

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

MAGGIE ROE, N/K/A MAGGIE COX,
Appellant,

v.

JASON J. ROE,
Respondent.

No. 84893

DOCKETING STATEMENT
CIVIL APPEALS

Electronically Filed
Jun 27 2022 06:35 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department U
County Clark Judge Throne
District Ct. Case No. D-11-450074-D

2. Attorney filing this docketing statement:

Attorney Melvin Grimes, Esq. Telephone (702) 474-7007

Firm Roberts Stoffel Family Law Group

Address 4411 S. Pecos Road
Las Vegas, Nevada 89121

Client(s) Appellant, Maggie Cox

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Fred Page, Esq. Telephone (702) 823-2888

Firm Page Law Firm

Address 6930 S. Cimarron Road, Suite 140
Las Vegas, Nevada 89113

Client(s) Respondent, Jason Roe

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input checked="" type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCPC 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- Child Custody
- Venue
- Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Not applicable.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Not applicable.

8. Nature of the action. Briefly describe the nature of the action and the result below:

This is a post-decree custody action.

Judge Throne modified physical custody from joint physical custody to Jason being granted primary physical custody. Judge Throne Ordered that Maggie must continue in reunification with the minor child and bear all of the fees associated with that process. Judge Throne additionally set Maggie's child support obligation at \$423.00 per month which includes downward adjustments. Further the Court awarded Jason attorney fees and costs.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

- 1) The court improperly admitted child hearsay
- 2) The court abused its discretion in finding a change of circumstance affecting the well-being of the child had occurred since the last custodial order.
- 3) The court demonstrated actual bias toward the Appellant during the proceedings and during the evidentiary hearing.
- 4) The court's interlocutory orders were so biased and prejudicial they created additional issues regarding custody.
The Court's interlocutory Orders were improper and violated Appellants Rights and Protections afforded under NRS 432B.
- 5) The Court's Order is violative of the Constitutional Right to parentage.
- 6) That the Court's Award of Attorney's Fees was an abuse of discretion.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Not applicable.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

N/A

Yes

No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

Reversal of well-settled Nevada precedent (identify the case(s))

An issue arising under the United States and/or Nevada Constitutions

A substantial issue of first impression

An issue of public policy

An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

A ballot question

If so, explain:

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

Nev. R. App. P. 17(10) Cases involving the termination of parental rights or NRS Chapter 432B; and (11) Matters raising as a principal issue a question of first impression involving the United States or Nevada constitutions or common law;

The question asserted is whether a court may restrict or remove custody of a child in a custody action rather than in a 432(b) procedure.

Also, whether custody Orders that so restrict a parent that they may not have any contact with their child are violative of the US Constitutional Right to Parentage.

14. Trial. If this action proceeded to trial, how many days did the trial last? 2

Was it a bench or jury trial? Bench

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
Not applicable.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from April 18, 2022.

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served April 18, 2022

Was service by:

Delivery

Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

NRCP 50(b) Date of filing _____

NRCP 52(b) Date of filing _____

NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

Delivery

Mail

19. Date notice of appeal filed June 9, 2022

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |
-

(b) Explain how each authority provides a basis for appeal from the judgment or order: NRAP 3A(b)(1) provides that, in a civil action, an appeal may be taken from “a final judgement entered in an action or proceeding commenced in the court in which the judgment is rendered.”

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Maggie Cox - Plaintiff
Jason Roe - Defendant

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

n/a

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Defendant claimed abuse . and requested change of custody. Plaintiff sought counseling, change of custody. Plaintiff's Motion was withdrawn upon publication or Romano, as there was not a change in circumstance.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

Yes

No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

Yes

No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

Yes

No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Maggie Cox
Name of appellant

Melvin Grimes, Esq.
Name of counsel of record

June 27, 2022
Date

Signature of counsel of record

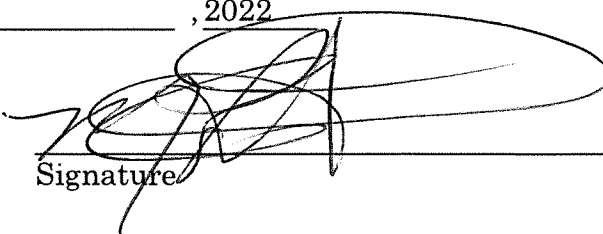
Clark County, State of Nevada
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 27th day of June, 2022, I served a copy of this completed docketing statement upon all counsel of record:

- By personally serving it upon him/her; or
- By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Dated this 27th day of June, 2022



Signature



1 **NEOJ**
2 **FRED PAGE, ESQ.**
3 **NEVADA BAR NO. 6080**
4 **PAGE LAW FIRM**
5 **6930 SOUTH CIMARRON ROAD, SUITE 140**
6 **LAS VEGAS, NEVADA 89113**
7 **(702) 823-2888 office**
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9 **Email: fpage@pagelawoffices.com**
10 **Attorney for Defendant/Counterclaimant**

6 **EIGHTH JUDICIAL DISTRICT COURT**
7 **COUNTY OF CLARK**
8 **STATE OF NEVADA**

9 **MAGGIE J. ROE nka MAGGIE COX,** } **Case No.: D-11-450074-D**
10 **Plaintiff/Counterclaimant,** } **Dept.: U**
11 **vs.**
12
13 **JASON J. ROE,**
14 **Defendant/Counterdefendant**

15
16 **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW**
17 **AND ORDER FROM THE EVIDENTIARY HEARINGS ON**
18 **MARCH 10, 11, AND 31, 2022**

19 **TO: MAGGIE J. ROE nka MAGGIE COX, Plaintiff/Counterclaimant**
20 **TO: MELVIN GRIMES, ESQ., Attorney for Plaintiff/Counterclaimant**


21 **YOU AND EACH OF YOU please take notice that on the 18^h day of**
22
23 **May 2022, the Order from the March 10th, March 11th and, March 31st 2022 hearing**

24 **///**
25 **///**
26 **///**
27 **///**
28 **///**

1 was duly entered, a true and correct copy of which is attached hereto.

2 DATED this 18th day of May 2022

3 PAGE LAW FIRM

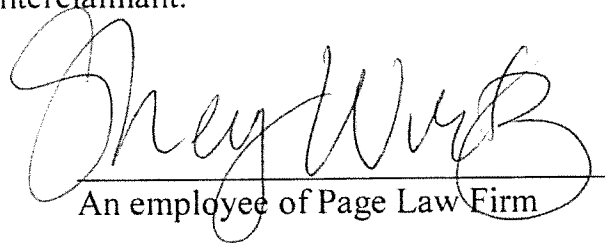
4 

5
6 FRED PAGE, ESQ.
7 Nevada Bar No. 6080
8 6930 South Cimarron Road, Suite 140
9 Las Vegas, Nevada 89113
10 (702) 823-2888
11 *Attorney for Defendant/Counterdefendant*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 18th day of May 2022, the foregoing NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER was served pursuant to NEFCR 9 via e-service to Melvin Grimes, Esq., attorney for Plaintiff/Counterclaimant.


An employee of Page Law Firm

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**EIGHTH JUDICIAL DISTRICT COURT
COUNTY OF CLARK
STATE OF NEVADA**

MAGGIE J. ROE nka MAGGIE COX,
Plaintiff/Counterclaimant,
vs.
JASON J. ROE,
Defendant/Counterdefendant.

Case No.: D-11-450074-D

Dept. U

Hearing Dates: March 10, 11, and 31,
2022

Hearing Time: 9:00 a.m.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

The evidentiary hearing on Defendant, JASON ROE's, Countermotion to Change Custody and Plaintiff, MAGGIE COX's, Motion to Change Custody came on for hearing on the above referenced dates and times in front of the Hon. Dawn Throne. The Court having entertained testimony and having reviewed the Exhibits admitted into evidence, hereby makes the following Findings of Fact, Conclusions of Law, and enters the following orders.

FINDINGS OF FACT

1. This case involves a long, tortured history of high conflict and extensive custody litigation between these parents since 2011. The Court incorporates by reference only the lengthy procedural history of this case from commencement in July 2011 through the end of July 2020. For many years, the

1 parents shared joint physical custody of their son, Hunter Roe, born November 9,
2 2009 (now age 12).

3 2. The current round of litigation between the parents started with
4 Plaintiff filing a new Motion to Modify Custody, etc on July 27, 2020. The main
5 issue raised in her motion was that Hunter was becoming more disrespectful to her
6 and acting out against her and his younger sister. She claimed that Defendant was
7 responsible for Hunter's behavior towards her and requested relief such as
8 counseling for Hunter and a Brief Focused Assessment, in addition to her having
9 primary physical custody of Hunter. Defendant responded with a Countermotion
10 to change custody, for a review of child support since his income had decreased
11 since the last child support order and related relief.

12 3. A hearing on Plaintiff's Motion and Defendant's Countermotion
13 occurred on August 27, 2020. The prior Judge granted part of the relief requested
14 by Plaintiff, specifically ordering that Hunter would attend counseling with a
15 counselor mutually selected by the parents and that the parties would participate in
16 a Brief Focused Assessment ("BFA") with Maureen Zelensky, MFT. A Mutual
17 Behavior Order was put in place. The Court additionally opened discovery and
18 ordered the parties to exchange tax returns so that child support could be reviewed.

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1 4. By the time the BFA was complete, the case had been reassigned to a
2 new judge as a result of the addition of new Family Division judges. A return
3 hearing regarding the BFA was conducted on February 25, 2021. The BFA noted
4 concerns with both parents – specifically, issues with Plaintiff’s mental health and
5 behavior that needed to be addressed by her with professional services and actions
6 by Defendant that were not supportive of the relationship between Plaintiff and
7 Hunter. The Court noted many concerns regarding the long-term parental conflict,
8 the effects of that long-term conflict on Hunter and the serious lack of ability of
9 both parents to effectively communicate and co-parent for the benefit of their son.
10 The Court was sad to learn that the parties’ 11 year old son was forced to have two
11 different cell phones, one in each parent’s home, due to the lack of ability of the
12 parties to co-parent. At that point, the Court did not see that either parent had
13 made a *prima facie* case to proceed with an evidentiary hearing on their respective
14 requests to change custody¹. The Court adopted the recommendations of Ms.
15 Zelensky as orders and set a status check in 60 days to check on the progress the
16 parties had made on those recommendations.
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26 ¹ The Court did set an evidentiary hearing regarding the disputed issue of where Hunter would attend middle school
27 at that hearing, but the parties resolved that issue by stipulation.
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1 5. Unfortunately, events occurred between Plaintiff and Hunter in
2 March 2021 that required immediate intervention and that rendered it unsafe for
3 Hunter to continue to reside every other week with Plaintiff until some
4 professional help could be accessed. The Court found it dangerous to all residents
5 of Plaintiff's household to have the police called to the home twice in a span of 8
6 days due to physical altercations between Plaintiff and Hunter that resulted in
7 Hunter being taken out of Plaintiff's home and to juvenile detention twice at 11
8 years old. When the Court granted Defendant temporary custody of Hunter and
9 ordered professional services to help Plaintiff and Hunter improve their
10 relationship that the order would be just that – *temporary*. The Court authorized
11 Plaintiff to engage the services of a reunification counselor but did not specify a
12 provider in the hope that she would be able to find someone covered by her
13 insurance to keep the cost of the services low. The Court also appointed a
14 Guardian ad Litem for Hunter and a Parenting Coordinator to help the parents with
15 their various co-parenting issues. The Court held several hearings before coming
16 to the realization that the reunification counseling between Hunter and Plaintiff
17 was going to take a lot longer than anticipated and that Defendant was entitled to
18 have the Court conduct an evidentiary hearing on his request to make the change of
19 custody permanent, not just temporary. The Court had hoped that reunification
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1 therapy would have worked and that this evidentiary hearing would not have been
2 necessary.

3 6. The Court has personal jurisdiction over the parties.
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5 7. Nevada remains the home state of the minor child as the minor child
6 as both parties and the minor child have continuously resided in the State of
7 Nevada for greater than six months prior to the filing of the Complaint in this
8 action. This Court has continuing exclusive jurisdiction over the minor child
9 pursuant to the UCCJEA as adopted in the Nevada Revised Statutes. This Court has
10 continuing exclusive jurisdiction over all matters relating to Hunter's custody, care
11 and support.
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14 8. Defendant ("Jason") has two children by a prior marriage, Taylor
15 John Roe, born April 9, 2002, (age 19) and Tori Ann Roe, born March 27, 2005
16 (age 17). Maggie has one child born from a subsequent marriage, Danika Cox.
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19 9. The Complaint for Divorce was filed by Maggie on July 28, 2011.
20 After years of litigation, the Decree of Divorce was finally filed on February 6,
21 2013.
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23 10. In the Decree of Divorce, the parties were awarded joint physical and
24 joint legal custody.
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1 11. The most recent custodial Order is the Order from November 21,
2 2017, in which the parties agreed to joint legal and joint physical custody with a
3 week on/week off schedule.
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5 12. Both parents have made requests for primary physical custody. Under
6 *Romano v. Romano*, 138 Nev Adv. Op. 1 (Jan. 13, 2022), a court may modify a
7 joint or primary physical custody arrangement only if (1) there has been a
8 substantial change in circumstances affecting the welfare of the child and (2) the
9 modification serves the best interest of the child.
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12 13. The parties have shown the following material changes since
13 November 2017:
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- 15 a. A severe deterioration in Hunter and Maggie's relationship; and
- 16 b. Hunter's age and wishes.

17 14. With regard to Hunter's best interest, the Court applies NRS
18 125C.0035(4)(a)-(k) as follows:
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- 20 a. **The wishes of the child if the child is of sufficient age and capacity**
21 **to form an intelligent preference as to his or her physical custody**

22 Both the Guardian ad Litem, Shelly Booth Cooley ("GAL"), and Dr. Collins
23 testified that Hunter is of a sufficient age and maturity that his wishes should be
24 given weight. Hunter has stated a very strong preference to reside primarily with
25 Jason. Unfortunately, Hunter's relationship with Maggie has deteriorated to the
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1 point that they cannot even have a one-on-one afternoon visit without a serious
2 problem. Maggie needs to do substantial personal work with her own counselor
3 and substantial work with Dr. Collins in order for her relationship with Hunter to
4 improve. Hunter is of a sufficient age and capacity to form an intelligent
5 preference as to his custody. This factor favors Jason.
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8 **b. Any nomination of a guardian for the child by a parent**

9 Not applicable.

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

13 Given the total history of this case, it is hard to tell who has been supportive
14 of the other parent and who can be supportive of the other parent in the future.
15 Since November 2017, neither parent has shown that they believe that the other
16 parent has something worthwhile to offer Hunter. Both parents have done and said
17 things over the years that are detrimental to the other parent's relationship with
18 Hunter. Based upon Ms. Zelensky's BFA, this factor slightly favors Maggie.
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21 Jason has done things that have not been supportive of Hunter's relationship
22 with Maggie. However, as Dr. Collins testified and Hunter's statements to his
23 GAL show, the claims of parental alienation/pathogenic parenting by Jason is **not**
24 the main reason for the problems in Maggie's relationship with Hunter. Hunter
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1 still says positive things about Maggie, about his childhood and what kind of
2 mother she is and can be.

3 Hunter is upset about things that have happened, but deep down he still
4 wants to have a relationship with Maggie. Hunter is hurt, but so is Maggie, and
5 Maggie has hurt herself by how long this has gone on. Dr. Collins will be able to
6 address anything that Jason might say or do that is not supportive of Hunter's
7 relationship with Maggie, once Maggie gets ready for productive co-joint sessions
8 with Hunter. This Court can also issue Orders to Enforce for Jason if necessary.
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12 **d. The level of conflict between the parents**

13 This factor does not favor either party. The case has been a very high
14 conflict case for a very long time. There is a high level of distrust between the
15 parents. Both parents automatically assume a negative intent in everything the
16 other parent does or says. Jason made the situation worse sometimes with his
17 failure to timely and directly communicate urgent issues with Maggie, such as
18 when Hunter has been seriously injured in his custody. Instead of communicating
19 these urgent matters directly with her, he chose to send messages through Our
20 Family Wizard ("OFW"). He knows she refuses to regularly check the messages
21 on OFW. Maggie also makes the level of conflict worse by her histrionic
22 behaviors, often in the presence of Hunter, and by things such as her inability to
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1 give Hunter one of his sincere wishes – to be able to have all of the people he
2 loves² peacefully attend events for him such as soccer. It is stressful and sad to
3 Hunter that his mother and his step-mother cannot both be present for his important
4 life events without drama and the primary person responsible for that drama is
5 Maggie.

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

10 This factor does not favor either parent. There is zero ability of these parties
11 to work together to meet the needs of their son. Maggie wishes that Jason would
12 not communicate with her and sometimes Jason wishes he would not have to
13 communicate with Maggie.

14
15 Jason understands that he could respond better. Jason does not provide as
16 much detail as he could. Maggie is not good at communicating with Jason either.
17 The parties can be required to share information, but the Court cannot compel them
18 to cooperate. Maggie accuses Jason of “abusing her” when he does communicate
19 with her through OFW, but this is what the Court has ordered both parents to do.
20 So Jason is damned by Maggie if he does communicate with her in the manner
21 ordered by the Court and he is damned by Maggie if he does not. He cannot win.
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26 ² Which, for him, includes his step-mother, who has been a part of his life since he was very young, and his older
27 siblings who have also had issues with Maggie..
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1 **f. The mental and physical health of the parents**

2 Jason is physically and mentally healthy. Maggie appears physically
3 healthy. Both parties have no physical problems that inhibit their ability to parent
4 Hunter. The Court has serious concerns about Maggie's emotional and mental
5 stability. Maggie's behavior in this case; her behavior with Hunter is not
6 appropriate. Maggie has testified that she has been in counseling for many years,
7 but the counseling has not helped Maggie with her dysfunctional interactions with
8 Jason and Hunter.
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12 The behavior of Maggie at Ms. Zelensky's office, the behavior of Maggie in
13 her last meeting with Dr. Collins, and Maggie's behavior in court during this trial,
14 all indicate that she is still highly emotionally dysregulated, even though she has
15 been in counseling with her current counselor for over a year now. There is no
16 improvement in Maggie's insight as to her contributions to the problems in her
17 relationship with Hunter. This factor favors Jason.
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20 **g. The physical, developmental and emotional needs of the children**

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22 The Court partially thinks factor is neutral between the parents. The Court
23 also partially thinks this factor favors Jason. Hunter needs stability and a healthy
24 relationship with both parents. One of the things that Hunter wants is for his
25 parents, including his step-mother, to get along well enough that they could all
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1 attend soccer games and cheer him on. It is unfortunate that Maggie has not yet
2 done the things she needs to do in order to improve her relationship with Hunter.
3 Maggie needs to listen to Hunter and to the professionals involved. Maggie and
4 Hunter's relationship is so bad right now that it is not safe for them to be together
5 without professional help.
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8 **h. The nature of the relationship of the child with each parent**

9 At this point, Jason has a better relationship with Hunter. Maggie's
10 relationship with Hunter should have progressed by now, but Maggie has not been
11 willing to do the work to get there. Maggie was given reduction in her child
12 support in order to allow her to afford to attend reunification therapy with Hunter.
13 Maggie has failed to follow the recommendation from Dr. Collins that she
14 participates in weekly therapy. Had Maggie followed the Court's orders for
15 weekly sessions, by November-December, Maggie should have been starting joint
16 sessions with Hunter. Maggie fights with everybody instead of listening to things
17 she could improve upon. Hunter has done some work, including continued
18 counselling with Ms. Miller, anger classes required at Harbor, and sessions with
19 Dr. Collins. This factor favors Jason.
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1 **i. Ability of the child to maintain a relationship with any sibling**

2 This factor is neutral. Hunter has siblings in both homes with whom he
3 should be able to have a relationship. The Court cannot force Hunter to have a
4 relationship with Danika with the level of distrust between the parties. The Court
5 is concerned about Maggie's statements that Hunter is angry at Danika or is
6 jealous of Danika and whether it is safe for Danika as well.
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8
9 **j. Any history of parental abuse or neglect of the child or a sibling of**
10 **the child**

11 This factor is also neutral. There is no evidence that any of the allegations
12 rise to the level of abuse or neglect of Hunter. There is a dysfunctional
13 relationship between Maggie and Hunter, but it does not rise to the legal level of
14 abuse or neglect.
15

16
17 **k. Whether either parent has engaged in an act of domestic violence**
18 **against the child, a parent of the child or any other person**
19 **residing with the child**

20 This factor is also neutral. There is nothing that has occurred from
21 November 2017 to the present that rises to the level of domestic violence by either
22 parent by clear and convincing evidence.
23

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

27 The factor does not apply in this case.
28

1 15. Based on the best interest factors above, the parties should have joint
2 legal custody. The Court has concerns about the power struggles between the
3 parties over the past 10 years. Neither party should be in a position of power and
4 control over the other. There are also concerns about their ability to cooperate and
5 co-parent. Maggie should have her own Infinite Campus account to be able to
6 monitor Hunter's schooling. The parties should discuss and agree on what school
7 Hunter is going to attend when the time comes for him to attend high school.
8
9

10
11 16. Jason should have primary physical custody. Maggie's visitation shall
12 continue as what was set out in the March 11, 2022 Order.
13

14 17. Maggie should continue being responsible for the costs of
15 reunification counseling with Dr. Collins. To do anything different as it relates to
16 visitation would be setting Maggie and Hunter up for failure and would possibly be
17 a danger to Maggie and Hunter, and possibly innocent third parties. The Court
18 hopes that Maggie will listen to Dr. Collins, make therapy a priority, and have
19 weekly sessions so that we can get Maggie and Hunter back to a healthy
20 relationship and regular visitation as soon as possible.
21
22

23
24 18. Once regular visitation is resumed, Department R's holiday visitation
25 schedule will apply.
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1 19. The parties will continue using Our Family Wizard. The Parenting
2 Coordinator and GAL shall be relieved of their duties with the deepest thanks of
3 the Court.
4

5 20. Maggie can send cards, gifts, and texts to Hunter, but she must be
6 careful not to further damage her relationship with him and to consider Dr. Collins
7 advice on how to best proceed.
8

9 21. Maggie owes Jason child support arrears in the amount of \$1,358
10 from October 1, 2021, through March 31, 2022.
11

12 22. As to ongoing child support, Maggie's gross monthly income is
13 \$5,768.50. The Court finds that Jason's gross monthly income is \$2,515.33.
14 Maggie's base child support obligation per NAC 425.140 is \$923 per month.
15

16 23. In regards to adjustment factors as set out in NAC 425.150, Maggie is
17 providing health insurance through her employer and Alexandra is providing
18 health insurance through her employer so Hunter is double covered and the Court
19 is not going to make any adjustments to child support based upon that double
20 coverage.
21
22

23 24. In regards to other adjustment factors as set out in NAC 425.150,
24 Maggie has to support another child. Even though Maggie is receiving child
25 support for that child, there should be a downward adjustment of \$100 per month.
26
27
28

1 25. Based upon Maggie's testimony regarding the costs of Dr. Collins
2 services and given that Hunter needs that reunification counseling to get back to a
3 healthy relationship with Maggie and based upon Hunter's needs there should be a
4 downward adjustment so long as Maggie is doing the reunification therapy with
5 Dr. Collins of \$400 per month. If Maggie is not attending sessions with Dr.
6 Collins at least twice per month, this adjustment should be eliminated.
7

9 26. Based upon the downward adjustments, the total monthly child
10 support from Maggie to Jason should be \$423 per month commencing April 1,
11 2022. The payments toward the arrears shall be \$27 per month, making the total
12 monthly child support payment \$450 per month.
13

14 27. Jason requested that the Court require Maggie to reimburse him for
15 one-half of the amount he has paid for Hunter's extra-curricular expenses and
16 school related expenses. However, the Court finds that this was not ordered by the
17 Court and it is not appropriate for Maggie to share in these expenses that she did
18 not agree to prior to the expenses being incurred and based on her being obligated
19 to pay Jason child support based upon him having primary custody of Hunter.
20 Maggie does owe Jason \$486.17 for one-half of unreimbursed medical expenses as
21 set forth in Exhibit N. Jason owes Maggie for one-half of the counseling co-pays
22 for Hunter with Sandy Miller, but it will only be for the receipts she has posted on
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1 Our Family Wizard as of 11:59 p.m. March 31, 2022. There will be an offset of
2 one against the other. The total of the therapy sessions with Sandy Miller for
3 Hunter posted to Our Family Wizard as of 11:59 p.m. March 31, 2022, was
4 \$487.50. One-half of that amount is \$243.75. The difference is \$242.42, which
5 Maggie owes Jason and which will be reduced to judgment and will accrue interest
6 at the legal rate.
7
8

9 28. Jason is entitled to an award of attorney's fees and costs pursuant to
10 NRS 18.010, and NRS 125C.250. The Court will only consider fees related to the
11 March 2021 emergency motion through to the present. The Court will need a
12 *Brunzell* Memorandum from Jason by April 11, 2022. Any response to the
13 *Brunzell* Memorandum from Jason may be filed by Maggie by April 22, 2022.
14
15

16 29. Defendant filed a *Brunzell* Affidavit and Memorandum of Fees and
17 Costs on April 11, 2022 and Plaintiff did not file an opposition. Plaintiff filed a
18 general Financial Disclosure Form (FDF) on March 8, 2022 and Defendant filed an
19 FDF on March 9, 2022. At the Evidentiary Hearing, the Court found that Plaintiff's
20 Gross Monthly Income (GMI) is \$5,768.50 and Defendant's GMI is \$2,515.33.
21
22

23 30. When awarding attorney's fees in a family law case, the Court must
24 first determine that an applicable rule or statute authorizes the award of attorney's
25 fees and costs. In this case, the award of attorney's fees and costs to Defendant is
26
27
28

1 warranted pursuant to NRS 18.010 and NRS 125C.250. Defendant was the
2 prevailing party at the Evidentiary Hearing because the Court awarded him
3 primary physical custody and Plaintiff should be responsible for a reasonable
4 amount of his attorney's fees. At the Evidentiary Hearing, the Court informed both
5 parties that it would only consider attorney's fees incurred since Defendant filed
6 his Emergency Motion on March 17, 2021 because Judge Henderson did not
7 previously award any attorney's fees for the original 2020 motion and
8 countermotion.
9
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12 31. Next, when awarding fees, the Court must consider the *Brunzell*
13 factors AND must consider the disparity in the parties' income pursuant to *Wright*
14 *v. Osburn*, 114 Nev. 1367, 970 P.3d 1071 (1998). *See also, Miller v. Wilfong*, 121
15 Nev. 619, 622, 119 P.3d 727, 729 (2005).
16

17 32. With regard to the *Brunzell* factors, the Court FINDS as follows:
18

- 19 a. *Qualities of the Advocate*: Counsel is very experienced in domestic
20 relations litigation and is a certified Family Law Specialist. The rate
21 counsel charged Defendant in this case is significantly below the rates
22 charged by family law attorneys in Clark County, Nevada with his
23 level of experience and expertise.
- 24 b. *Character of the Work to Be Done*: In this case, the work to be done
25 involved custody of the parties' minor child. This is a very high
26 conflict case that has been litigated by the parties for years.
- 27 c. *Work Actually Performed by the Attorney*: The work completed by
28 counsel in this case included filing a number of Motions for
Defendant, preparing multiple FDFs, representing Defendant at
hearings and preparing the Orders after hearings, conducting written

1 discovery, preparing Defendant's pre-trial memorandum, preparing
2 for and representing Defendant at the March 10, March 11 and March
3 31, 2022 Evidentiary Hearing, preparing a memorandum of fees and
4 costs and preparing the Findings of Fact, Conclusions of Law and
5 Order.

6 d. *Result obtained:* Counsel was able to successfully assist Defendant in
7 being awarded primary physical custody of the parties' minor child.

8 33. With regard to the disparity in the income of the parties and how it
9 impacts the award of attorney's fees and costs to Defendant, Plaintiff earns more
10 than twice Defendant's earnings, but Defendant also has a spouse who works and
11 brings an income into the household. Therefore, the Court considers the parties'
12 household incomes to be relatively equal. Additionally, Plaintiff is required to pay
13 Defendant child support for their son and has another minor child to support jointly
14 with her other ex-husband. Most importantly, the parties' minor child needs to
15 attend reunification counseling with Plaintiff in order to restore them to a healthy
16 parent-child relationship. Plaintiff's payment of child support to Defendant and
17 payment for the reunification counseling are more important financial obligations
18 than reimbursing Defendant for the attorney's fees and costs he has incurred in this
19 case. As such, the Court is awarding Defendant less than what his reasonable
20 attorney's fees and costs are and more than what Plaintiff will ever believe she
21 should be obligated to pay Plaintiff.
22
23
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26 ...

1 3. NRS 125C.0035 states in pertinent part,

2 The court shall award custody in the following order of preference
3 unless in a particular case the best interest of the child requires
4 otherwise:

5 (a) . . . If the court does not enter an order awarding joint custody
6 of a child after either parent has applied for joint custody, the
7 court shall state in its decision the reason for its denial of the
8 parent's application.

9 4. If the Court does not enter an order for joint physical custody, then the
10 Court must find that one of the factors in NRS 125C.0035(4) is applicable. Those
11 factors are:

- 12 a. The wishes of the child if the child is of sufficient age and capacity to
13 form an intelligent preference as to his or her physical custody
- 14 b. Any nomination of a guardian for the child by a parent
- 15 c. Which parent is more likely to allow frequent associations and a
16 continuing relationship with the noncustodial parent
- 17 d. The level of conflict between the parents
- 18 e. The ability of the parents to cooperate to meet the needs of the child
- 19 f. The mental and physical health of the parents
- 20 g. The physical, developmental and emotional needs of the children
- 21 h. The nature of the relationship of the child with each parent
- 22 i. The ability of the child to maintain a relationship with any sibling
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j. Any history of parental abuse or neglect of the child or a sibling of the child

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

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

5. Child support should be ordered pursuant to NAC 425.

6. Any health insurance premiums should be equally divided pursuant to NRS 125B.145.

7. The Court has the authority to award fees under *Brunzell v. Golden Gate National Bank* 85 Nev. 345, 455 P.2d 31 (1969) as well as NRS 18.010 (prevailing party), and EDCR 7.60 (vexatiously increasing the costs of litigation).

8. Should any of these Conclusions of Law be more properly construed as Findings of Fact, they should be construed as such.

ORDERS

IT IS HEREBY ORDERED that Defendant, Jason Roe, is hereby awarded primary physical custody of the parties' minor child, Hunter Roe. Plaintiff, Maggie Cox's visitation shall continue as what was set out in the March 11, 2022, Order. It is the intent of the Court that Maggie's visitation with Hunter be expanded as

1 soon as Dr. Collins determines that Hunter and Maggie are ready to do so. Dr.
2 Collins has provided in her reports to the Court a general outline of how
3 reunification services with her proceed from one step to the next. Maggie and
4 Jason are hereby ordered to comply with Dr. Collins' recommendations for how
5 reunification services between Maggie and Hunter shall proceed. Jason shall make
6 Hunter available for all sessions Dr. Collins requests with him and shall encourage
7 Hunter to work on his relationship with his mother in good faith.
8
9

10 **IT IS FURTHER ORDERED** that the parties shall continue sharing joint
11 legal custody of Hunter. The parties shall continue utilizing the definition of joint
12 legal custody set out in their Decree of Divorce.
13

14 **IT IS FURTHER ORDERED** that as Maggie's gross monthly income is
15 \$5,768.50. That puts Maggie's base child support per NAC 425.140 at \$923 per
16 month. Maggie shall receive a downward deviation under NAC 425.150(1)(b), the
17 legal responsibility for the support of others of \$100 per month. Maggie shall also
18 receive a downward deviation pursuant to NAC 425.150(g) for any other necessary
19 expenses for the benefit of the child in the amount of \$400 per month so long as
20 Maggie participating in the reunification therapy with Dr. Collins. Based upon the
21 downward adjustments, Maggie shall pay child support of \$423 per month
22 commencing April 1, 2022. The payments toward the arrears shall be \$27 per
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1 month, making the total monthly child support payment \$450 per month
2 commencing April 1, 2022.

3 **IT IS FURTHER ORDERED** that the net constructive child support
4 arrears are \$4,157 as of April 1, 2022. The constructive child support arrears shall
5 accrue interest at the legal rate.
6

7 **IT IS FURTHER ORDERED** that Maggie shall continue reunification
8 therapy with Dr. Sunshine Collins and shall continue being solely responsible for
9 the costs of reunification counseling.
10

11 **IT IS FURTHER ORDERED** that if Maggie is not attending sessions with
12 Dr. Collins at least twice per month, the downward adjustment she has received
13 from her child support obligation for Hunter shall be terminated.
14

15 **IT IS FURTHER ORDERED** that once a regular visitation is resumed,
16 Department R's standard holiday schedule will apply.
17

18 **IT IS FURTHER ORDERED** that the parties will continue using Our
19 Family Wizard. All communication is to be polite, respectful, business-like
20 regarding child issues only, without swearing, criticizing, disparaging the other
21 parent, or telling the other parent how to parent. If an emergency arises regarding
22 the minor children, Parties may contact the other Parent directly.
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1 **IT IS FURTHER ORDERED** that the terms of the Mutual Behavior Order
2 contained in the Order entered on September 28, 2020 shall remain in effect and is
3 incorporated herein by reference.
4

5 **IT IS FURTHER ORDERED** that the parenting coordinator and guardian
6 ad litem are hereby relieved of their duties with the gratitude of the Court.
7

8 **IT IS FURTHER ORDERED** that both parties shall continue to provide
9 health insurance for Hunter so long as it is available at a reasonable cost through
10 their own employer or the employer of a spouse.
11

12 **IT IS FURTHER ORDERED** that any unreimbursed medical, dental,
13 optical, orthodontic or other health related expense incurred for the benefit of the
14 minor child is to be divided equally between the parties. Either party incurring an
15 out-of-pocket medical expense for the child shall provide a copy of the paid
16 invoice/receipt to the other party within thirty days of incurring such expense, if
17 not tendered within the thirty-day period, the Court may consider it as a waiver of
18 reimbursement. The other party will then have thirty days from receipt within
19 which to dispute the expense in writing or reimburse the incurring party for one-
20 half of the out-of-pocket expense, if not disputed or paid within the thirty-day
21 period, the party may be subject to a finding of contempt and appropriate
22 sanctions.
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1 **IT IS FURTHER ORDERED** that Defendant shall receive the tax
2 dependency exemption for Hunter commencing with the 2022 tax year and each
3 year thereafter.
4

5 **IT IS FURTHER ORDERED** that Maggie owes Jason \$486.17 for one-
6 half of unreimbursed medical expenses as set forth in Exhibit N. Jason owes
7 Maggie for one-half of the counseling for Hunter with Sandy Miller, but it will
8 only be for the receipts she has posted on Our Family Wizard as of 11:59 p.m.
9 March 31, 2022. There will be an offset of one against the other. The total of the
10 therapy sessions with Sandy Miller for Hunter posted to Our Family Wizard as of
11 11:59 p.m. March 31, 2022, was \$487.50. One-half of that amount is \$243.75.
12 The difference is \$242.42, which Maggie owes Jason and which will be reduced to
13 judgment and will accrue interest at the legal rate and shall be made collectible by
14 any and all legal means.
15
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18

19 **IT IS HEREBY ORDERED** that Defendant's request for attorney's fees is
20 granted. Plaintiff, Maggie Cox, is ordered to pay attorney's fees and costs in the
21 amount of \$11,365.71. Said award is reduced to judgment against Plaintiff and
22 shall accrue interest at the legal interest rate from April 27, 2022, until paid in full.
23 Said judgment shall be collectible by all lawful means.
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1 established and the custodial parent or a parent having joint custody intends to
2 move his residence to a place outside of this state and to take the child with him, he
3 must, as soon as possible and before the planned move, attempt to obtain the
4 written consent of the other parent to move the child from the state. If the
5 noncustodial parent or other parent having joint custody refuses to give that
6 consent, the parent planning the move shall, before he leaves the state with the
7 child, petition the court for permission to move the child. The failure of a parent to
8 comply with the provisions of this section may be considered as a factor if a
9 change of custody is requested by the noncustodial parent or other parent having
10 joint custody;" as well as NRS 125C.045(6) which provides:
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15 **PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,**
16 **CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION**
17 **OF THIS ORDER IS PUNISHABLE, AS A CATEGORY D**
18 **FELONY, BY UP TO 6 YEARS IN PRISON AS PROVIDED IN**
19 **NRS 193.130. NRS 200.359 provides that every person having a**
20 **limited right of custody to a child or any parent having no right of**
21 **custody to the child who willfully detains, conceals or removes the**
22 **child from the parent, guardian or other person having lawful custody**
23 **or a right of visitation of the child in violation of an order of this**
24 **court, or removes the child .from the jurisdiction of the court without**
25 **the consent of either the court or all persons who have the right to**
26 **custody or visitation is subject to being punished by imprisonment in**
27 **the state prison for not less than 1 year nor more than 6 years, or by a**
28 **fine of not less than \$1,000 nor more than \$5,000, or by both fine and**
imprisonment.

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NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.045, the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law are applicable to the parties. Nevada is hereby declared the State, and the United States of America is hereby declared the country, of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth above.

NOTICE IS HEREBY GIVEN that under the terms of the Parental Kidnapping Prevention Act, 28 U.S.C. Sec. 1738A, and the Uniform Child Custody Jurisdiction Act, NRS 125A.010 *et seq.*, the courts of Nevada have exclusive modification jurisdiction of the custody visitation and child support terms relating to the child at issue in this case so long as either of the parties, or the children, continues to reside in this jurisdiction.

Dated this 18th day of May, 2022



219 9E1 0429 CA3D
Dawn R. Throne
District Court Judge

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CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Maggie Cox, Plaintiff

CASE NO: D-11-450074-D

vs.

DEPT. NO. Department U

Jason J Roe, Defendant.

AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 5/18/2022

"Fred Page, Esq." . fpage@pagelawoffices.com

Roberts Stoffel Family Law Group . efile@lvfamilylaw.com

Admin Admin Admin@pagelawoffices.com

Melvin Grimes efile@lvfamilylaw.com

Maggie Cox maggiejcoxedu@gmail.com

Peggy O'Malley peggyomalley@portolainn.com

If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 5/19/2022

Claudia Schwarts 1820 E Warm Springs RD STE 125
Las Vegas, NV, 89119

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Corinne Price

8965 S Pecos RD STE 9
Henderson, NV, 89074

Fred Page

6930 South Cimmaron Road Suite 140
Las Vegas, NV, 89113

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

MAGGIE ROE, N/K/A MAGGIE COX,
Appellant,

v.

JASON J. ROE,
Respondent.

No. 84893

DOCKETING STATEMENT CIVIL APPEALS

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department U
County Clark Judge Throne
District Ct. Case No. D-11-450074-D

2. Attorney filing this docketing statement:

Attorney Melvin Grimes, Esq. Telephone (702) 474-7007

Firm Roberts Stoffel Family Law Group

Address 4411 S. Pecos Road
Las Vegas, Nevada 89121

Client(s) Appellant, Maggie Cox

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Fred Page, Esq. Telephone (702) 823-2888

Firm Page Law Firm

Address 6930 S. Cimarron Road, Suite 140
Las Vegas, Nevada 89113

Client(s) Respondent, Jason Roe

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)