OF PLAINTIFF'S ADDRESS

Please take notice that the Plaintiff's current
address is 8920 West Russell Road, Unit 1072, Las
Vegas, NV 89148.

/s/Aaron Grigsby
Aaron Grigsby, Esq.
Nevada Bar No. 9043
2880 West Sahara Ave.
Las Vegas, Nevada 89102

CERTIFICATE OF SERVICE

I hereby certify that service of the Notice of Change of Plaintiff's Address was made on the 6th day of April, 2021, pursuant to NRCP 5(b) and pursuant to EDCR 8.05(2), EDCR 8.05(f) and Administrative Order 14-2, by mandatory electronic service through the Eighth Judicial District Court's electronic filing system or United States Mail to the following address.

Kimberly A. Stutzman, Esq
Radford J. Smith, Shartered
2470 St. Rose Parkway Ste. 206
Henderson, Nevada 89014
rsmith@radfordsmith.com
kstutzman@radfordsmith.com

/s/ Jackson Newark
Employee of The Grigsby Law Group



1 **NOE**
2 RADFORD J. SMITH, CHARTERED
3 KIMBERLY A. STUTZMAN, ESQ.
4 Nevada Bar No. 014085
5 2470 St. Rose Parkway, Suite 206
6 Henderson, Nevada 89074
7 Telephone: (702) 990-6448
8 Facsimile: (702) 990-6456
9 firm@radfordsmith.com
10 *Attorneys for Defendant*

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

14 BARTHOLOMEW M. MAHONEY, JR.,

CASE NO.: D-13-477883-D
DEPT NO.: S

15 Plaintiff,

16 vs.

17 BONNIE M. MAHONEY,

18 Defendant.

19 **NOTICE OF ENTRY OF ORDER AFTER MARCH 25, 2021 HEARING**

20 PLEASE TAKE NOTICE that an Order After March 25, 2021 Hearing was entered
21 on the 12th day of April, 2021. A copy of the Order is attached hereto.

22 DATED this 12 April 2021.

23 RADFORD J. SMITH, CHARTERED

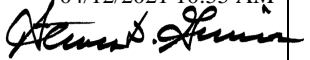
24 /s/ Kimberly A. Stutzman
25 KIMBERLY A. STUTZMAN, ESQ.
26 Nevada Bar No. 014085
27 2470 St. Rose Parkway, Suite 206
28 Henderson, Nevada 89074
Attorneys for Defendant

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I served the foregoing documents described as **NOTICE OF ENTRY OF ORDER**
AFTER MARCH 25, 2021 HEARING on this 13th day of April 2021, to all interested
parties by via US Mail, postage prepaid and addressed to the following:

☒ BY ELECTRONIC SERVICE: I transmitted a copy of the foregoing document this date via the Eighth Judicial District Court's electronic filing system;

/s/ Courtney Janson
An employee of Radford J. Smith, Chartered


CLERK OF THE COURT

ORDR

RADFORD J. SMITH, CHARTERED
KIMBERLY A. STUTZMAN, ESQ.

Nevada Bar No. 014085

2470 St. Rose Parkway, Suite 206

Henderson, Nevada 89074

Telephone: (702) 990-6448

Facsimile: (702) 990-6456

kstutzman@radfordsmith.com

Attorneys for Defendant

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

BARTHOLOMEW M. MAHONEY, JR.,

Plaintiff,

vs.

BONNIE M. MAHONEY,

Defendant.

CASE NO.: D-13-477883-D

DEPT NO.: S

ORDER AFTER MARCH 25, 2021 HEARING

DATE: March 25, 2021

TIME: 9:15 a.m.

This matter having come on for hearing on Plaintiff's Motion to Stay, on Plaintiff's Motion to Set Aside, and on Defendant's Opposition to Plaintiff's Motions and Countermotion for Attorney's Fees and Costs; Plaintiff, BARTHOLOMEW M. MAHONEY, JR., not present, but represented by his attorneys, Abira Grigsby, Esq. of The Grigsby Law Group, and Defendant, BONNIE MAHONEY ("Bonnie"), present and

1 represented by Kimberly A. Stutzman, Esq. of the law firm of Radford J. Smith
2 Chartered, having heard the arguments of counsel, having reviewed the pleadings and
3 papers on file in this matter, being fully advised in the premises, and good cause
4 appearing therefore, makes the following findings and orders:
5

6
7 THE COURT HEREBY FINDS that the motion to set aside is moot due to the
8 matter being on appeal with the Supreme Court of Nevada.
9

10 THE COURT FURTHER clarified for the record its multiple attempts via
11 telephone and mail to notify Dad of the court's proceedings; however Dad failed to file
12 his updated mailing address and failed to appear to multiple court proceedings in the
13 case. Moreover, the Court noted if the motion to stay is granted it is still subject to
14 interest.
15

16
17 THE COURT HEREBY ORDERS that the matter shall be CONTINUED to
18 address the Motion to Stay to March 26, 2021 at 9:30 a.m.
19

20 THE COURT FURTHER ORDERS that CHILD SUPPORT payment shall
21 continue as previously ordered.
22

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27
28 *[This space intentionally left blank.]*

1 IT IS FURTHER ORDERED that Dad shall file his updated Change of Address by
2 Monday, March 29, 2021.
3

4 IT IS SO ORDERED.

5 Dated this 12th day of April, 2021

6 
7

8 6AB 67E 3B9E 32CF
9 Vincent Ochoa
District Court Judge

10 *Respectfully submitted by:*
11 RADFORD J. SMITH, CHARTERED

Approved as to form and content:
THE GRIGSBY LAW GROUP

12 /s/ Kimberly A. Stutzman
13 KIMBERLY A. STUTZMAN, ESQ.
14 Nevada State Bar No. 014085
2470 St. Rose Parkway, Suite 200
Henderson, Nevada 89074
15 kstutzman@radfordsmith.com
16 *Attorneys for Defendant*

/s/ Abira Grigsby
ABIRA GRIGSBY, ESQ.
Nevada State Bar No. 010308
2880 W. Sahara Avenue,
Las Vegas, Nevada 89102
17 abira@grigsbylawgroup.com
18 *Attorneys for Plaintiff*
19
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27
28

Courtney Janson

Subject: FW: Mahoney - March Orders

From: Abira Grigsby <abira@grigsbylawgroup.com>

Sent: Friday, April 9, 2021 10:19 AM

To: Kimberly Stutzman <kstutzman@radfordsmith.com>; 'Aaron Grigsby' <aaron@grigsbylawgroup.com>

Cc: Courtney Janson <cjanson@radfordsmith.com>; Malia Banks <mbanks@radfordsmith.com>

Subject: RE: Mahoney - March Orders

Thank you. The March 25th Order looks good. Please go ahead and use my electronic signature.

Abira Grigsby, Esq.
Grigsby Law Group
2880 West Sahara Ave.
Las Vegas, NV 89102
Ph: (702) 202-5235

This e-mail transmission and attached files, if any, is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510-2521. This communication is confidential and may be legally privileged. Retention, dissemination, distribution, or copying of this communication to persons other than those referenced above is expressly prohibited by sender.

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Bartholomew M Mahoney,
7 Plaintiff

CASE NO: D-13-477883-D

8 vs.

DEPT. NO. Department S

9 Bonnie M Mahoney, Defendant.

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 4/12/2021

16 "Roger Giuliani, Esq." .

rgiuliani@att.net

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aaron@grigsbylawgroup.com

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19 Courtney Janson

cJanson@radfordsmith.com

20 Firm RJS

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1 **NOE**
2 RADFORD J. SMITH, CHARTERED
3 KIMBERLY A. STUTZMAN, ESQ.
4 Nevada Bar No. 014085
5 2470 St. Rose Parkway, Suite 206
6 Henderson, Nevada 89074
7 Telephone: (702) 990-6448
8 Facsimile: (702) 990-6456
9 firm@radfordsmith.com
10 *Attorneys for Defendant*

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

14 BARTHOLOMEW M. MAHONEY, JR.,

CASE NO.: D-13-477883-D
DEPT NO.: S

15 Plaintiff,

16 vs.

17 BONNIE M. MAHONEY,

18 Defendant.

19 **NOTICE OF ENTRY OF ORDER AFTER MARCH 26, 2021 HEARING**

20 PLEASE TAKE NOTICE that an Order After March 26, 2021 Hearing was entered
21 on the 3rd day of May 2021. A copy of the Order is attached hereto.
22

23 DATED this 5 May 2021.

24 RADFORD J. SMITH, CHARTERED

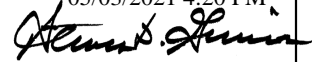
25 /s/ Kimberly A. Stutzman
26 KIMBERLY A. STUTZMAN, ESQ.
27 Nevada Bar No. 014085
28 2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Attorneys for Defendant

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I served the foregoing documents described as **NOTICE OF ENTRY OF ORDER**
AFTER MARCH 26, 2021 HEARING on this 5th day of May 2021, to all interested
parties by via US Mail, postage prepaid and addressed to the following:

☒ BY ELECTRONIC SERVICE: I transmitted a copy of the foregoing document this date via the Eighth Judicial District Court's electronic filing system;

/s/ Courtney Janson
An employee of Radford J. Smith, Chartered


CLERK OF THE COURT

ORDR

RADFORD J. SMITH, CHARTERED
KIMBERLY A. STUTZMAN, ESQ.

Nevada Bar No. 014085

2470 St. Rose Parkway, Suite 206

Henderson, Nevada 89074

Telephone: (702) 990-6448

Facsimile: (702) 990-6456

kstutzman@radfordsmith.com

Attorneys for Defendant

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

BARTHOLOMEW M. MAHONEY, JR.,

Plaintiff,

vs.

BONNIE M. MAHONEY,

Defendant.

CASE NO.: D-13-477883-D

DEPT NO.: S

ORDER AFTER MARCH 26, 2021 HEARING

DATE: March 26, 2021

TIME: 9:30 a.m.

This matter having come on for a Continued hearing on Plaintiff's Motion to Stay and on Defendant's Opposition to Plaintiff's Motions and Countermotion for Attorney's Fees and Costs; Plaintiff, BARTHOLOMEW M. MAHONEY, JR., present, and represented by his attorneys, Aaron Grigsby, Esq. of The Grigsby Law Group, and Defendant, BONNIE MAHONEY ("Bonnie"), not present but represented by Kimberly A.

1 Stutzman, Esq. of the law firm of Radford J. Smith Chartered, having heard the arguments
2 of counsel, having reviewed the pleadings and papers on file in this matter, being fully
3 advised in the premises, and good cause appearing therefore, makes the following findings
4 and orders:
5

6
7 THE COURT STATED its concerns that this a long stall game to prolong the
8 proceedings and noted the parties have been litigating this motion since 2019. *See Video*
9 Transcript at 10:06:48 to 10:07:20.
10

11 THE COURT HEREBY FINDS that there was nothing erroneous within the order
12 and that the order was proper. *Id.* at 10:06:30.
13

14 THE COURT FURTHER FINDS that Plaintiff was given adequate notice of the
15 pending trial but failed to provide any documents to the Court or opposing party. *Id.* at
16 10:06:39.
17

18 THE COURT HEREBY ORDERS that the Court shall temporarily stay the order
19 until April 30, 2021 in order for the parties to proceed to the Supreme Court Settlement
20 Conference scheduled for April 30, 2021. *Id.* at 10:07:20.
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28 [*This space intentionally left blank.*]

1 IT IS FURTHER ORDERS that the temporary stay is ordered out of an abundance
2 of caution. *Id.* at 10:07:57.
3

4 IT IS SO ORDERED.

5 Dated this 3rd day of May, 2021

6 
7

8 20B 47F 0967 E3BA
9 Vincent Ochoa
District Court Judge

AP

10 *Respectfully submitted by:*
11 RADFORD J. SMITH, CHARTERED

Approved as to form and content:
THE GRIGSBY LAW GROUP

12 /s/ Kimberly A. Stutzman
13 KIMBERLY A. STUTZMAN, ESQ.
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Attorneys for Plaintiff

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Bartholomew M Mahoney,
Plaintiff

CASE NO: D-13-477883-D

7
8 vs.

DEPT. NO. Department S

9 Bonnie M Mahoney, Defendant.

10
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13 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 5/3/2021

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