

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

JESUS AREVALO,

Petitioner

v.

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

Respondents,

and

CATHERINE DELAO,

Real Party in Interest.

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Elizabeth A. Brown
D.C. No. Clerk of Supreme Court

REAL PARTY IN INTERESTS' APPENDIX

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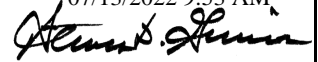
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CLERK OF THE COURT

ORDR

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

JESUS LUIS AREVALO,
Plaintiff,

vs.

CATHERINE AREVALO
n/k/a CATHERINE DELAO,
Defendant.

CASE NO: D-11-448514-D
DEPT. NO: E

DATE OF HEARING: 6/22/22
TIME OF HEARING: 10:00 am

ORDER FROM JUNE 22, 2022, HEARING

This matter came on for hearing on June 22, 2022, before the Honorable Charles Hoskin, District Court Judge, Family Division, Department E. Plaintiff, Jesus Arevalo, was present in proper person, Defendant, Catherine Delao, was present and represented by counsel, Richard Crane, Esq., and Marshal S. Willick, Esq., of the WILICK LAW GROUP.

The Court, having reviewed the pleadings and papers filed herein, after hearing argument of counsel, made the following findings and orders:

THE COURT HEREBY FINDS:

1. The Court noted the papers and pleadings on file and reviewed the history of the case.
2. The Court noted it authorized an Indemnification QDRO previously and requested Mr. Willick to clarify Defendant's Motion.
3. Mr. Willick represented that a physical signature on the order was necessary to effectuate the QDRO.
4. Mr. Willick represented that the QDRO was conditioned upon whether or not Plaintiff would be able to obtain an insurance policy.
5. Mr. Willick stated Defendant delayed the filing of her Motion to allow for an insurance agent to contact Plaintiff regarding the insurance policy which Plaintiff never secured.
6. Mr. Willick maintained that the insurance agent was able to contact Plaintiff and argued that Plaintiff also had the insurance agent's name and information to contact them himself in order to secure an insurance policy.
7. Mr. Willick argued that there has been no further contact from the insurance agent that an insurance policy was secured.
8. Mr. Willick requested that the Court sign the Indemnification QDRO due to Defendant's alleged failure to obtain an insurance policy.
9. Upon inquiry of the Court, Mr. Willick argued that the award of fees was determined by the Court.
10. Mr. Willick argued that PERS would only follow Orders of the Court.
11. Upon further inquiry of the Court, Mr. Crane stated that Indemnification QDROs are subject to review under NRS 286 and approval by an executive officer who may delegate the approval authority to another officer.

- 1 12. Mr. Crane stated the QDRO was already preapproved and will be accepted
2 upon signature.
- 3 13. Mr. Crane also noted that NRS 286 held that any independent action won't be
4 taken to collect arrearages or fees without a Court Order including a dollar
5 amount or percentage.
- 6 14. Plaintiff, Jesus Arevalo, acknowledged that the Court ordered the
7 Indemnification QDRO, but cited the 11/03/2021 Order that ordered that a
8 percentage or dollar amount would not be included due to the rules of PERS.
- 9 15. Plaintiff argued that QDROs could still be denied if they did not meet the
10 provisions of NRS 286.
- 11 16. Plaintiff argued that Mr. Willick misquoted NRS 286.6703 and read the statute
12 verbatim into the record.
- 13 17. Plaintiff argued that PERS was labeled as a trust fund and disability coming
14 from trust funds was not to be garnished.
- 15 18. Plaintiff alleged that he spoke to PERS and was informed that the proposed
16 QDRO would be in compliance, but further alleged that PERS indicated they
17 did not receive any Orders from the Court.
- 18 19. Plaintiff alleged that PERS never received the Order indicating that a dollar
19 amount or percentage would not be included.
- 20 20. Plaintiff referenced his previous Motions set before Judge Duckworth and
21 noted that child support had been set at zero.
- 22 21. Plaintiff cited *Reahm v. Reahm* and argued that there was a difference between
23 disability and service retirement.
- 24 22. Upon inquiry of the Court, Plaintiff affirmed he was arguing that the QDRO
25 could not be attached due to Plaintiff's disability.
- 26
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- 1 23. Upon further inquiry of the Court, Plaintiff argued that the determination was
2 to be made by the Court and not PERS.
- 3 24. Plaintiff argued that disability retirement was his sole and separate property.
- 4 25. The Court noted the question before the Court was whether or not the
5 Plaintiff's disability retirement could be executed upon based on other Court
6 Orders.
- 7 26. Plaintiff argued the Court could not execute against the disability retirement
8 according to case law based on it not being a service retirement and Plaintiff
9 having not reached the age of 60.
- 10 27. The Court noted that Plaintiff was arguing that the Court did not have the
11 ability to distribute the disability retirement under community property law.
- 12 28. Plaintiff maintained that PERS implemented the QDRO inconsistently with
13 Nevada law.
- 14 29. Plaintiff argued the funds were distributed incorrectly and not in accordance
15 with the current QDRO and Indemnification QDRO.
- 16 30. The Court noted that the QDRO would not become effective even with the
17 Court's signature if PERS did not qualify it.
- 18 31. Plaintiff alleged that PERS assumes that QDROs are compliant with the rules
19 and takes them at face value.
- 20 32. Plaintiff argued that PERS was not notified by Mr. Willick that Plaintiff was
21 disabled in order to get more money for his client, the Defendant.
- 22 33. Plaintiff argued this was a gross misdemeanor under NRS 286.820 and
23 constituted withholding information.
- 24 34. Upon inquiry of the Court, Plaintiff stated he received an email from the life
25 insurance broker indicating that he would be contacted by two additional
26 people.
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- 1 35. Plaintiff stated he was contacted by someone from Zurich Insurance Group, but
2 had heard nothing back.
- 3 36. Plaintiff stated he was also involved in email communication with the
4 Defendant and a Chris Lopez, but had never received a phone call.
- 5 37. Plaintiff stated he spoke to Chris Lopez further and complied with his requests
6 of the Plaintiff.
- 7 38. Plaintiff alleged that Mr. Willick asked Mr. Lopez to sign something stating
8 Plaintiff did not qualify for a life insurance policy.
- 9 39. Plaintiff stated he learned this from a conversation with Mr. Lopez and
10 acknowledged it would be hearsay.
- 11 40. Upon inquiry of the Court, Plaintiff stated he was in contact with a
12 representative from Zurich Insurance Group and further stated that he also
13 contacted Mr. Lopez.
- 14 41. Plaintiff maintained he received no phone calls from Mr. Lopez and also
15 maintained that Defendant was ordered to have the life insurance brokers
16 contact him.
- 17 42. Upon inquiry of the Court, Plaintiff stated he complied with the Court's Order
18 with regard to contacting the life insurance brokers.
- 19 43. Plaintiff maintained that he received no communication from the brokers,
20 Defendant, Mr. Lopez or Mr. Willick, and was under the impression they were
21 to contact him.
- 22 44. Plaintiff made further argument that he was not in arrears for child support and
23 that his disability money should be protected and not subject to collection.
- 24 45. Upon inquiry of the Court, Mr. Willick stated his last contact with the life
25 insurance broker was in April of 2022, when they indicated that they had
26 received no contact.
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- 1 46. Upon further inquiry of the Court, Plaintiff stated he still had the contact
2 information for Chris Lopez and last had contact with him in May of 2022.
- 3 47. Plaintiff stated he spoke to Mr. Lopez who indicated he would speak to
4 Defendant and get back in contact with Plaintiff.
- 5 48. Plaintiff inquired how the Court would control the distribution of community
6 property when it came to disability.
- 7 49. The Court noted that community property was resolved in 2013 when the
8 parties were divorced. Plaintiff argued that Judge Duckworth ruled in 2014 that
9 his money was disability income and set child support to zero.
- 10 50. Plaintiff questioned why his disability income was being used to satisfy
11 judgments on a community property award.
- 12 51. The Court NOTED the disability income was not a community property award
13 and the matter was resolved in 2013.
- 14

15 **THE COURT HEREBY ORDERS:**

- 16 1. Plaintiff shall have fourteen (14) days in which to contact the life insurance broker
17 with whom he was in communication and have a life insurance policy in place.
- 18 2. The Indemnification QDRO shall not be entered if Plaintiff obtains the required
19 life insurance policy.
- 20 3. Mr. Willick shall notify the Court if the required life insurance policy is obtained
21 in the correct amount and for the required term.
- 22 4. If Plaintiff does not obtain a life insurance policy within fourteen (14) days, Mr.
23 Willick shall submit the Indemnification QDRO to the Court for signature.


24 *****

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26 *****

1 5. Mr. Willick shall prepare the order and submit to the Court for review and
2 signature.

Dated this 13th day of July, 2022



089 E6E 76AF BF76
Charles J. Hoskin
District Court Judge

QM

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7 Respectfully Submitted By:
8 Willick Law Group

9 *// s // Richard L. Crane, Esq.*

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Jesus Luis Arevalo, Plaintiff

CASE NO: D-11-448514-D

7 vs.

DEPT. NO. Department E

8 Catherine Marie Arevalo,
9 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
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/13/2022

15 Marshal Willick

marshal@willicklawgroup.com

16 Reception Reception

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17 Justin Johnson

Justin@willicklawgroup.com

18 Jesus Arevalo

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19 Jesus Arevalo

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51

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

JESUS LUIS AREVALO,
Plaintiff,

vs.

CATHERINE AREVALO
n/k/a CATHERINE DELAO,
Defendant.

CASE NO: D-11-448514-D
DEPT. NO: E

DATE OF HEARING: N/A
TIME OF HEARING: N/A

AMENDED QUALIFIED DOMESTIC RELATIONS ORDER¹

This *Order* is intended to be an Amended Qualified Domestic Relations Order (“QDRO”) as it pertains to “Participant” and “Alternate Payee” under the provisions of the Public Employees Retirement Act codified at Chapter 286 of the Nevada Revised Statutes (the “Act”) and the policies enacted pursuant thereto, effective on or after October 1, 1993.

¹ This proposed *Order* is to be provided to the Court in an editable format as required by current local rules. However, the language in this *Order* has been pre-approved by the Plan and any changes may result in the Plan rejecting the same. Please notify the WILICK LAW GROUP if there is any desire to modify this *Order* so we can determine if it will affect its qualified status.

This *Order* creates or recognizes the existence of an Alternate Payee’s right to, or assigns to an Alternate Payee the right to receive a portion of the benefits payable to a plan Participant. It also serves as authorization for the Public Employees Retirement System (the “System”) to provide specific information concerning the Member’s account to the Alternate Payee at any time.

This *Order* does not require the System to provide any type or form of benefit, or any option, not otherwise provided under the Act and policies or require the System to provide increased benefits.

The name of the Plan to which this *Order* applies is the Public Employees' Retirement System of Nevada. The Plan is specifically directed to pay benefits pursuant to this *Order* to the Alternate Payee.

This *Order* is intended to be an Amended Qualified Domestic Relations Order (“QDRO”) valid for distribution of a Nevada Public Employees’ Retirement, as it pertains to “Participant or Member,” Jesus Arevalo, and “Alternate Payee,” Catherine Delao, under the provisions of the Act and the policies enacted pursuant thereto. Good cause appearing therefor;

THIS COURT FINDS as follows:

1. It is the intent of this *Order* to qualify as an Amended Qualified Domestic Relations Order under the Act and policies and the provisions herein shall be administered and interpreted in conformity with the provisions of the Act and policies.

2. Plaintiff, Defendant, and the Court acknowledge that there has been a previous *Qualified Domestic Relations Order* entered regarding Participant's benefits under this Plan. This *Order* replaces and supersedes the *Qualified Domestic Relations Order* filed on August 25, 2020, pertaining to the Participant's retirement with the Public Employees' Retirement System of Nevada.

3. Jesus is a Participant in the Public Employee's Retirement System ("PERS").

4. Jesus Arevalo ("Jesus"), and Catherine Delao ("Catherine"), were married on June 28, 2008.

5. The parties' *Order from Divorce Trial of May 18, 2012*, and *Decree of Divorce from Decision of May 22, 2012, Subsequent Hearing on October 30, 2012*, filed on February 26, 2013, and *Order* from hearing held November 3, 2021, in Clark County, Nevada. Pursuant to the parties' *Decree*, the date of trial, May 18, 2012, shall be used as the community end date.

6. To avoid violation of the governing Nevada statutes (NRS 603A.040 and NRS 239B.030), the Code of Federal Regulations (5 U.S.C. § 552a, Privacy Act of 1974), and court rules concerning privacy, the parties' dates of birth, and Social Security Numbers are to be provided to the State of Nevada Public Employees Retirement System (PERS) in a separate cover letter simultaneously submitted with this *Order*.

IT IS HEREBY ORDERED that the following definitions apply to this *Order*:

A. PARTICIPANT. Participant is defined as the member of the Public Employees Retirement System of Nevada.

B. ALTERNATE PAYEE. Alternate Payee is defined as a spouse, former spouse, child or other dependent of a Participant who is recognized by this *Order* as having a right to receive a portion of the benefits payable under the Act with respect to such Participant.

C. DOMESTIC RELATIONS ORDER. Domestic Relations Order means any judgment, decree or order (including approval of a property settlement agreement) which relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent, and is made pursuant to Chapter 125 of the Nevada Revised Statutes.

1 **D. PLAN ADMINISTRATOR.** The Plan Administrator is the
2 Executive Officer, whose address is 693 West Nye Lane, Carson City, NV 89703.

3 **E. OTHER DEFINITIONS.** Any other definitions necessary
4 to effectuate this *Order* shall be adopted from the Act and the policies adopted
5 pursuant thereto, as may from time to time be amended. These definitions shall
6 include any and all definitions, terms or conditions required by statute to qualify this
7 *Order* as a QDRO.

8 **IT IS FURTHER ORDERED** that the Court recognizes, and assigns to
9 Catherine, the right to receive a portion of the benefits payable to a plan Participant.
10 Catherine is awarded an interest in the pension and retirement interests with the State
11 of Nevada Public Employees Retirement System (PERS), accrued through
12 employment, in the name of Jesus Arevalo, as follows:

13 1. The name of the Participant is Jesus Arevalo, his address is 4055 Box
14 Canyon Falls, Las Vegas, Nevada 89085; the name of the Alternate Payee is
15 Catherine Delao, her address is 7661 N. Jones Blvd., Las Vegas, Nevada 89131. The
16 Alternate Payee is the former spouse of the Member and is recognized by a Domestic
17 Relations Court as having a right to receive a portion of the allowance or benefit of
18 a member or retired employee from the system.

19 2. The retirement system is specifically directed to pay the benefits as
20 determined herein directly to the Alternate Payee at the first possible date. The
21 retirement system is not required by this order to provide an allowance or benefit not
22 otherwise provided under the statutes governing the Public Employee's Retirement
23 System of Nevada.

24 3. This Order does not require the retirement system to make payments to
25 an Alternate Payee prior to the retirement of a Participant or the distribution to or
26 withdrawal of contributions by a Participant.

27 4. The Participant shall make payments directly to the Alternate Payee, of
28 the sum required by this Order, no later than the fifth day of each month until
payments from the retirement system to the Alternate Payee commence under this
Order.

 5. The benefit to be payable to the Alternate Payee shall be a percentage
award, using Option 1 to calculate the Alternate Payee's benefit. PERS shall pay
100% of the benefit minus \$10 to the Alternate Payee until further order of the Court.
The Alternate Payee shall share in any post retirement increases, to the extent of the
awarded percentage.

1 6. The Alternate Payee shall be entitled to the benefit as stated above,
2 beginning the date this *Order* is deemed qualified until further Order of the Court or
3 until the death of the Participant or Alternate Payee, whichever occurs first.

4 7. If retroactive payments are due to the Alternate Payee, the Participant is
5 responsible for making those retroactive payments to the Alternate Payee.

6 **IT IS FURTHER ORDERED** that Jesus has waived any privacy or other
7 rights as may be required for Catherine to obtain information relating to Jesus' date
8 of retirement, final grade and step, and pay, present or past retired pay, or other such
9 information as may be required to enforce the award made herein, or required to
10 revise this *Order* so as to make it enforceable. PERS is hereby authorized to provide
11 specific information to Catherine from the retirement file of Jesus for purposes of
12 issues related to this *Order*.

13 **IT IS FURTHER ORDERED** that if Jesus takes any steps to merge the
14 retirement divided herein with another retirement program of any kind, or takes any
15 action that prevents, decreases, or limits the collection by Catherine of the sums to be
16 paid hereunder; Jesus shall make payments to Catherine directly in an amount
17 sufficient to neutralize, as to Catherine, the effects of the action taken by Jesus.

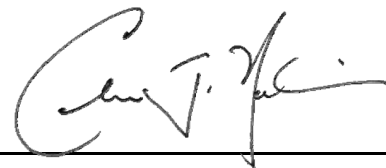
18 **IT IS FURTHER ORDERED** that a certified copy of the *Order* shall
19 be served upon the Plan Administrator. Said *Order* is subject to review by the
20 Administrator and if approved by the Administrator, is effective on the date set forth
21 herein. If this *Order* is determined by the Administrator to be a QDRO, then the Plan
22 Administrator shall, within a reasonable period of time after delivery of this *Order*,
23 notify the Participant and the Alternate Payee of such determination. If the
24 Administrator determines that the *Order* does not qualify as a QDRO, the
25 Administrator shall, within a reasonable period of time, notify the Participant and the
26 Alternate Payee of the reasons for such determination and shall, if the parties are
27 married and if the Participant is to retire within 90 days of the *Order*, maintain the
28 benefits under Option 2 as set forth in NRS 286.545 for a period of 90 days from the

1 date of the Participant's retirement to allow modification of this *Order* for
2 qualification. If the *Order* does not comply and the parties are divorced, pursuant to
3 PERS Official policy 13.8, this *Order* will serve as a temporary notice to the System
4 of a forthcoming *Order* regarding distribution of a member's benefit.

5 **IT IS FURTHER ORDERED** that the Court shall retain jurisdiction to enter
6 such further orders as are necessary to enforce the award of benefits as specified
7 herein and in the *Order from Divorce Trial of May 18, 2012, and Decree of Divorce*
8 *from Decision of May 22, 2012, Subsequent Hearing on October 30, 2012, and*
9 *Order from Hearing held November 3, 2021*, calling for the filing of this QDRO, and
10 the allocation of related rights and responsibilities set out above, in accordance with
11 the provisions of Nevada case and statutory law, including the re-characterization
12 thereof as a division of Civil Service or other retirement benefits.

13 **IT IS FURTHER ORDERED** that this *Order* shall be governed by the rules
14 of the Plan and, in the event of a conflict between this *Order* and the *Order from*
15 *Divorce Trial of May 18, 2012, and Decree of Divorce from Decision of May 22,*
16 *2012 and Subsequent Hearing on October 30, 2012*, the terms of this *Order* shall
17 prevail.

Dated this 27th day of July, 2022



ca

21 Respectfully Submitted By:
22 Willick Law Group

23 /s/ Marshal S. Willick

24 MARSHAL S. WILLICK, ESQ.
25 Nevada Bar No. 2515
26 RICHARD L. CRANE, ESQ.
27 Nevada Bar No. 9536
3591 E. Bonanza, Suite 200
Las Vegas, Nevada 89110-2101
(702) 438-4100 Fax (702) 438-5311
Attorney for Defendant

DFB C0C 010A CA4F
Charles J. Hoskin
District Court Judge

P:\wp19\DELAO,C\DRAFTS\00443523.WPD\dmv

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Jesus Luis Arevalo, Plaintiff

CASE NO: D-11-448514-D

7 vs.

DEPT. NO. Department E

8 Catherine Marie Arevalo,
9 Defendant.

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 7/27/2022

16 Marshal Willick

marshal@willicklawgroup.com

17 Reception Reception

email@willicklawgroup.com

18 Justin Johnson

Justin@willicklawgroup.com

19 Jesus Arevalo

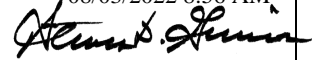
wrath702@gmail.com

20 Jesus Arevalo

vinni702@yahoo.com

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CLERK OF THE COURT

ORDR

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

Jesus Luis Arevalo,
Plaintiff,

vs.

Catherine Marie Arevalo,
Defendant.

Case No.: D-11-448514-D

Dept.: E

ORDER DENYING PLAINTIFF'S MOTION TO RECONSIDER

This Court having reviewed this file FINDS that Plaintiff, Jesus Luis Arevalo, submitted *Plaintiff's Motion to Reconsider Order from June 22, 2022 Hearing and Set aside the QDRO*. As Plaintiff has been declared a vexatious litigant, this Court reviewed the *Motion* prior to it being filed.

The procedure in District Courts shall be administered to secure efficient, speedy, and inexpensive determinations in every action. Furthermore, EDCR 5.502(e)(3) states that this Court can consider a motion and issue a decision on the papers at any time without a hearing. Additionally, EDCR 5.516 indicates that "If a motion for reconsideration and/or rehearing is granted, the court may make a final disposition without hearing, may set it for hearing or resubmission, or may make such other orders as are deemed appropriate under the circumstances."

1 Plaintiff's *Motion* restates the same argument he presented during the
2
3 June 22, 2022 Hearing. No new evidence is presented in his submitted
4 *Motion*.

5 "A district court may reconsider a previously decided issue if
6 substantially different evidence is subsequently introduced or the decision is
7 clearly erroneous." *Masonry & Tile Contractors Ass'n of S. Nevada v.*
8 *Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).
9
10 As substantially different evidence was not introduced and the decision is
11 not clearly erroneous, there is no basis to grant Plaintiff's Motion for
12 Reconsideration.
13
14

15 It should be noted that, as a result of the June 22, 2022 Hearing,
16 Plaintiff was, once again, given additional time to obtain the previously
17 ordered life insurance policy prior to the most recent QDRO being entered.
18
19 No evidence of his complying with that additional opportunity was
20 submitted and the most recent QDRO was entered.
21


22 No additional basis was proffered to permit the request to set aside the
23 QDRO being considered further. All other tangential issues mentioned
24 within Plaintiff's Motion have been resolved previously and there is no need
25 to further expound on those decisions within this Order.
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NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiff's
Motion to Reconsider Order from June 22, 2022 Hearing and Set aside the
QDRO is summarily DENIED.

IT IS SO ORDERED

Dated this 3rd day of August, 2022



169 42F A167 7DE4
Charles J. Hoskin
District Court Judge

se

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Jesus Luis Arevalo, Plaintiff

CASE NO: D-11-448514-D

7 vs.

DEPT. NO. Department E

8 Catherine Marie Arevalo,
9 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
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 8/3/2022

15 Marshal Willick

marshal@willicklawgroup.com

16 Reception Reception

email@willicklawgroup.com

17 Jesus Arevalo

wrath702@gmail.com

18 Jesus Arevalo

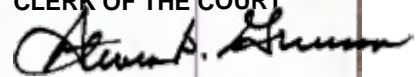
vinni702@yahoo.com

19 Justin Johnson

Justin@willicklawgroup.com

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1 **NOAS**

2 **JESUS LUIS AREVALO**
3 4322 Galapagos Ave
4 North Las Vegas, NV 89084
5 (702) 813-1829

6 *Plaintiff in Proper Person*

7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 **JESUS LUIS AREVALO**

11 Plaintiff,
12 vs.

13 **CATHERINE AREVALO,**

14 Defendant.

CASE NO: D-11-448514-D

DEPT. NO: E

15 **NOTICE OF APPEAL**

16 Notice is hereby given that Plaintiff, Jesus Arevalo, hereby appeals to the
17 Supreme Court of Nevada from the Order from the June 22, 2022, hearing entered
18 in this action On July 15, 2022 and Order Denying Plaintiff's Motion to
19 Reconsider entered on August 3, 2022.

20
21 DATED this 3rd day of August, 2022.

22 /s/Jesus Luis Arevalo

23 **JESUS LUIS AREVALO**
24 4322 Galapagos Ave
25 North Las Vegas, NV 89084
(702) 813-1829

Plaintiff in Proper Person

1
2
3 **CERTIFICATE OF SERVICE**
4

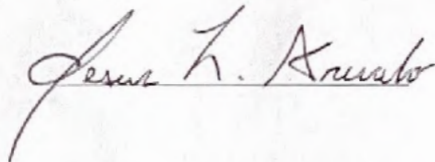
5 Pursuant to NRCP 5(b), I certify that on this day of August 3, 2022, I caused
6 the above and foregoing document to be served as follows:

7 Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)D) and
8 Administrative Order 14-2 by mandatory electronic service through the
9 Eight Judicial District Court's electronic filing system in accordance with
10 the master service list.

11 DATED this 3rd day of August, 2022.

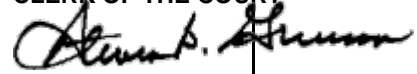
12 /s/Jesus Luis Arevalo
13 JESUS LUIS AREVALO
14 4322 Galapagos Ave
15 North Las Vegas, NV 89084
16 (702) 813-1829

17 *Plaintiff in Proper Person*

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6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 JESUS LUIS AREVALO,

11 Plaintiff(s)

12 vs.

13 CATHERINE MARIE AREVALO
14 nka CATHERINE MARIE DELAO,

15 Defendant(s),
16

Case No: D-11-448514-D

Dept No: E

Sealed

17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Jesus Luis Arevalo

20 2. Judge: Charles J. Hoskin

21 3. Appellant(s): Jesus Luis Arevalo

22 Counsel:

23 Jesus Luis Arevalo
24 4322 Galapagos Ave.
25 North Las Vegas, NV 89084

26 4. Respondent (s): Catherine Marie Arevalo nka Catherine Marie Delao

27 Counsel:

28 Marshal S. Willick, Esq.
3591 E. Bonanza Rd., Suite 200

Las Vegas, NV 89110-2101

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

Appellant Filed Application to Proceed in Forma Pauperis: No
Date Application(s) filed: N/A

9. Date Commenced in District Court: June 28, 2011

10. Brief Description of the Nature of the Action: DOMESTIC - Marriage Dissolution

Type of Judgment or Order Being Appealed: Misc. Order

11. Previous Appeal: Yes

Supreme Court Docket Number(s): 81359, 83991

12. Case involves Child Custody and/or Visitation: Custody
Appeal involves Child Custody and/or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 9 day of August 2022.

Steven D. Grierson, Clerk of the Court

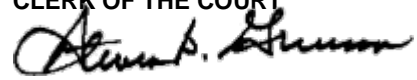
/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Jesus Luis Arevalo

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Filing Code: PIFP

Name: Jesus Arevalo

Address: 4233 Galapagoes Ave

City, State, Zip: N.Las Vegas,NV 89084

Phone: 702-813-1829

Email: wrath702@gmail.com

Self-Represented

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Jesus Luis Arevalo

Plaintiff,

vs.

Catherine Marie Arevalo

Defendant.

CASE NO.: D-11-448514-D

DEPT: E

Application to Proceed in Forma Pauperis

I am unable to pay the costs of prosecuting or defending this action. I request permission to proceed without paying costs or fees pursuant to NRS 12.015 based on the following:

☐ **Public Assistance.** I receive federal and/or state public assistance benefits: (☒ *check all that you receive*)

- ☐ Medicaid / Nevada Check Up
- ☐ SNAP (food stamp assistance)
- ☐ TANF (temporary assistance for needy families)
- ☐ Low-income energy assistance
- ☐ Child care subsidy / Child Care & Development Fund assistance
- ☐ Public housing
- ☐ SSI (supplemental security income)
- ☐ Other federal and/or state public assistance: _____

If you checked one of the above, you do not need to fill out the rest of this form. Sign and date page 3.

☒ **Low income.** My household net income is equal to or below 150% of the federal poverty guidelines. *Fill out the information below.*

In my household there are 2 adults (over 18) and 4 children (under 18) for a total of 6 people.

My monthly income (*all numbers should be after taxes are taken out*):

Employment (include tip/overtime)	\$
Unemployment	\$
Retirement / Pension	\$ 10
Social Security	\$
Child Support	\$
YOUR TOTAL	\$ 10

For each adult in the home, list their name and net monthly income (*after taxes*):

My total income (<i>your total from above</i>):	\$ 10
Adult's name: Veronica M Sell	\$ 3416.24
Adult's name:	\$
Adult's name:	\$
Adult's name:	\$
HOUSEHOLD TOTAL	\$ 3426.24

☒ **My basic expenses are more than my income.** *Fill out the charts below.*

My monthly income:

Employment (include tip/overtime)	\$
Unemployment	\$
Retirement / Pension	\$ 10
Social Security	\$
Child Support	\$
TOTAL	\$ 10

My basic monthly expenses:

Rent / Mortgage	\$ 0
Utilities (electric, gas, water, phone, other utilities)	\$ 489.67
Food	\$ 895.00
Child care	\$ 279.99
Medical expenses (health insurance, co-pays, out of pocket expenses)	\$ 847.74
Transportation (bus fare, car, gas, insurance)	\$ 614.18
TOTAL	\$ 3126.58

☒ **Other Compelling Reason.** Explain why you cannot pay the filing fee.

~~Judge Hoskin recently gave 100% of my disability award/pension to defendant as a means to collect a property award judgment. I now only receive \$10 a month from Nevada Pers and I do not qualify for Social Security disability because as a Nevada State employee I did not pay into Federal Social Security.~~

I understand that if approved, the order allowing me to proceed in forma pauperis will be valid for one year. I will have to file a new application to proceed in forma pauperis if I need filing fees and court costs waived after one year.

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

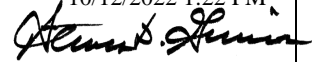
DATED July 29 th, 2022.

Submitted By: (Signature) ▶ /s/ Jesus Arevalo

Printed Name: Jesus Arevalo

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CLERK OF THE COURT

OIFP

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

Jesus Luis Arevalo,
Appellant,

Case No.: D-11-448514-D
Dept.: E

Vs.

Catherin Marie Arevalo, N/K/A
Catherine Marie Delao,
Respondent.

**ORDER GRANTING REQUEST TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

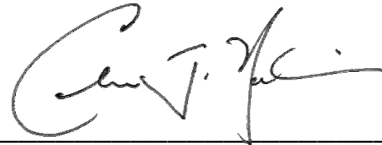
This Court has reviewed this file upon submission of Plaintiff's *Application to Proceed in Forma Pauperis* in the appellate courts. The Court FINDS that NRS 12.015 allows parties to proceed in cases without paying the filing fees and outlines the procedure. In order for this Court to grant a fee waiver this Court must make a finding that the party is unable to pay the filing fee. (See NRS 12.015 (1)(a)).

The COURT FINDS AND ORDERS that Plaintiff's request is GRANTED based on the financial information provided in the Plaintiff's *Application*, and he shall be permitted to proceed in *forma pauperis* without the filing fee. A separate application and order shall be required to waive

1 any additional fees or costs, such as transcripts or recordings of court
2 proceedings. This order shall expire one year from the date this order is
3 filed. Plaintiff shall be required to reapply for any further waivers after the
4 expiration of this order.
5

6
7 IT IS SO ORDERED
8

9 Dated this 12th day of October, 2022

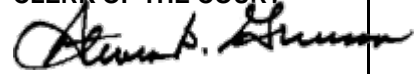
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13 61B FCA 2A05 B1C1
14 Charles J. Hoskin
15 District Court Judge
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MOSC
WILLICK LAW GROUP
MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Phone (702) 438-4100; Fax (702) 438-5311
email@willicklawgroup.com
Attorney for Defendant

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

JESUS LUIS AREVALO,
Plaintiff,

vs.

CATHERINE AREVALO
n/k/a CATHERINE DELAO,
Defendant.

CASE NO: D-11-448514-D
DEPT. NO: E

DATE OF HEARING:
TIME OF HEARING:

ORAL ARGUMENT REQUESTED: Yes ☒ No

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

DEFENDANT'S MOTION FOR:

**ORDER TO SHOW CAUSE WHY PLAINTIFF SHOULD NOT BE HELD
IN CONTEMPT OF COURT FOR FAILURE TO ABIDE BY THE
COURT'S JULY 27, 2022, AMENDED QUALIFIED DOMESTIC
RELATIONS ORDER
AND ATTORNEY'S FEES AND COSTS**

1 **I. INTRODUCTION**

2 Jesus has repeatedly demonstrated that he will do whatever he can to avoid
3 Catherine receiving her share of the PERS pension, having security for those
4 payments (replacing the life insurance policy he refused to get for years), or her
5 receiving any of the large sums of arrears he owes.

6 At the last hearing, the Court gave Jesus 14 additional days to get the required
7 life insurance policy in effect. When he failed to do so, the Court entered an
8 indemnification QDRO which transferred all but \$10 of Jesus's PERS pension to
9 Catherine. She was to get her property share of the pension and the remainder was
10 to build a lump sum in the amount of the required insurance policy and then to satisfy
11 all of the arrearages amassed by Jesus during the litigation of this case for sums he
12 has been ordered, but has refused, to pay.¹

13 The QDRO went into effect in September with Catherine receiving the required
14 payment. However, in October, no payment arrived. A letter was received by
15 Catherine that indicated that Jesus had not completed the required annual Statement
16 of Employment and Earnings.² Nevada PERS indicated in the letter that his benefits
17 had been suspended pending his completion of this annual requirement.

18 On October 27, we sent Jesus a letter demanding that he complete the required
19 form not later than October 31, or we would file a *Motion for Order to Show Cause*.
20 Jesus failed to complete the form.

21 Catherine respectfully seeks entry of an order to show cause as to why Jesus
22 should not be held in contempt for his failure to either complete the required Nevada
23 PERS form or to begin making payments directly to Catherine as required in the
24 QDRO. Catherine seeks contempt sanctions that include a \$500 fine for his failure
25
26

27 ¹ This includes attorney's fees and Nevada PERS arrearages.

28 ² See Exhibit A, letter from Nevada PERS.

1 to abide by the QDRO and immediate coercive incarceration and for Catherine's
2 attorney's fees and costs.

3 4 **II. FACTS**

5 The parties were divorced nearly a decade ago and have been in and out of
6 court continuously since then due to Jesus' repeated refusal to follow Court orders.
7 To promote judicial and party economy we will not repeat the previously detailed
8 statements of fact, which are incorporated by reference. We provide only those facts
9 that have occurred since the last remand from the Nevada Court of Appeals.

10 On March 30, 2021, the Nevada Court of Appeals issued its *Order Affirming*
11 *in Part, Reversing in Part, Dismissing in Part, and Remanding*. Of importance to this
12 *Motion*, the Court of Appeals found that this Court's calculation as to arrears for the
13 PERS benefits was correct, that this Court was to determine if the life insurance
14 policy was subject to the statute of limitations and, if not, that the correct amount of
15 the policy was to be determined, and finally, that this Court make findings in
16 accordance with *Brunzell*³ and *Wright*⁴ for an award of attorney's fees and costs.

17 On April 19, Jesus filed a *Petition for Review by Nevada Supreme Court*.

18 On May 4, the Supreme Court denied the *Petition*.

19 On May 11, this Court issued its *Order after Remand Setting Briefing* that
20 required both Catherine and Jesus to file a brief on the remanded issues not later than
21 June 11.

22 On May 18, The Supreme Court issued its *Remittitur*.

23 On June 11, both Catherine and Jesus filed their required briefs.
24
25
26

27 ³ *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

28 ⁴ *Wright v. Osburn*, 114 Nev. 1367, 970 P.2d 1071 (1998).

1 On June 21, this Court issued its *Order Setting Oral Argument* finding that
2 after reviewing the briefs, Jesus' position was still unclear. The hearing was set for
3 July 7.

4 On July 6, Jesus filed an *Ex Parte Motion to Continue Hearing*, claiming to
5 have been ill and not being afforded enough time to produce the expert witness he
6 believed was necessary for the hearing. He additionally claimed to be in the process
7 of hiring an attorney.⁵

8 On July 7, this Court held the scheduled hearing, heard argument concerning
9 the requested continuance and granted the requested continuance until July 21.

10 On July 21, the Court held the hearing at issue. Catherine and her counsel were
11 present and Jesus appeared in proper person without any expert witness, or counsel,
12 or any other exhibits or evidence to support his position.

13 On July 30, the Court issued its *Order after Remand* which required Jesus to
14 obtain an insurance policy with a face value of \$201,751 naming Catherine as the sole
15 beneficiary. Jesus refused to do so.

16 On August 6, we sent Jesus a letter requiring that he respond by September 9,
17 concerning his obtaining the insurance policy. The letter also detailed a number of
18 financial *Orders* this Court has awarded Catherine and asked that Jesus provide a
19 proposed payment schedule.⁶ Jesus never responded.

20 Nearly another year passed. On June 22, 2022, this Court held a hearing where
21 Jesus was given 14 *additional* days to obtain the life insurance policy or an
22 indemnification QDRO would be entered. The *Order* from that hearing was entered
23 on July 13, 2022.

24
25 ⁵ We note that Jesus has had some kind of excuse for continuing pretty much every hearing
26 in this case, stretching out proceedings for additional months. Excuses have ranged from alleged
27 illness to alleged computer failure to alleged failure of third parties to return calls to Jesus. We
28 expect more of same this time, and request that the Court find *any* excuse inherently non-credible
based on Jesus' history, and refuse to multiply proceedings further.

⁶ See Exhibit B, copy of letter sent to Jesus on August 6, 2021.

1 On July 10, we forwarded the indemnification QDRO to the Court for entry as
2 Jesus still had not obtained the required life insurance policy.

3 On July 27, this Court entered the indemnification QDRO. The first payment
4 as a result of the QDRO was received by Catherine in September.

5 On October 18, Jesus was sent a letter from Nevada PERS that stated his
6 benefit was suspended because he had not completed the required annual Statement
7 of Employment and Earnings for 2021.⁷ Catherine was copied on the letter, but she
8 did not receive the form that he needed to fill out.⁸

9 On October 27, we sent a letter to Jesus demanding that he complete the form
10 by October 31.⁹ He failed to do so.

11 This *Motion* follows.

12 13 **III. ARGUMENT**

14 **A. Motion for Order to Show Cause**

15 **1. Jesus Should be Held in Contempt of Court for failure to** 16 **abide by the Court's July 27, 2022 Amended Qualified** 17 **Domestic Relations Order**

18 The *Qualified Domestic Relations Order* states on page 5 lines 11 through 16:

19 IT IS FURTHER ORDERED that if Jesus takes any steps to merge the
20 retirement divided herein with another retirement program of any kind, or
21 takes any action that prevents, decreases, or limits the collection by Catherine
22 of the sums to be paid hereunder; Jesus shall make payments to Catherine
23 directly in an amount sufficient to neutralize, as to Catherine, the effects of the
24 action taken by Jesus.

25 ⁷ See Exhibit A.

26 ⁸ Please see Exhibit C, a copy of a similar form sent to Jesus in 2015. A review of the
27 Nevada PERS website indicates that Jesus can electronically verify his employment and earnings
28 online in minutes.

⁹ Please see Exhibit D, copy of our letter to Jesus.

1 Here, Jesus has refused to complete the form that would keep the pension in
2 pay status. This is definitionally an “action that prevents, decreases, or limits the
3 collection by Catherine of the sums to be paid....” An inaction can be punished just
4 as an action.¹⁰ Alternatively, he could have avoided contempt by making the payment
5 directly to Catherine of the amounts owed. He failed to do that, either.

6 As a remedy, we ask the Court to order that Jesus complete the form in such
7 a way that it results in resumption of payments to Catherine. If he fails to do so, then
8 he should be fined \$500 immediately for each payment from PERS that is missed and
9 incarcerated until those \$500 payments have been made up and the prospective
10 benefits from PERS are restored.

11 12 **2. Contempt**

13 NRS 22.010 provides in pertinent part:

14 The following acts or omissions shall be deemed contempts:

15 1. Disorderly, contemptuous or insolent behavior toward the judge
16 while the judge is holding court, or engaged in judicial duties at
17 chambers, or toward masters or arbitrators while sitting on a reference
or arbitration, or other judicial proceeding.

18 2. A breach of the peace, boisterous conduct or violent disturbance in
19 the presence of the court, or in its immediate vicinity, tending to
interrupt the due course of the trial or other judicial proceeding.

20 3. ***Disobedience or resistance to any lawful writ, order, rule or***
21 ***process issued by the court or judge at chambers.*** [Emphasis Added]

22 Further, NRS 22.100 dictates the penalties for contempt, as follows:

23 1. Upon the answer and evidence taken, the court or judge or jury, as
24 the case may be, shall determine whether the person proceeded against
is guilty of the contempt charged.

25
26
27 ¹⁰ See *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55 (2004) (addressing what
28 constitutes a “final agency action,” and holding that “[A]gency action” is defined in § 551(13) to
include “the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or
denial thereof, or *failure to act*.” (Emphasis added.)

1 2. Except as otherwise provided in NRS 22.110, if a person is found
2 guilty of contempt, a fine may be imposed on him not exceeding \$500
 or he may be imprisoned not exceeding 25 days, or both.

3 3. In addition to the penalties provided in subsection 2, if a person is
4 found guilty of contempt pursuant to subsection 3 of NRS 22.010, the
5 court may require the person pay to the party seeking to enforce the
 writ, order, rule or process the reasonable expenses, including, without
 limitation, attorneys fees, incurred by the party as a result of the
 contempt.

6 The Court can hold Jesus in contempt of court for his allowing the PERS
7 pension benefits to be suspended and for not making the payments to Catherine “in
8 an amount sufficient to neutralize, as to Catherine, the effects of the action taken by Jesus.”

9
10 **IV. ATTORNEY’S FEES**

11 NRS 22.100(3) authorizes this Court to award attorney’s fees and costs to
12 Catherine for Jesus’ contempt:

13 3. In addition to the penalties provided in subsection 2, if a person is found
14 guilty of contempt pursuant to subsection 3 of NRS 22.010, the court may
15 require the person pay to the party seeking to enforce the writ, order, rule or
 process the reasonable expenses, including, without limitation, attorneys fees,
 incurred by the party as a result of the contempt.

16 Therefore, Catherine requests the Court order Jesus to reimburse Catherine the
17 attorney’s fees and costs for this contempt action.

18
19 **A. Legal Basis**

20 “[I]t is well established in Nevada that attorney’s fees are not recoverable
21 unless allowed by express or implied agreement or when authorized by statute or
22 rule.”¹¹ Attorney’s fees may be awarded in a pre- or post-divorce motion/opposition
23 under NRS 125.150.¹² In addition, and because we believe that Catherine will be the
24 prevailing party in this matter, she should receive an award of attorney’s fees and
25

26
27

 ¹¹ *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

28 ¹² NRS 125.150.

1 costs pursuant to NRS 18.010(2).¹³ In addition to NRS 22.100(3) cited above, this
2 Court can award attorney's fees under EDCR 5.219:

3 Sanctions may be imposed against a party, counsel, or other person, after
4 notice and an opportunity to be heard, for unexcused intentional or negligent
conduct including but not limited to:

5 (a) Presenting a position that is obviously frivolous, unnecessary, or
unwarranted;

6 (b) Multiplying the proceedings in a case so as to increase costs unreasonably
and vexatiously;

7 (c) Failing to prepare for a proceeding;

8 (d) Failing to appear for a proceeding;

(e) Failing or refusing to comply with these rules; or

9 (f) Failing or refusing to comply with any order or directive of the court.¹⁴

10 Here, Jesus has multiplied the proceeding vexatiously and has refused to
11 comply with the orders of this Court.

12 **B. Disparity in Income**

13 The Court is required to "consider" the disparity in the parties' income
14 pursuant to *Miller*¹⁵ and *Wright v. Osburn*.¹⁶ Parties seeking attorney fees in family
15 law cases must support their fee request with affidavits or other evidence that meets
16 the factors in *Brunzell*¹⁷ and *Wright*.¹⁸ We will provide the *Brunzell* analysis below.
17 As to *Wright*, the holding is minimal:

18 The disparity in income is also a factor to be considered in the award of
19 attorney fees. It is not clear that the district court took that factor into
20 consideration.¹⁹

21 ¹³ NRS 18.010(2).

22 ¹⁴ EDCR 5.219.

23 ¹⁵ 121 Nev. 619, 119 P.3d 727 (2005).

24 ¹⁶ 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998).

25 ¹⁷ *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969).

26 ¹⁸ 114 Nev. 1367, 970 P.2d 1071 (1998).

27 ¹⁹ *Id.* at 1370, 970 P.2d at 1073 (1998).

1 The Court did not hold that the decision of the award of attorney’s fees hinged on a
2 disparity in income. Only that it is one of the many factors that must be considered.
3 While Jesus has entered into agreements with his spouse to try to stymie collections,
4 his household income is considerable; this factor is, at most, neutral.

5
6 **C. Brunzell Factors**

7 With specific reference to Family Law matters, the Court has adopted
8 “well-known basic elements,” which in addition to hourly time schedules kept by the
9 attorney, are to be considered in determining the reasonable value of an attorney’s
10 services qualities, commonly referred to as the *Brunzell*²⁰ factors:

- 11 1. *The Qualities of the Advocate*: his ability, his training, education,
experience, professional standing and skill.
- 12 2. *The Character of the Work to Be Done*: its difficulty, its intricacy, its
importance, time and skill required, the responsibility imposed and the
13 prominence and character of the parties where they affect the
importance of the litigation.
- 14 3. *The Work Actually Performed by the Lawyer*: the skill, time and
attention given to the work.
- 15 4. *The Result*: whether the attorney was successful and what benefits
were derived.

16 Each of these factors should be given consideration, and no one element should
17 predominate or be given undue weight.²¹ Additional guidance is provided by
18 reviewing the “attorney’s fees” cases most often cited in Family Law.²²

19 The *Brunzell* factors require counsel to make a representation as to the
20 “qualities of the advocate,” the character and difficulty of the work performed, the
21 work actually performed by the attorney, and the result obtained.
22

23
24

²⁰ 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

25 ²¹ *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

26
27 ²² Discretionary Awards: Awards of fees are neither automatic nor compulsory, but within
the sound discretion of the Court, and evidence must support the request. *Fletcher v. Fletcher*, 89
28 Nev. 540, 516 P.2d 103 (1973); *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980); *Hybarger v.*
Hybarger, 103 Nev. 255, 737 P.2d 889 (1987).

1 First, respectfully, we suggest that the supervising counsel is A/V rated, a
2 peer-reviewed and certified (and re-certified) Fellow of the American Academy of
3 Matrimonial Lawyers, and a Certified Specialist in Family Law.²³

4 Richard L. Crane, Esq., the attorney primarily responsible for drafting this
5 *Motion*, has practiced exclusively in the field of family law for over 15 years under
6 the direct tutelage of supervising counsel, and has substantial experience dealing with
7 complex family law cases.

8 As to the “character and quality of the work performed,” we ask the Court to
9 find our work in this matter to have been adequate, both factually and legally; we
10 have diligently reviewed the applicable law, explored the relevant facts, and believe
11 that we have properly applied one to the other.

12 The fees charged by paralegal staff are reasonable, and compensable, as well.
13 The tasks performed by staff in this case were precisely those that were “some of the
14 work that the attorney would have to do anyway [performed] at substantially less cost
15 per hour.”²⁴ As the Nevada Supreme Court reasoned, “the use of paralegals and other
16 nonattorney staff reduces litigation costs, so long as they are billed at a lower rate,”
17 so “‘reasonable attorney’s fees’ . . . includes charges for persons such as paralegals
18 and law clerks.”

19 Justin K. Johnson, paralegal with the WILICK LAW GROUP, was primarily the
20 paralegal on this case. Justin earned a Certificate of Achievement in Paralegal
21 Studies and was awarded an Associates of Applied Science Degree in 2014 from
22 Everest College. He has been a paralegal for a total of eight years; assisting
23 attorney’s in several aspects of law.

24
25 ²³ Per direct enactment of the Board of Governors of the Nevada State Bar, and independently
26 by the National Board of Trial Advocacy. Mr. Willick was privileged (and tasked) by the Bar to
27 write the examination that other would-be Nevada Family Law Specialists must pass to attain that
status.

28 ²⁴ *LVMPD v. Yeghiazarian*, 129 Nev. 760, 312 P.3d 503 (2013), citing to *Missouri v. Jenkins*,
491 U.S. 274 (1989).

1 The work actually performed will be provided to the Court upon request by
2 way of a *Memorandum of Fees and Costs* (redacted as to confidential information),
3 consistent with the requirements under *Love*.²⁵
4
5

6 **V. CONCLUSION**

7 Based on the above, Catherine requests of the Court the following orders:

- 8 1. Entering the attached Proposed Order to Show Cause (Exhibit “E”)
9 2. Find Jesus in contempt of Court with a \$500 penalty for each violation
10 and set the purge amount at the penalty total plus all missed PERS
11 pension benefits to Catherine.
12 3. Awarding Catherine the entirety of her fees and costs.
13 4. For any other awards this Court deems just and proper.

14 **DATED** this 4th day of November, 2022.

15 Respectfully Submitted By:

16 WILICK LAW GROUP

17 *// s // Richard L. Crane*

18 MARSHAL S. WILICK, ESQ.
19 Nevada Bar No. 2515
20 RICHARD L. CRANE, ESQ.
21 Nevada Bar No. 9536
22 3591 E. Bonanza, Suite 200
23 Las Vegas, Nevada 89110-2101
24 (702) 438-4100 Fax (702) 438-5311
25 Attorneys for Defendant
26
27
28

²⁵ *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998).

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1 7. The factual averments contained in the preceding filing are incorporated herein  
2 as if set forth in full.

3 **I declare under penalty of perjury, under the laws of the State of**  
4 **Nevada and the United State (NRS 53.045 and 28 U.S.C. § 1746),**  
5 **that the foregoing is true and correct.**

6 **EXECUTED** this 4th day of November, 2022.

7 */s/ Catherine Delao<sup>26</sup>*

8 **CATHERINE DELAO**

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<sup>26</sup> Catherine gave the WILICK LAW GROUP permission in writing to e-sign on her behalf.

## CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Willick Law Group and that on this 22<sup>nd</sup> day of September, 2021, I caused the above and foregoing document entitled to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.
- ☐ by First Class, Certified U.S. Mail.

To the persons listed below at the address, email address, and/or facsimile number indicated:

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085  
[wraith702@gmail.com](mailto:wraith702@gmail.com)

Jesus Arevalo  
6935 Aliante Pkwy., Ste. 104 #286  
N. Las Vegas, NV 89084

Jesus Arevalo  
5612 N. Decatur Blvd., Ste. 130  
P.O. Box 321  
Las Vegas, NV 89031

*/s/Justin K. Johnson*

An Employee of the Willick Law Group

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DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

JESUS LUIS AREVALO,  
Plaintiff/Petitioner

-v.-

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant/Respondent

Case No. D-11-448514-D

Department E

**MOTION/OPPOSITION  
FEE INFORMATION SHEET**

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

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

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| <p><input checked="" type="checkbox"/> <b>\$25</b> The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.</p> <p>-Or-</p> <p><input type="checkbox"/> <b>\$0</b> The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:</p> <p><input type="checkbox"/> The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.</p> <p><input type="checkbox"/> The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.</p> <p><input type="checkbox"/> The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.</p> <p><input type="checkbox"/> Other Excluded Motion (must specify) _____.</p> |
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**Step 2.** Select the \$0, \$129 or \$57 filing fee in the box below.

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| <p><input checked="" type="checkbox"/> <b>\$0</b> The Motion/Opposition being filed with this form is <b>not</b> subject to the \$129 or the \$57 fee because:</p> <p><input checked="" type="checkbox"/> The Motion/Opposition is being filed in a case that was not initiated by joint petition.</p> <p><input type="checkbox"/> The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.</p> <p>-Or-</p> <p><input type="checkbox"/> <b>\$129</b> The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.</p> <p>-Or-</p> <p><input type="checkbox"/> <b>\$57</b> The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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

|                                                                                                                                                                                                                                                                                                                                       |
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| <p>The total filing fee for the motion/opposition I am filing with this form is:</p> <p><input type="checkbox"/> <b>\$0</b> <input checked="" type="checkbox"/> <b>\$25</b> <input type="checkbox"/> <b>\$57</b> <input type="checkbox"/> <b>\$82</b> <input type="checkbox"/> <b>\$129</b> <input type="checkbox"/> <b>\$154</b></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

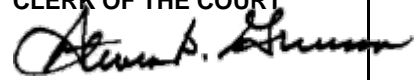
Party filing Motion/Opposition: Willick Law Group Date: 11/4/22

Signature of Party or Preparer: /s/ Justin K. Johnson

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**EXHS**  
WILICK LAW GROUP  
MARSHAL S. WILICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, NV 89110-2101  
Phone (702) 438-4100; Fax (702) 438-5311  
email@willicklawgroup.com  
Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING:  
TIME OF HEARING:

**EXHIBITS TO  
DEFENDANT'S MOTION FOR:  
ORDER TO SHOW CAUSE WHY PLAINTIFF SHOULD NOT BE HELD  
IN CONTEMPT OF COURT FOR FAILURE TO ABIDE BY THE  
COURT'S JULY 27, 2022, AMENDED QUALIFIED DOMESTIC  
RELATIONS ORDER  
AND ATTORNEY'S FEES AND COSTS**

Catherine Delao, by and through her attorneys of the WILICK LAW GROUP hereby submits the following as exhibits to her *Defendant's Motion For: Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court for Failure to*

1 *Abide by the Court's July 27, 2022, Amended Qualified Domestic Relations Order*  
2 *and Attorney's Fees and Costs, filed November 7, 2022.*

3 **Exhibit A.** Letter from Nevada PERS indicating that Jesus had not completed  
4 the required annual Statement of Employment and Earnings.  
5 **(Bates Stamp No. 000356CD)**

6 **Exhibit B.** Copy of our letter sent to Jesus re: his obtaining the insurance  
7 policy, on August 6, 2021.  
8 **(Bates Stamp Nos. 000357CD - 000363CD)**

9 **Exhibit C.** Copy of a Statement of Employment and Earnings form sent to  
10 Jesus in 2015.  
11 **(Bates Stamp No. 000199CD)**

12 **Exhibit D.** Copy of our letter to Jesus re: demanding that he complete the  
13 Statement of Employment and Earnings form.  
14 **(Bates Stamp Nos. 000365CD - 000367CD)**

15 **Exhibit E.** Proposed *Order to Show Cause*, submitted to the Court's Inbox  
16 contemporaneously with this filing.

17 **DATED** this 4th day of November, 2022.

18 Respectfully Submitted By:  
19 WILICK LAW GROUP

20 *// s // Richard L. Crane*

21 MARSHAL S. WILICK, ESQ.  
22 Nevada Bar No. 2515  
23 RICHARD L. CRANE, ESQ.  
24 Nevada Bar No. 9536  
25 3591 E. Bonanza, Suite 200  
26 Las Vegas, Nevada 89110-2101  
27 (702) 438-4100 Fax (702) 438-5311  
28 Attorneys for Defendant

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## CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Willick Law Group and that on this 4th day of November, 2022, I caused the above and foregoing document entitled to be served as follows:

- [ X ] Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- [X] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- [ ] pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- [ ] by hand delivery with signed Receipt of Copy.
- [ ] by First Class, Certified U.S. Mail.

To the persons listed below at the address, email address, and/or facsimile number indicated:

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085  
[wraith702@gmail.com](mailto:wraith702@gmail.com)

Jesus Arevalo  
6935 Aliante Pkwy., Ste. 104 #286  
N. Las Vegas, NV 89084

Jesus Arevalo  
5612 N. Decatur Blvd., Ste. 130  
P.O. Box 321  
Las Vegas, NV 89031

/s/Justin K. Johnson

An Employee of the Willick Law Group

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**EXHIBIT “A”**

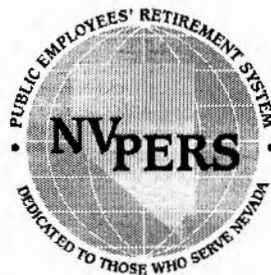
**EXHIBIT “A”**

**EXHIBIT “A”**

**Retirement Board**

Timothy M. Ross  
Chair  
Yolanda T. King  
Vice Chair

Dawn E. Huckaby  
Todd H. Ingalsbee  
Norma Santoyo  
Mark Stevens  
Brian A. Wallace



**Executive Staff**

Tina Leiss  
Executive Officer

Kabrina Feser  
Operations Officer

Steve Edmundson  
Chief Investment  
Officer

October 18, 2022


Mr. Jesus L Arevalo  
4233 Galapagos Ave  
North Las Vegas, NV 89084

Dear Mr. Arevalo:

Please be advised that your Disability has been suspended. We have not received your 2021 Statement of Employment and Earnings. Please complete and return the attached form to reinstate your disability benefit.

Should you have any questions, please contact us and ask to speak with a Counseling Services Representative.

Sincerely,

  
Charyl Lacombe  
Production and Pension Services

Cc: Catherine Delao, Alternate Payee ✓

**EXHIBIT “B”**

**EXHIBIT “B”**

**EXHIBIT “B”**



## WILLICK LAW GROUP

A DOMESTIC RELATIONS & FAMILY LAW FIRM  
3591 EAST BONANZA ROAD, SUITE 200  
LAS VEGAS, NV 89110-2101  
PHONE (702) 438-4100 • FAX (702) 438-5311  
WWW.WILLICKLAWGROUP.COM

### ATTORNEYS

MARSHALL S. WILLICK \*†‡❖  
TREVOR M. CREEL  
LORIEN K. COLE ❖

\* ALSO ADMITTED IN CALIFORNIA (INACTIVE)  
† FELLOW, AMERICAN ACADEMY OF MATRIMONIAL LAWYERS  
‡ FELLOW, INTERNATIONAL ACADEMY OF FAMILY LAWYERS  
❖ NEVADA BOARD CERTIFIED FAMILY LAW SPECIALIST  
❖ BOARD CERTIFIED FAMILY LAW TRIAL ADVOCATE  
BY THE NATIONAL BOARD OF TRIAL ADVOCACY



### LEGAL ASSISTANTS

DEISY MARTINEZ-VIERA  
MARY STEELE  
BRENDA GRAGEOLA  
JUSTIN K. JOHNSON  
VICTORIA JAVIEL  
MALLORY YEARGAN  
KRISTINA M. MARCUS

### FIRM ADMINISTRATOR

FAITH FISH

### E-MAIL ADDRESSES:

(FIRST NAME OF INTENDED RECIPIENT)@WILLICKLAWGROUP.COM

August 6, 2021

Jesus Arevalo  
6935 Aliante Pkwy., Ste. 104 #286  
N. Las Vegas, NV 89084

Jesus Arevalo  
5612 N. Decatur Blvd., Ste. 130  
P.O. Box 321  
Las Vegas, NV 89031

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085

**Re: *Jesus Luis Arevalo v. Catherine DeLao*, Case No. D-11-448514-D**  
Sent via e-service ONLY to [wrath702@gmail.com](mailto:wrath702@gmail.com) and [vinni702@yahoo.com](mailto:vinni702@yahoo.com)

Dear Mr. Arevalo:

By now you've received the *Order After Remand* entered by Judge Hoskin on July 30, 2021. The Judge ordered you to obtain a life insurance policy in the amount of \$201,751<sup>1</sup> that names Ms. Delao as the sole beneficiary. Please provide our office proof that you've secured the life insurance policy by September 9, 2021, and that she is named as the beneficiary. You will be required to prove that she remains the beneficiary without a change in designation at any time Ms. Delao requests.

If we do not hear from you, we will assume that you do not intend to comply with the Court's *Order* and will request that the Court allow Ms. Delao to obtain the policy on your life with you paying the

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<sup>1</sup> Please see page 12, line 19-22, of the *Order After Remand*.

cost. If you fail to cooperate with obtaining, or paying for, the policy, we will have to seek the cost by way of an Indemnification QDRO, or obtain other security.

Additionally, we need you to provide a schedule within the next week for how you intend to satisfy the following judgments:

- i. **Order from February 19, 2019:**
  - (1) Attorney's Fees \$4,210 (minus \$750) = \$3,460 plus interest from February 19, 2019 forward.
  - (2) Sanctions \$1,250, plus interest from February 19, 2019 forward.
- ii. **Order from May 6, 2020 Hearing:**
  - (1) Attorney's Fees \$2,850, plus interest from May 6, 2020 forward.
  - (2) Reimbursement of 2017 tax benefits: \$1,420, plus interest from May 6, 2020 forward.
  - (3) PERS Pension arrears of \$446.99/month from February 1, 2014 through November 1, 2016, \$455.93/month from December 1, 2016 through November 1, 2019, and \$488.58/month from December 1, 2019 through September 1, 2020, plus interest.
- iii. **Order from August 15, 2020:**
  - (1) Attorney's Fees deferred pending appeal (at issue for this hearing).<sup>2</sup>
- iv. Defendant's Motion for Order to Show Cause filed January 15, 2021:
  - (1) \$57.50 for half of Louie's eye doctor/glasses bill from March 18, 2020, plus interest.
  - (2) \$44.08 for half of Louie's pediatrician co-pay from March 24, 2020, plus interest.
  - (3) \$247.50 for your portion of Louie's dyslexia testing from July 27, 2020, plus interest.
- v. **Order from March 23, 2021:**
  - (1) Attorney's Fees \$5,245, plus interest from March 23, 2021 forward.

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<sup>2</sup> This amount will be added to the judgments listed below once received from the Court.

Jesus Arevalo  
August 6, 2021  
Page 3

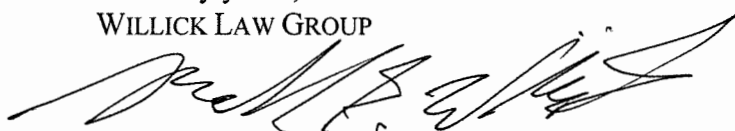
The Nevada Supreme Court held in *Reed*<sup>3</sup> and *Kennedy*<sup>4</sup>:

liquidation of a judgment for arrearages may be scheduled in any manner the district court deems proper under the circumstances. See also *Chesler v. Chesler*, 87 Nev. 335, 486 P.2d 1198 (1971). California law also permits the judge to order that discharge of a judgment for arrearages be made in installment payments. See *Messenger v. Messenger*, 46 Cal.2d 619, 297 P.2d 988 (1956).<sup>5</sup>

TOTAL: \$61,680.30 if paid on July 5, 2021, accruing interest at \$7.34 per day.<sup>6</sup>

If you fail to provide a reasonable payment schedule within the next week, we will presume that you have no intention of satisfying these debts and will seek the same Indemnification QDRO to satisfy this debt as well.

Sincerely yours,  
WILICK LAW GROUP

A handwritten signature in black ink, appearing to read 'Marshal S. Willick', written over the typed name below.

Marshal S. Willick, Esq.

P:\wp19\DELAO,C\CORRESPOND\00512529.WPD/my

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<sup>3</sup> *Reed v. Reed*, 88 Nev. 329, 497 P.2d 896 (1972).

<sup>4</sup> *Kennedy v. Kennedy*, 98 Nev. 318, 646 P.2d 1226 (1982).

<sup>5</sup> Quote taken from *Kennedy* which cited to *Reed*.

<sup>6</sup> See MLAW calculation attached.

## Arrearage Calculation Summary

**Arevalo v. DeLao**

Page: 1

Report Date: 08/05/2021

## Summary of Amounts Due

|                                         |             |
|-----------------------------------------|-------------|
| Total Principal Due 08/05/2021:         | \$51,071.02 |
| Total Interest Due 08/05/2021:          | \$10,609.28 |
| Total Penalty Due 08/05/2021:           | \$0.00      |
| Amount Due if paid on 08/05/2021:       | \$61,680.30 |
| Amount Due if paid on 08/06/2021:       | \$61,687.64 |
| Daily Amount accruing as of 08/06/2021: | \$7.34      |

| Date Due   | Amount Due | Date Received | Amount Received | Accum. Arrearage | Accum. Interest |
|------------|------------|---------------|-----------------|------------------|-----------------|
| 02/01/2014 | 446.99     | 02/01/2014    | 0.00            | 446.99           | 0.00            |
| 03/01/2014 | 446.99     | 03/01/2014    | 0.00            | 893.98           | 1.80            |
| 04/01/2014 | 446.99     | 04/01/2014    | 0.00            | 1,340.97         | 5.78            |
| 05/01/2014 | 446.99     | 05/01/2014    | 0.00            | 1,787.96         | 11.57           |
| 06/01/2014 | 446.99     | 06/01/2014    | 0.00            | 2,234.95         | 19.54           |
| 07/01/2014 | 446.99     | 07/01/2014    | 0.00            | 2,681.94         | 29.18           |
| 08/01/2014 | 446.99     | 08/01/2014    | 0.00            | 3,128.93         | 41.14           |
| 09/01/2014 | 446.99     | 09/01/2014    | 0.00            | 3,575.92         | 55.09           |
| 10/01/2014 | 446.99     | 10/01/2014    | 0.00            | 4,022.91         | 70.52           |
| 11/01/2014 | 446.99     | 11/01/2014    | 0.00            | 4,469.90         | 88.46           |
| 12/01/2014 | 446.99     | 12/01/2014    | 0.00            | 4,916.89         | 107.75          |
| 01/01/2015 | 446.99     | 01/01/2015    | 0.00            | 5,363.88         | 129.67          |
| 02/01/2015 | 446.99     | 02/01/2015    | 0.00            | 5,810.87         | 153.59          |
| 03/01/2015 | 446.99     | 03/01/2015    | 0.00            | 6,257.86         | 176.99          |
| 04/01/2015 | 446.99     | 04/01/2015    | 0.00            | 6,704.85         | 204.90          |
| 05/01/2015 | 446.99     | 05/01/2015    | 0.00            | 7,151.84         | 233.83          |
| 06/01/2015 | 446.99     | 06/01/2015    | 0.00            | 7,598.83         | 265.72          |
| 07/01/2015 | 446.99     | 07/01/2015    | 0.00            | 8,045.82         | 298.51          |
| 08/01/2015 | 446.99     | 08/01/2015    | 0.00            | 8,492.81         | 334.38          |
| 09/01/2015 | 446.99     | 09/01/2015    | 0.00            | 8,939.80         | 372.25          |
| 10/01/2015 | 446.99     | 10/01/2015    | 0.00            | 9,386.79         | 410.83          |
| 11/01/2015 | 446.99     | 11/01/2015    | 0.00            | 9,833.78         | 452.68          |
| 12/01/2015 | 446.99     | 12/01/2015    | 0.00            | 10,280.77        | 495.12          |

|            |        |            |      |           |          |
|------------|--------|------------|------|-----------|----------|
| 01/01/2016 | 446.99 | 01/01/2016 | 0.00 | 10,727.76 | 540.96   |
| 02/01/2016 | 446.99 | 02/01/2016 | 0.00 | 11,174.75 | 590.93   |
| 03/01/2016 | 446.99 | 03/01/2016 | 0.00 | 11,621.74 | 639.63   |
| 04/01/2016 | 446.99 | 04/01/2016 | 0.00 | 12,068.73 | 693.77   |
| 05/01/2016 | 446.99 | 05/01/2016 | 0.00 | 12,515.72 | 748.18   |
| 06/01/2016 | 446.99 | 06/01/2016 | 0.00 | 12,962.71 | 806.48   |
| 07/01/2016 | 446.99 | 07/01/2016 | 0.00 | 13,409.70 | 864.92   |
| 08/01/2016 | 446.99 | 08/01/2016 | 0.00 | 13,856.69 | 927.39   |
| 09/01/2016 | 446.99 | 09/01/2016 | 0.00 | 14,303.68 | 991.94   |
| 10/01/2016 | 446.99 | 10/01/2016 | 0.00 | 14,750.67 | 1,056.42 |
| 11/01/2016 | 446.99 | 11/01/2016 | 0.00 | 15,197.66 | 1,125.14 |
| 12/01/2016 | 455.93 | 12/01/2016 | 0.00 | 15,653.59 | 1,193.65 |
| 01/01/2017 | 455.93 | 01/01/2017 | 0.00 | 16,109.52 | 1,266.58 |
| 02/01/2017 | 455.93 | 02/01/2017 | 0.00 | 16,565.45 | 1,345.25 |
| 03/01/2017 | 455.93 | 03/01/2017 | 0.00 | 17,021.38 | 1,418.32 |
| 04/01/2017 | 455.93 | 04/01/2017 | 0.00 | 17,477.31 | 1,501.44 |
| 05/01/2017 | 455.93 | 05/01/2017 | 0.00 | 17,933.24 | 1,584.04 |
| 06/01/2017 | 455.93 | 06/01/2017 | 0.00 | 18,389.17 | 1,671.62 |
| 07/01/2017 | 455.93 | 07/01/2017 | 0.00 | 18,845.10 | 1,758.53 |
| 08/01/2017 | 455.93 | 08/01/2017 | 0.00 | 19,301.03 | 1,858.56 |
| 09/01/2017 | 455.93 | 09/01/2017 | 0.00 | 19,756.96 | 1,961.01 |
| 10/01/2017 | 455.93 | 10/01/2017 | 0.00 | 20,212.89 | 2,062.51 |
| 11/01/2017 | 455.93 | 11/01/2017 | 0.00 | 20,668.82 | 2,169.80 |
| 12/01/2017 | 455.93 | 12/01/2017 | 0.00 | 21,124.75 | 2,275.98 |
| 01/01/2018 | 455.93 | 01/01/2018 | 0.00 | 21,580.68 | 2,388.11 |
| 02/01/2018 | 455.93 | 02/01/2018 | 0.00 | 22,036.61 | 2,507.25 |
| 03/01/2018 | 455.93 | 03/01/2018 | 0.00 | 22,492.54 | 2,617.13 |
| 04/01/2018 | 455.93 | 04/01/2018 | 0.00 | 22,948.47 | 2,741.30 |
| 05/01/2018 | 455.93 | 05/01/2018 | 0.00 | 23,404.40 | 2,863.90 |
| 06/01/2018 | 455.93 | 06/01/2018 | 0.00 | 23,860.33 | 2,993.11 |
| 07/01/2018 | 455.93 | 07/01/2018 | 0.00 | 24,316.26 | 3,120.58 |
| 08/01/2018 | 455.93 | 08/01/2018 | 0.00 | 24,772.19 | 3,265.14 |
| 09/01/2018 | 455.93 | 09/01/2018 | 0.00 | 25,228.12 | 3,412.42 |
| 10/01/2018 | 455.93 | 10/01/2018 | 0.00 | 25,684.05 | 3,557.57 |
| 11/01/2018 | 455.93 | 11/01/2018 | 0.00 | 26,139.98 | 3,710.27 |
| 12/01/2018 | 455.93 | 12/01/2018 | 0.00 | 26,595.91 | 3,860.66 |
| 01/01/2019 | 455.93 | 01/01/2019 | 0.00 | 27,051.84 | 4,018.78 |
| 02/01/2019 | 455.93 | 02/01/2019 | 0.00 | 27,507.77 | 4,191.09 |

VOLUME IV

RA000741

|            |           |            |      |           |           |
|------------|-----------|------------|------|-----------|-----------|
| 02/19/2019 | 3,460.00  | 02/19/2019 | 0.00 | 30,967.77 | 4,292.84  |
| 02/19/2019 | 1,250.00  | 02/19/2019 | 0.00 | 32,217.77 | 4,292.84  |
| 03/01/2019 | 455.93    | 03/01/2019 | 0.00 | 32,673.70 | 4,359.04  |
| 04/01/2019 | 455.93    | 04/01/2019 | 0.00 | 33,129.63 | 4,567.16  |
| 05/01/2019 | 455.93    | 05/01/2019 | 0.00 | 33,585.56 | 4,771.39  |
| 06/01/2019 | 455.93    | 06/01/2019 | 0.00 | 34,041.49 | 4,985.32  |
| 07/01/2019 | 455.93    | 07/01/2019 | 0.00 | 34,497.42 | 5,195.17  |
| 08/01/2019 | 455.93    | 08/01/2019 | 0.00 | 34,953.35 | 5,414.91  |
| 09/01/2019 | 455.93    | 09/01/2019 | 0.00 | 35,409.28 | 5,637.56  |
| 10/01/2019 | 455.93    | 10/01/2019 | 0.00 | 35,865.21 | 5,855.84  |
| 11/01/2019 | 455.93    | 11/01/2019 | 0.00 | 36,321.14 | 6,084.29  |
| 12/01/2019 | 488.58    | 12/01/2019 | 0.00 | 36,809.72 | 6,308.19  |
| 01/01/2020 | 488.58    | 01/01/2020 | 0.00 | 37,298.30 | 6,542.66  |
| 02/01/2020 | 488.58    | 02/01/2020 | 0.00 | 37,786.88 | 6,755.90  |
| 03/01/2020 | 488.58    | 03/01/2020 | 0.00 | 38,275.46 | 6,958.00  |
| 03/18/2020 | 57.50     | 03/18/2020 | 0.00 | 38,332.96 | 7,078.01  |
| 03/24/2020 | 44.08     | 03/24/2020 | 0.00 | 38,377.04 | 7,120.42  |
| 04/01/2020 | 488.58    | 04/01/2020 | 0.00 | 38,865.62 | 7,177.04  |
| 05/01/2020 | 488.58    | 05/01/2020 | 0.00 | 39,354.20 | 7,392.08  |
| 05/06/2020 | 2,850.00  | 05/06/2020 | 0.00 | 42,204.20 | 7,428.37  |
| 05/06/2020 | 1,420.00  | 05/06/2020 | 0.00 | 43,624.20 | 7,428.37  |
| 06/01/2020 | 488.58    | 06/01/2020 | 0.00 | 44,112.78 | 7,637.55  |
| 07/01/2020 | 488.58    | 07/01/2020 | 0.00 | 44,601.36 | 7,881.62  |
| 07/27/2020 | 247.50    | 07/27/2020 | 0.00 | 44,848.86 | 8,047.96  |
| 08/01/2020 | 488.58    | 08/01/2020 | 0.00 | 45,337.44 | 8,080.13  |
| 09/01/2020 | 488.58    | 09/01/2020 | 0.00 | 45,826.02 | 8,281.73  |
| 01/01/2021 | 0.00      | 01/01/2021 | 0.00 | 45,826.02 | 9,083.68  |
| 03/23/2021 | 5,245.00  | 03/23/2021 | 0.00 | 51,071.02 | 9,617.59  |
| 07/01/2021 | 0.00      | 07/01/2021 | 0.00 | 51,071.02 | 10,352.17 |
| 08/05/2021 | 0.00      | 08/05/2021 | 0.00 | 51,071.02 | 10,609.28 |
| Totals     | 51,071.02 |            | 0.00 | 51,071.02 | 10,609.28 |

\* Indicates a payment due is designated as child support.

**Notes:**

Payments are applied to oldest unpaid balance.

Interest and penalties are calculated using number of days past due.

Payments apply to principal amounts only.

Interest is not compounded, but accrued only.

Penalties calculated on past due child support amounts per NRS 125B.095.

**Interest Rates Used by Program:**

|        |                           |  |        |                           |
|--------|---------------------------|--|--------|---------------------------|
| 7.00%  | from Jan 1960 to Jun 1979 |  | 8.00%  | from Jul 1979 to Jun 1981 |
| 12.00% | from Jul 1981 to Jun 1987 |  | 10.25% | from Jul 1987 to Dec 1987 |
| 10.75% | from Jan 1988 to Jun 1988 |  | 11.00% | from Jul 1988 to Dec 1988 |
| 12.50% | from Jan 1989 to Jun 1989 |  | 13.00% | from Jul 1989 to Dec 1989 |
| 12.50% | from Jan 1990 to Jun 1990 |  | 12.00% | from Jul 1990 to Jun 1991 |
| 10.50% | from Jul 1991 to Dec 1991 |  | 8.50%  | from Jan 1992 to Dec 1992 |
| 8.00%  | from Jan 1993 to Jun 1994 |  | 9.25%  | from Jul 1994 to Dec 1994 |
| 10.50% | from Jan 1995 to Jun 1995 |  | 11.00% | from Jul 1995 to Dec 1995 |
| 10.50% | from Jan 1996 to Jun 1996 |  | 10.25% | from Jul 1996 to Jun 1997 |
| 10.50% | from Jul 1997 to Dec 1998 |  | 9.75%  | from Jan 1999 to Dec 1999 |
| 10.25% | from Jan 2000 to Jun 2000 |  | 11.50% | from Jul 2000 to Jun 2001 |
| 8.75%  | from Jul 2001 to Dec 2001 |  | 6.75%  | from Jan 2002 to Dec 2002 |
| 6.25%  | from Jan 2003 to Jun 2003 |  | 6.00%  | from Jul 2003 to Dec 2003 |
| 6.00%  | from Jan 2004 to Jun 2004 |  | 6.25%  | from Jul 2004 to Dec 2004 |
| 7.25%  | from Jan 2005 to Jun 2005 |  | 8.25%  | from Jul 2005 to Dec 2005 |
| 9.25%  | from Jan 2006 to Jun 2006 |  | 10.25% | from Jul 2006 to Dec 2007 |
| 9.25%  | from Jan 2008 to Jun 2008 |  | 7.00%  | from Jul 2008 to Dec 2008 |
| 5.25%  | from Jan 2009 to Dec 2012 |  | 5.25%  | from Jan 2013 to Jun 2013 |
| 5.25%  | from Jul 2013 to Dec 2013 |  | 5.25%  | from Jan 2014 to Jun 2014 |
| 5.25%  | from Jul 2014 to Dec 2014 |  | 5.25%  | from Jan 2015 to Jun 2015 |
| 5.25%  | from Jul 2015 to Dec 2015 |  | 5.50%  | from Jan 2016 to Jun 2016 |
| 5.50%  | from Jul 2016 to Dec 2016 |  | 5.75%  | from Jan 2017 to Jun 2017 |
| 6.25%  | from Jul 2017 to Dec 2017 |  | 6.50%  | from Jan 2018 to Jun 2018 |
| 7.00%  | from Jul 2018 to Jan 2019 |  | 7.50%  | from Jan 2019 to Jun 2019 |
| 7.50%  | from Jul 2019 to Dec 2019 |  | 6.75%  | from Jan 2020 to Jun 2020 |
| 5.25%  | from Jul 2020 to Dec 2020 |  | 5.25%  | from Jan 2021 to Jun 2021 |
| 5.25%  | from Jul 2021 to Dec 2021 |  |        |                           |

Report created by:

Marshal Law version 4.0

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Willick Law Group - [richard@willicklawgroup.com](mailto:richard@willicklawgroup.com) - (702) 438-4100

\*End of Report\*

**EXHIBIT “C”**

**EXHIBIT “C”**

**EXHIBIT “C”**



## Retirement Board

Mark R. Vincent  
Chairman  
Katherine Dag  
Vice Chairmen

Al Martinez  
Rusty McAllister  
Aubrey Noriega  
David Olsen  
Timothy M. Ross



## Executive Staff

Tina M. Leake  
Executive Officer

Cheryl Price  
Operations Officer

Steve Edmundson  
Investment Officer

# STATEMENT OF EMPLOYMENT AND EARNINGS BENEFIT SUSPENSION NOTICE

OCTOBER 9, 2015

Jesus L. Arevalo  
6212 N Decatur Blvd, Ste 130-321  
LAS VEGAS, NV 89131

Disability retirees are required by Public Employees' Retirement Board Policy to provide information about employment and earnings after retirement. This information is used to assist the Retirement System in the proper administration of its disability retirement program. Any person who makes a false statement by executing this Statement of Employment and Earnings Form may be subject to prosecution for a gross misdemeanor as provided in NRS 286.820.

Instructions: Place your initials on the line provided in the section below that applies to you. Choose ONE section only. Sign and return the form to PERS no later than November 12, 2015. Failure to return this form by November 12, 2015 will result in benefit suspension!

### SECTION 1 \_\_\_\_\_ (initial)

I did not work in any capacity during the 2014 calendar year. (Do not include the job from which you were found to be disabled.)

### SECTION 2 \_\_\_\_\_ (initial)

I did work in the 2014 calendar year and I did receive approval from the PERS Board for this employment.

Name of your employer/s and position/s: \_\_\_\_\_  
Total employment related earnings for the 2014 calendar year, \$ \_\_\_\_\_

### SECTION 3 \_\_\_\_\_ (initial)

I did work in the 2014 calendar year but I did not receive PERS Board approval for this employment. Please send me a Disability Reemployment Application so that I may apply for retroactive approval for my reemployment.

I hereby attest that the information which I have supplied is, to the best of my knowledge and recollection, complete and truthful. I understand that any intentionally false or incomplete information given above could result in the suspension of my disability benefit by the Public Employees' Retirement System.

Disability Retiree Signature \_\_\_\_\_

Date \_\_\_\_\_

3820 S. Eastern Avenue, Suite 220  
Las Vegas, NV 89119  
(702) 486-3900  
Fax: (702) 678-6924

693 W. Nye Lane  
Carson City, NV 89703  
(775) 687-4200  
Fax: (775) 687-5131

7455 W. Washington Avenue, Suite 150  
Las Vegas, NV 89128  
(702) 486-3900  
Fax: (702) 304-0697

Toll Free: 1-866-474-7468 Website: www.nvpers.org

VOLUME IV

R000009745

**EXHIBIT “D”**

**EXHIBIT “D”**

**EXHIBIT “D”**

## WILICK LAW GROUP

A DOMESTIC RELATIONS & FAMILY LAW FIRM  
3591 EAST BONANZA ROAD, SUITE 200  
LAS VEGAS, NV 89110-2101  
PHONE (702) 438-4100 • FAX (702) 438-5311  
WWW.WILICKLAWGROUP.COM

### ATTORNEYS

MARSHALL S. WILICK \*†‡❖®  
TREVOR M. CREEL  
DARCY L. BOWER

\* ALSO ADMITTED IN CALIFORNIA (INACTIVE)  
† FELLOW, AMERICAN ACADEMY OF MATRIMONIAL LAWYERS  
‡ FELLOW, INTERNATIONAL ACADEMY OF FAMILY LAWYERS  
❖ NEVADA BOARD CERTIFIED FAMILY LAW SPECIALIST  
® BOARD CERTIFIED FAMILY LAW TRIAL ADVOCATE  
BY THE NATIONAL BOARD OF TRIAL ADVOCACY



### LEGAL ASSISTANTS

DEISY MARTINEZ-VIERA  
MARY STEELE  
BRENDA GRAGEOLA  
JUSTIN K. JOHNSON  
VICTORIA JAVIEL  
KRISTINA M. MARCUS  
STEPHANIE PITTS

### FIRM ADMINISTRATOR

FAITH FISH

### E-MAIL ADDRESSES:

[FIRST NAME OF INTENDED RECIPIENT]@WILICKLAWGROUP.COM

---

October 27, 2022

Jesus Arevalo  
6935 Aliante Pkwy., Ste 104 #286  
N. Las Vegas, NV 89084

Jesus Arevalo  
5612 N. Decatur Blvd., Ste 130  
P.O. Box 321  
Las Vegas, NV 89031

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085

Mr. Jesus L. Arevalo  
4233 Galapagoes Ave.  
N. Las Vegas, NV 89084

**Re: Jesus Luis Arevalo v. Catherine DeLao, Case No. D-11-448514-D**  
**Sent via e-service ONLY to [wraith702@gmail.com](mailto:wraith702@gmail.com) and [vinni702@yahoo.com](mailto:vinni702@yahoo.com)**

Dear Mr. Arevalo:

We have been copied with a letter sent to you by Nevada PERS that indicates that you have not completed your annual requirement to submit your Statement of Employment and Earnings (a copy of which was included in letter). Please complete and submit the same immediately.

If it is your intention to not complete this letter – and failure to do so not later than Monday, October 31, 2022, will be taken as refusal to do so – we will be forced to go back to Court and hold you in

Jesus Arevalo  
October 27, 2022  
Page 2

contempt. We will be asking the Court to incarcerate you until you complete the appropriate form and we will seek additional attorney's fees for having to go back to Court.

As it stands, it will be many years before you see a dollar of this pension. Further awards of fees and costs only extends this delay in your seeing pension benefits. Additionally, your incarceration can be for whatever period of time you refuse to complete the required paperwork.

It is clear that the Court is tired of your games. We would expect that any further attempt to disrupt the payment of benefits to Ms. Delao will be dealt with harshly.

Your attention to this matter is critical. Do not delay in addressing this as we will file the contempt motion immediately if you do not show proof of compliance. This letter is sent in accordance with EDCR 5.501.

WILLICK LAW GROUP

*// s // Richard L. Crane*  
Richard L. Crane, Esq.

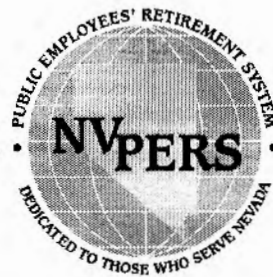
cc: Ms. Catherine Delao

P:\wp19\DELAO,C\CORRESPOND\00589098.WPD\jj

**Retirement Board**

Timothy M. Ross  
Chair  
Yolanda T. King  
Vice Chair

Dawn E. Huckaby  
Todd H. Ingalsbee  
Norma Santoyo  
Mark Stevens  
Brian A. Wallace



**Executive Staff**

Tina Leiss  
Executive Officer

Kabrina Feser  
Operations Officer

Steve Edmundson  
Chief Investment  
Officer

October 18, 2022


Mr. Jesus L Arevalo  
4233 Galapagos Ave  
North Las Vegas, NV 89084

Dear Mr. Arevalo:

Please be advised that your Disability has been suspended. We have not received your 2021 Statement of Employment and Earnings. Please complete and return the attached form to reinstate your disability benefit.

Should you have any questions, please contact us and ask to speak with a Counseling Services Representative.

Sincerely,

  
Charyl Lacombe  
Production and Pension Services

Cc: Catherine Delao, Alternate Payee ✓

**EXHIBIT “E”**

**EXHIBIT “E”**

**EXHIBIT “E”**

1 **OSC**  
2 WILLICK LAW GROUP  
3 MARSHAL S. WILLICK, ESQ.  
4 Nevada Bar No. 002515  
5 3591 E. Bonanza Road, Suite 200  
6 Las Vegas, NV 89110-2101  
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9 Attorney for Defendant  
10

11 **DISTRICT COURT**  
12 **FAMILY DIVISION**  
13 **CLARK COUNTY, NEVADA**  
14

15 JESUS LUIS AREVALO,  
16 Plaintiff,  
17

18 vs.

19 CATHERINE AREVALO  
20 n/k/a CATHERINE DELAO,  
21 Defendant.  
22

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING:  
TIME OF HEARING:

23 **ORDER TO SHOW CAUSE**

24 Upon *Motion* of Defendant, Catherine Delao, by and through her counsel of the  
25 WILLICK LAW GROUP, and good cause appearing thereof:

26 It is hereby ordered, adjudged, and decreed that Plaintiff, Jesus Luis Arevalo,  
27 shall personally appear on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_, at the hour of  
28 \_\_\_\_\_, before Department E of the Eighth Judicial District Court, Family  
Division, located at 601 North Pecos Road, Las Vegas, Nevada 89101, and show  
cause, if any exists:

1. Why he should not be found and held in contempt for his actions that resulted  
in the suspension of the PERS benefits payable to Catherine and his failure to  
make up any financial difference due to his actions.

- 1 2. Why he should not be sanctioned and/or incarcerated to compel his  
2 cooperation in getting the benefits re-started and to keep the pension in pay  
3 status.
- 4 3. Why he should not be directed to pay Catherine's reasonable attorney's fees  
5 and costs for these proceedings pursuant to Subsection 3 of NRS 22.010, and  
6 other relevant statutes and case law, based on such contempt.
- 7  
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11

12 Respectfully Submitted By:  
13 WILICK LAW GROUP

14 // s // Marshal S. Willick

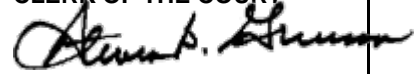
15 MARSHAL S. WILICK, ESQ.  
16 Nevada Bar No. 2515  
17 RICHARD L. CRANE, ESQ.  
18 Nevada Bar No. 9536  
19 3591 E. Bonanza Road, Suite 200  
20 Las Vegas, Nevada 89110-2101  
21 (702) 438-4100  
22 Attorneys for Defendant  
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**EPAO**  
WILICK LAW GROUP  
MARSHAL S. WILICK, ESQ.  
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Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING:  
TIME OF HEARING:

**EX PARTE APPLICATION  
FOR AN ORDER TO SHOW CAUSE WHY JESUS LUIS AREVALO  
FOR FAILURE TO ABIDE BY THE COURT'S JULY 27, 2022, AMENDED  
QUALIFIED DOMESTIC RELATIONS ORDER  
AND ATTORNEY'S FEES AND COSTS**

Defendant, Catherine Delao, by and through her counsel of the WILICK LAW GROUP, hereby requests this Court to issue an Order to Show Cause requiring Plaintiff, Jesus Luis Arevalo, to personally appear and show cause why he should not be found in contempt and sanctioned for his failure to:

Comply with the Amended Qualified Domestic Relations Order, entered on July 27, 2022, to not take any action that would deprive Catherine of her PERS

benefits and should those payments be interrupted to make payments directly to Catherine in an amount to neutralize his actions.

As such, we ask the Court to issue the Order to Show Cause, to sanction Jesus \$500 for each missed PERS pension payment, and to incarcerate him immediately and indefinitely until he pays the sanction and all amounts due from the missed payments and the payment stream is restored.

This *Application* is made and based upon the pleadings, papers, and other documents on file herein, and any oral argument of counsel allowed by the Court at the time of hearing this matter.

## POINTS AND AUTHORITIES

### I. RELEVANT FACTS

The relevant background facts are detailed in Catherine's *Defendant's Motion for Order to Show Cause Why Plaintiff Should not be Held in Contempt of Court for Failure to Abide by the Court's Amended Qualified Domestic Relations Order* entered on July 27, 2022.<sup>1</sup>

The relevant specific violations of the specific court order, with required citations per the rule cited below are cited in the actual motion seeking issuance of the Order to Show Cause.

### II. LEGAL ANALYSIS

The legal analysis for the contempt and fees requested are set out in the *Motion*. As to this *Application*, EDCR 5.510 states, in relevant part:

(b) The party seeking the OSC shall submit an ex parte application for issuance of the OSC to the court, accompanied by a copy of the filed motion for OSC and a copy of the proposed OSC.

(c) Upon review of the motion and application, the court may:  
(1) Deny the motion and vacate the hearing;

---

<sup>1</sup> The *Motion* is attached as Enclosure 1.

1 (2) Issue the requested OSC, to be heard at the motion hearing;  
2 (3) Reset the motion hearing to an earlier or later time; or  
3 (4) Leave the hearing on calendar without issuing the OSC so as to address  
issues raised in the motion at that time, either resolving them or issuing the  
OSC at the hearing.

4 (d) If an OSC is issued in advance of the first hearing, the moving party shall  
serve it and the application for OSC on the accused contemnor.

5 (e) At the first hearing after issuance of the OSC, the accused contemnor may  
6 be held in contempt, or not, or the court may continue the hearing with  
7 directions on the issue. At the first or any subsequent hearing after issuance  
of an OSC, if the accused contemnor does not appear, a bench warrant may be  
issued to secure attendance at a future hearing, or other relief may be ordered.

8 This *Application* seeks only the issuance of an order for a hearing to be held,  
9 and is therefore one that may be submitted *ex parte*, the objective being that only a  
10 single contested hearing, on notice, should be required for any motion to have a party  
11 held in contempt of a prior order.

### 12 III. CONCLUSION

13 Based on the above, Catherine respectfully requests the following relief:

- 14 1. For the issuance of an *Order to Show Cause* as to why Jesus should not  
15 be held in contempt, and requiring him to attend the upcoming hearing  
16 in person. A proposed *Order* is submitted with this *Application*.<sup>2</sup>

17 **DATED** this 1st day of November, 2022.

18 Respectfully Submitted By:

19 WILICK LAW GROUP

20 // s //

21 MARSHAL S. WILICK, ESQ.

22 Nevada Bar No. 2515

23 RICHARD L. CRANE, ESQ.

24 Nevada Bar No. 9536

25 3591 E. Bonanza Road, Suite 200

26 Las Vegas, Nevada 89110-2101

27 Attorneys for Defendant

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<sup>2</sup> The *Order to Show Cause* is attached as Exhibit E.

**Enclosure “1”**

**Enclosure “1”**

**Enclosure “1”**

1 **MOSC**  
2 **WILLICK LAW GROUP**  
3 **MARSHAL S. WILLICK, ESQ.**  
4 **Nevada Bar No. 2515**  
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9 **Attorney for Defendant**

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

**JESUS LUIS AREVALO,**  
**Plaintiff,**

**vs.**

**CATHERINE AREVALO**  
**n/k/a CATHERINE DELAO,**  
**Defendant.**

**CASE NO: D-11-448514-D**  
**DEPT. NO: E**

**DATE OF HEARING:**  
**TIME OF HEARING:**

**ORAL ARGUMENT REQUESTED: Yes ☒ No**

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

**DEFENDANT'S MOTION FOR:**

**ORDER TO SHOW CAUSE WHY PLAINTIFF SHOULD NOT BE HELD  
IN CONTEMPT OF COURT FOR FAILURE TO ABIDE BY THE  
COURT'S JULY 27, 2022, AMENDED QUALIFIED DOMESTIC  
RELATIONS ORDER  
AND ATTORNEY'S FEES AND COSTS**

1     **I.     INTRODUCTION**

2             Jesus has repeatedly demonstrated that he will do whatever he can to avoid  
3     Catherine receiving her share of the PERS pension, having security for those  
4     payments (replacing the life insurance policy he refused to get for years), or her  
5     receiving any of the large sums of arrears he owes.

6             At the last hearing, the Court gave Jesus 14 additional days to get the required  
7     life insurance policy in effect. When he failed to do so, the Court entered an  
8     indemnification QDRO which transferred all but \$10 of Jesus's PERS pension to  
9     Catherine. She was to get her property share of the pension and the remainder was  
10    to build a lump sum in the amount of the required insurance policy and then to satisfy  
11    all of the arrearages amassed by Jesus during the litigation of this case for sums he  
12    has been ordered, but has refused, to pay.<sup>1</sup>

13            The QDRO went into effect in September with Catherine receiving the required  
14    payment. However, in October, no payment arrived. A letter was received by  
15    Catherine that indicated that Jesus had not completed the required annual Statement  
16    of Employment and Earnings.<sup>2</sup> Nevada PERS indicated in the letter that his benefits  
17    had been suspended pending his completion of this annual requirement.

18            On October 27, we sent Jesus a letter demanding that he complete the required  
19    form not later than October 31, or we would file a *Motion for Order to Show Cause*.  
20    Jesus failed to complete the form.

21            Catherine respectfully seeks entry of an order to show cause as to why Jesus  
22    should not be held in contempt for his failure to either complete the required Nevada  
23    PERS form or to begin making payments directly to Catherine as required in the  
24    QDRO. Catherine seeks contempt sanctions that include a \$500 fine for his failure  
25  
26

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27            <sup>1</sup> This includes attorney's fees and Nevada PERS arrearages.

28            <sup>2</sup> See Exhibit A, letter from Nevada PERS.

1 to abide by the QDRO and immediate coercive incarceration and for Catherine's  
2 attorney's fees and costs.

## 3 4 **II. FACTS**

5 The parties were divorced nearly a decade ago and have been in and out of  
6 court continuously since then due to Jesus' repeated refusal to follow Court orders.  
7 To promote judicial and party economy we will not repeat the previously detailed  
8 statements of fact, which are incorporated by reference. We provide only those facts  
9 that have occurred since the last remand from the Nevada Court of Appeals.

10 On March 30, 2021, the Nevada Court of Appeals issued its *Order Affirming*  
11 *in Part, Reversing in Part, Dismissing in Part, and Remanding*. Of importance to this  
12 *Motion*, the Court of Appeals found that this Court's calculation as to arrears for the  
13 PERS benefits was correct, that this Court was to determine if the life insurance  
14 policy was subject to the statute of limitations and, if not, that the correct amount of  
15 the policy was to be determined, and finally, that this Court make findings in  
16 accordance with *Brunzell*<sup>3</sup> and *Wright*<sup>4</sup> for an award of attorney's fees and costs.

17 On April 19, Jesus filed a *Petition for Review by Nevada Supreme Court*.

18 On May 4, the Supreme Court denied the *Petition*.

19 On May 11, this Court issued its *Order after Remand Setting Briefing* that  
20 required both Catherine and Jesus to file a brief on the remanded issues not later than  
21 June 11.

22 On May 18, The Supreme Court issued its *Remittitur*.

23 On June 11, both Catherine and Jesus filed their required briefs.  
24  
25  
26

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27 <sup>3</sup> *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

28 <sup>4</sup> *Wright v. Osburn*, 114 Nev. 1367, 970 P.2d 1071 (1998).



1 On June 21, this Court issued its *Order Setting Oral Argument* finding that  
2 after reviewing the briefs, Jesus' position was still unclear. The hearing was set for  
3 July 7.

4 On July 6, Jesus filed an *Ex Parte Motion to Continue Hearing*, claiming to  
5 have been ill and not being afforded enough time to produce the expert witness he  
6 believed was necessary for the hearing. He additionally claimed to be in the process  
7 of hiring an attorney.<sup>5</sup>

8 On July 7, this Court held the scheduled hearing, heard argument concerning  
9 the requested continuance and granted the requested continuance until July 21.

10 On July 21, the Court held the hearing at issue. Catherine and her counsel were  
11 present and Jesus appeared in proper person without any expert witness, or counsel,  
12 or any other exhibits or evidence to support his position.

13 On July 30, the Court issued its *Order after Remand* which required Jesus to  
14 obtain an insurance policy with a face value of \$201,751 naming Catherine as the sole  
15 beneficiary. Jesus refused to do so.

16 On August 6, we sent Jesus a letter requiring that he respond by September 9,  
17 concerning his obtaining the insurance policy. The letter also detailed a number of  
18 financial *Orders* this Court has awarded Catherine and asked that Jesus provide a  
19 proposed payment schedule.<sup>6</sup> Jesus never responded.

20 Nearly another year passed. On June 22, 2022, this Court held a hearing where  
21 Jesus was given 14 *additional* days to obtain the life insurance policy or an  
22 indemnification QDRO would be entered. The *Order* from that hearing was entered  
23 on July 13, 2022.

---

24  
25 <sup>5</sup> We note that Jesus has had some kind of excuse for continuing pretty much every hearing  
26 in this case, stretching out proceedings for additional months. Excuses have ranged from alleged  
27 illness to alleged computer failure to alleged failure of third parties to return calls to Jesus. We  
28 expect more of same this time, and request that the Court find *any* excuse inherently non-credible  
based on Jesus' history, and refuse to multiply proceedings further.

<sup>6</sup> See Exhibit B, copy of letter sent to Jesus on August 6, 2021.

1 On July 10, we forwarded the indemnification QDRO to the Court for entry as  
2 Jesus still had not obtained the required life insurance policy.

3 On July 27, this Court entered the indemnification QDRO. The first payment  
4 as a result of the QDRO was received by Catherine in September.

5 On October 18, Jesus was sent a letter from Nevada PERS that stated his  
6 benefit was suspended because he had not completed the required annual Statement  
7 of Employment and Earnings for 2021.<sup>7</sup> Catherine was copied on the letter, but she  
8 did not receive the form that he needed to fill out.<sup>8</sup>

9 On October 27, we sent a letter to Jesus demanding that he complete the form  
10 by October 31.<sup>9</sup> He failed to do so.

11 This *Motion* follows.

### 12 13 **III. ARGUMENT**

#### 14 **A. Motion for Order to Show Cause**

##### 15 **1. Jesus Should be Held in Contempt of Court for failure to** 16 **abide by the Court's July 27, 2022 Amended Qualified** 17 **Domestic Relations Order**

18 The *Qualified Domestic Relations Order* states on page 5 lines 11 through 16:

19 IT IS FURTHER ORDERED that if Jesus takes any steps to merge the  
20 retirement divided herein with another retirement program of any kind, or  
21 takes any action that prevents, decreases, or limits the collection by Catherine  
22 of the sums to be paid hereunder; Jesus shall make payments to Catherine  
23 directly in an amount sufficient to neutralize, as to Catherine, the effects of the  
24 action taken by Jesus.

---

25 <sup>7</sup> See Exhibit A.

26 <sup>8</sup> Please see Exhibit C, a copy of a similar form sent to Jesus in 2015. A review of the  
27 Nevada PERS website indicates that Jesus can electronically verify his employment and earnings  
28 online in minutes.

<sup>9</sup> Please see Exhibit D, copy of our letter to Jesus.

1 Here, Jesus has refused to complete the form that would keep the pension in  
2 pay status. This is definitionally an “action that prevents, decreases, or limits the  
3 collection by Catherine of the sums to be paid....” An inaction can be punished just  
4 as an action.<sup>10</sup> Alternatively, he could have avoided contempt by making the payment  
5 directly to Catherine of the amounts owed. He failed to do that, either.

6 As a remedy, we ask the Court to order that Jesus complete the form in such  
7 a way that it results in resumption of payments to Catherine. If he fails to do so, then  
8 he should be fined \$500 immediately for each payment from PERS that is missed and  
9 incarcerated until those \$500 payments have been made up and the prospective  
10 benefits from PERS are restored.

## 11 12 **2. Contempt**

13 NRS 22.010 provides in pertinent part:

14 The following acts or omissions shall be deemed contempts:

15 1. Disorderly, contemptuous or insolent behavior toward the judge  
16 while the judge is holding court, or engaged in judicial duties at  
17 chambers, or toward masters or arbitrators while sitting on a reference  
or arbitration, or other judicial proceeding.

18 2. A breach of the peace, boisterous conduct or violent disturbance in  
19 the presence of the court, or in its immediate vicinity, tending to  
interrupt the due course of the trial or other judicial proceeding.

20 3. ***Disobedience or resistance to any lawful writ, order, rule or***  
21 ***process issued by the court or judge at chambers.*** [Emphasis Added]

22 Further, NRS 22.100 dictates the penalties for contempt, as follows:

23 1. Upon the answer and evidence taken, the court or judge or jury, as  
24 the case may be, shall determine whether the person proceeded against  
is guilty of the contempt charged.

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25  
26  
27 <sup>10</sup> See *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55 (2004) (addressing what  
28 constitutes a “final agency action,” and holding that “[A]gency action” is defined in § 551(13) to  
include “the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or  
denial thereof, or *failure to act*.” (Emphasis added.)

1 2. Except as otherwise provided in NRS 22.110, if a person is found  
2 guilty of contempt, a fine may be imposed on him not exceeding \$500  
or he may be imprisoned not exceeding 25 days, or both.

3 3. In addition to the penalties provided in subsection 2, if a person is  
4 found guilty of contempt pursuant to subsection 3 of NRS 22.010, the  
5 court may require the person pay to the party seeking to enforce the  
6 writ, order, rule or process the reasonable expenses, including, without  
7 limitation, attorneys fees, incurred by the party as a result of the  
8 contempt.

9 The Court can hold Jesus in contempt of court for his allowing the PERS  
10 pension benefits to be suspended and for not making the payments to Catherine “in  
11 an amount sufficient to neutralize, as to Catherine, the effects of the action taken by Jesus.”

#### 12 **IV. ATTORNEY’S FEES**

13 NRS 22.100(3) authorizes this Court to award attorney’s fees and costs to  
14 Catherine for Jesus’ contempt:

15 3. In addition to the penalties provided in subsection 2, if a person is found  
16 guilty of contempt pursuant to subsection 3 of NRS 22.010, the court may  
17 require the person pay to the party seeking to enforce the writ, order, rule or  
18 process the reasonable expenses, including, without limitation, attorneys fees,  
19 incurred by the party as a result of the contempt.

20 Therefore, Catherine requests the Court order Jesus to reimburse Catherine the  
21 attorney’s fees and costs for this contempt action.

#### 22 **A. Legal Basis**

23 “[I]t is well established in Nevada that attorney’s fees are not recoverable  
24 unless allowed by express or implied agreement or when authorized by statute or  
25 rule.”<sup>11</sup> Attorney’s fees may be awarded in a pre- or post-divorce motion/opposition  
26 under NRS 125.150.<sup>12</sup> In addition, and because we believe that Catherine will be the  
27 prevailing party in this matter, she should receive an award of attorney’s fees and

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28 <sup>11</sup> *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

<sup>12</sup> NRS 125.150.

1 costs pursuant to NRS 18.010(2).<sup>13</sup> In addition to NRS 22.100(3) cited above, this  
2 Court can award attorney's fees under EDCR 5.219:

3 Sanctions may be imposed against a party, counsel, or other person, after  
4 notice and an opportunity to be heard, for unexcused intentional or negligent  
conduct including but not limited to:

5 (a) Presenting a position that is obviously frivolous, unnecessary, or  
unwarranted;

6 (b) Multiplying the proceedings in a case so as to increase costs unreasonably  
and vexatiously;

7 (c) Failing to prepare for a proceeding;

8 (d) Failing to appear for a proceeding;

(e) Failing or refusing to comply with these rules; or

9 (f) Failing or refusing to comply with any order or directive of the court.<sup>14</sup>

10 Here, Jesus has multiplied the proceeding vexatiously and has refused to  
11 comply with the orders of this Court.

## 12 **B. Disparity in Income**

13 The Court is required to "consider" the disparity in the parties' income  
14 pursuant to *Miller*<sup>15</sup> and *Wright v. Osburn*.<sup>16</sup> Parties seeking attorney fees in family  
15 law cases must support their fee request with affidavits or other evidence that meets  
16 the factors in *Brunzell*<sup>17</sup> and *Wright*.<sup>18</sup> We will provide the *Brunzell* analysis below.  
17 As to *Wright*, the holding is minimal:

18 The disparity in income is also a factor to be considered in the award of  
19 attorney fees. It is not clear that the district court took that factor into  
20 consideration.<sup>19</sup>

---

21 <sup>13</sup> NRS 18.010(2).

22 <sup>14</sup> EDCR 5.219.

23 <sup>15</sup> 121 Nev. 619, 119 P.3d 727 (2005).

24 <sup>16</sup> 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998).

25 <sup>17</sup> *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969).

26 <sup>18</sup> 114 Nev. 1367, 970 P.2d 1071 (1998).

27 <sup>19</sup> *Id.* at 1370, 970 P.2d at 1073 (1998).

1 The Court did not hold that the decision of the award of attorney’s fees hinged on a  
2 disparity in income. Only that it is one of the many factors that must be considered.  
3 While Jesus has entered into agreements with his spouse to try to stymie collections,  
4 his household income is considerable; this factor is, at most, neutral.

5  
6 **C. Brunzell Factors**

7 With specific reference to Family Law matters, the Court has adopted  
8 “well-known basic elements,” which in addition to hourly time schedules kept by the  
9 attorney, are to be considered in determining the reasonable value of an attorney’s  
10 services qualities, commonly referred to as the *Brunzell*<sup>20</sup> factors:

- 11 1. *The Qualities of the Advocate*: his ability, his training, education,  
experience, professional standing and skill.
- 12 2. *The Character of the Work to Be Done*: its difficulty, its intricacy, its  
13 importance, time and skill required, the responsibility imposed and the  
prominence and character of the parties where they affect the  
14 importance of the litigation.
- 15 3. *The Work Actually Performed by the Lawyer*: the skill, time and  
attention given to the work.
- 16 4. *The Result*: whether the attorney was successful and what benefits  
were derived.

17 Each of these factors should be given consideration, and no one element should  
18 predominate or be given undue weight.<sup>21</sup> Additional guidance is provided by  
19 reviewing the “attorney’s fees” cases most often cited in Family Law.<sup>22</sup>

20 The *Brunzell* factors require counsel to make a representation as to the  
21 “qualities of the advocate,” the character and difficulty of the work performed, the  
22 work actually performed by the attorney, and the result obtained.

23  
24 

---

<sup>20</sup> 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

25 <sup>21</sup> *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

26  
27 <sup>22</sup> Discretionary Awards: Awards of fees are neither automatic nor compulsory, but within  
the sound discretion of the Court, and evidence must support the request. *Fletcher v. Fletcher*, 89  
28 Nev. 540, 516 P.2d 103 (1973); *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980); *Hybarger v.*  
*Hybarger*, 103 Nev. 255, 737 P.2d 889 (1987).

1 First, respectfully, we suggest that the supervising counsel is A/V rated, a  
2 peer-reviewed and certified (and re-certified) Fellow of the American Academy of  
3 Matrimonial Lawyers, and a Certified Specialist in Family Law.<sup>23</sup>

4 Richard L. Crane, Esq., the attorney primarily responsible for drafting this  
5 *Motion*, has practiced exclusively in the field of family law for over 15 years under  
6 the direct tutelage of supervising counsel, and has substantial experience dealing with  
7 complex family law cases.

8 As to the “character and quality of the work performed,” we ask the Court to  
9 find our work in this matter to have been adequate, both factually and legally; we  
10 have diligently reviewed the applicable law, explored the relevant facts, and believe  
11 that we have properly applied one to the other.

12 The fees charged by paralegal staff are reasonable, and compensable, as well.  
13 The tasks performed by staff in this case were precisely those that were “some of the  
14 work that the attorney would have to do anyway [performed] at substantially less cost  
15 per hour.”<sup>24</sup> As the Nevada Supreme Court reasoned, “the use of paralegals and other  
16 nonattorney staff reduces litigation costs, so long as they are billed at a lower rate,”  
17 so “‘reasonable attorney’s fees’ . . . includes charges for persons such as paralegals  
18 and law clerks.”

19 Justin K. Johnson, paralegal with the WILICK LAW GROUP, was primarily the  
20 paralegal on this case. Justin earned a Certificate of Achievement in Paralegal  
21 Studies and was awarded an Associates of Applied Science Degree in 2014 from  
22 Everest College. He has been a paralegal for a total of eight years; assisting  
23 attorney’s in several aspects of law.

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24  
25 <sup>23</sup> Per direct enactment of the Board of Governors of the Nevada State Bar, and independently  
26 by the National Board of Trial Advocacy. Mr. Willick was privileged (and tasked) by the Bar to  
27 write the examination that other would-be Nevada Family Law Specialists must pass to attain that  
status.

28 <sup>24</sup> *LVMPD v. Yeghiazarian*, 129 Nev. 760, 312 P.3d 503 (2013), citing to *Missouri v. Jenkins*,  
491 U.S. 274 (1989).

1 The work actually performed will be provided to the Court upon request by  
2 way of a *Memorandum of Fees and Costs* (redacted as to confidential information),  
3 consistent with the requirements under *Love*.<sup>25</sup>  
4  
5

6 **V. CONCLUSION**

7 Based on the above, Catherine requests of the Court the following orders:

- 8 1. Entering the attached Proposed Order to Show Cause (Exhibit “E”)  
9 2. Find Jesus in contempt of Court with a \$500 penalty for each violation  
10 and set the purge amount at the penalty total plus all missed PERS  
11 pension benefits to Catherine.  
12 3. Awarding Catherine the entirety of her fees and costs.  
13 4. For any other awards this Court deems just and proper.

14 **DATED** this 4th day of November, 2022.

15 Respectfully Submitted By:

16 WILICK LAW GROUP

17 *// s // Richard L. Crane*

18 MARSHAL S. WILICK, ESQ.  
19 Nevada Bar No. 2515  
20 RICHARD L. CRANE, ESQ.  
21 Nevada Bar No. 9536  
22 3591 E. Bonanza, Suite 200  
23 Las Vegas, Nevada 89110-2101  
24 (702) 438-4100 Fax (702) 438-5311  
25 Attorneys for Defendant  
26  
27  
28

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<sup>25</sup> *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998).



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- \*\*\*\*\*
- \*\*\*\*\*
- \*\*\*\*\*

1 7. The factual averments contained in the preceding filing are incorporated herein  
2 as if set forth in full.

3 **I declare under penalty of perjury, under the laws of the State of**  
4 **Nevada and the United State (NRS 53.045 and 28 U.S.C. § 1746),**  
5 **that the foregoing is true and correct.**

6 **EXECUTED** this 4th day of November, 2022.

7 */s/ Catherine Delao<sup>26</sup>*

8 **CATHERINE DELAO**

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<sup>26</sup> Catherine gave the WILICK LAW GROUP permission in writing to e-sign on her behalf.

## CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Willick Law Group and that on this 22<sup>nd</sup> day of September, 2021, I caused the above and foregoing document entitled to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.
- ☐ by First Class, Certified U.S. Mail.

To the persons listed below at the address, email address, and/or facsimile number indicated:

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085  
[wraith702@gmail.com](mailto:wraith702@gmail.com)

Jesus Arevalo  
6935 Aliante Pkwy., Ste. 104 #286  
N. Las Vegas, NV 89084

Jesus Arevalo  
5612 N. Decatur Blvd., Ste. 130  
P.O. Box 321  
Las Vegas, NV 89031

*/s/Justin K. Johnson*

An Employee of the Willick Law Group

P:\wp19\DELAO\C\DRAFTS\00589516.WPD\jj

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

JESUS LUIS AREVALO,  
Plaintiff/Petitioner

-v.-

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant/Respondent

Case No. D-11-448514-D

Department E

**MOTION/OPPOSITION  
FEE INFORMATION SHEET**

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

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

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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><input checked="" type="checkbox"/> <b>\$25</b> The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.</p> <p>-Or-</p> <p><input type="checkbox"/> <b>\$0</b> The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:</p> <p><input type="checkbox"/> The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.</p> <p><input type="checkbox"/> The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.</p> <p><input type="checkbox"/> The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.</p> <p><input type="checkbox"/> Other Excluded Motion (must specify) _____.</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><input checked="" type="checkbox"/> <b>\$0</b> The Motion/Opposition being filed with this form is <b>not</b> subject to the \$129 or the \$57 fee because:</p> <p><input checked="" type="checkbox"/> The Motion/Opposition is being filed in a case that was not initiated by joint petition.</p> <p><input type="checkbox"/> The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.</p> <p>-Or-</p> <p><input type="checkbox"/> <b>\$129</b> The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.</p> <p>-Or-</p> <p><input type="checkbox"/> <b>\$57</b> The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.</p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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

|                                                                                                                                                                                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>The total filing fee for the motion/opposition I am filing with this form is:</p> <p><input type="checkbox"/> <b>\$0</b> <input checked="" type="checkbox"/> <b>\$25</b> <input type="checkbox"/> <b>\$57</b> <input type="checkbox"/> <b>\$82</b> <input type="checkbox"/> <b>\$129</b> <input type="checkbox"/> <b>\$154</b></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Party filing Motion/Opposition: Willick Law Group Date: 11/4/22

Signature of Party or Preparer: /s/ Justin K. Johnson

P:\wp19\DELAO,C\DRAFTS\00521510.WPD\jj

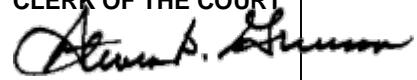
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DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*

Electronically Filed  
11/5/2022 8:32 AM  
Steven D. Grierson  
CLERK OF THE COURT



Jesus Luis Arevalo, Plaintiff

vs.

Catherine Marie Arevalo, Defendant.

Case No.: D-11-448514-D

Department E

**NOTICE OF HEARING**

Please be advised that the Defendant's Motion for: Order to Show Cause Why Plaintiff Should not be Held in Contempt of Court for Failure to Abide by the Court's July 27, 2022, Amended Qualified Domestic Relations Order and Attorney's Fees and Costs in the above-entitled matter is set for hearing as follows:

**Date:** February 07, 2023

**Time:** 9:00 AM

**Location:** Courtroom 02  
Family Courts and Services Center  
601 N. Pecos Road  
Las Vegas, NV 89101

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

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Cecilia Dixon  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

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

By: /s/ Cecilia Dixon  
Deputy Clerk of the Court

61

61

1 **OSC**  
2 WILICK LAW GROUP  
3 MARSHAL S. WILICK, ESQ.  
4 Nevada Bar No. 002515  
5 3591 E. Bonanza Road, Suite 200  
6 Las Vegas, NV 89110-2101  
7 Phone (702) 438-4100; Fax (702) 438-5311  
8 email@willicklawgroup.com  
9 Attorney for Defendant  
10

11 **DISTRICT COURT**  
12 **FAMILY DIVISION**  
13 **CLARK COUNTY, NEVADA**  
14

15 JESUS LUIS AREVALO,  
16 Plaintiff,  
17

18 vs.

19 CATHERINE AREVALO  
20 n/k/a CATHERINE DELAO,  
21 Defendant.  
22

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING:  
TIME OF HEARING:

23 **ORDER TO SHOW CAUSE**  
24

25 Upon *Motion* of Defendant, Catherine Delao, by and through her counsel of the  
26 WILICK LAW GROUP, and good cause appearing thereof:  
27


28 It is hereby ordered, adjudged, and decreed that Plaintiff, Jesus Luis Arevalo,  
shall personally appear on the 7th day of February, 2023, at the hour of  
9:00 a.m., before Department E of the Eighth Judicial District Court, Family  
Division, located at 601 North Pecos Road, Las Vegas, Nevada 89101, and show  
cause, if any exists:

1. Why he should not be found and held in contempt for his actions that resulted  
in the suspension of the PERS benefits payable to Catherine and his failure to  
make up any financial difference due to his actions.



2. Why he should not be sanctioned and/or incarcerated to compel his cooperation in getting the benefits re-started and to keep the pension in pay status.

Dated this 18th day of November, 2022



CC

Respectfully Submitted By:  
WILLICK LAW GROUP

5B8 6F1 432E 28C0  
Charles J. Hoskin  
District Court Judge

// s // Marshal S. Willick

MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
RICHARD L. CRANE, ESQ.  
Nevada Bar No. 9536  
3591 E. Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
(702) 438-4100  
Attorneys for Defendant

P:\wp19\DELAO,C\DRAFTS\00589477.WPD\jj

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Jesus Luis Arevalo, Plaintiff

CASE NO: D-11-448514-D

7 vs.

DEPT. NO. Department E

8 Catherine Marie Arevalo,  
9 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  
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 11/18/2022

15 Marshal Willick

marshal@willicklawgroup.com

16 Reception Reception

email@willicklawgroup.com

17 Justin Johnson

Justin@willicklawgroup.com

18 Jesus Arevalo

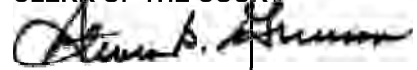
wrath702@gmail.com

19 Jesus Arevalo

vinni702@yahoo.com

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62



1 **OPPS**

2 JESUS LUIS AREVALO

3 4233 Galapagos Ave.,

4 North Las Vegas, Nevada 89084

5 (702) 813-1829

6 *Plaintiff in Proper Person*

7 **DISTRICT COURT**  
8 **FAMILY DIVISION**  
9 **CLARK COUNTY, NEVADA**

10 JESUS LUIS AREVALO

11 Plaintiff,

12 vs.

13 CATHERINE AREVALO,

14 Defendant.

CASE NO: D-11-448514-D

DEPT. NO: E

DATE OF HEARING:

TIME OF HEARING:

ORAL HEARING REQUESTED

16  
17  
18 **PLAINTIFF'S OPPOSITION TO "DEFENDANT'S MOTION FOR:**  
19 **ORDER TO SHOW CAUSE WHY PLAINTIFF SHOULD NOT BE HELD**  
20 **IN CONTEMPT OF COURT FOR FAILURE TO ABIDE BY THE**  
21 **COURT'S JULY 27, 2022, AMENDED QUALIFIED DOMESTIC**  
22 **RELATIONS ORDER AND ATTORNEY'S FEES AND COSTS**

23  
24 Plaintiff, Jesus Luis Arevalo, appearing In Proper Person, respectfully submits  
25 this *Plaintiff's Opposition To "Defendant's Motion For: Order to Show Cause Why*  
26 *Plaintiff Should Not Be Held in Contempt of Court for Failure to Abide by The*  
27  
28

1 *Court's July 27, 2022, Amended Qualified Domestic Relations Order and Attorney's*  
2 *Fees and Costs.*

3  
4 This opposition is made and based upon the papers and pleadings on file  
5 herein, the Points and Authorities detailed below, and the attached Declaration of  
6  
7 Plaintiff, Jesus Luis Arevalo.

8  
9 THEREFORE, Plaintiff, Jesus Luis Arevalo, requests the following relief:

- 10 1. That the Court find there is no basis to issue an Order to Show Cause.  
11 2. An order Denying Defendant's request for attorney's fees and costs.  
12

13 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of November, 2022.  
14

15 /s/ Jesus Luis Arevalo  
16 Jesus Luis Arevalo

17 *Plaintiff in Proper Person*  
18

19  
20 **POINTS AND AUTHORITIES**

21 **I.LEGAL STANDARD**  
22

23 Pursuant to NRS 22.010, contempt includes acts of disobedience or resistance  
24 to any lawful writ, order, rule or process issued by the court. Any order meant to be  
25 the subject of a contempt proceeding must be clear, unambiguous, and set forth the  
26 details of compliance in clear, specific terms, so the parties will know what duties  
27  
28

1 or obligations are imposed. *Cunningham v. District Court*, 102 Nev. 551, 729 P.2d  
2 1328 (1986). The moving party carries the burden of demonstrating the other party  
3 had the ability to comply with the order, and the violation of the order was willful.  
4  
5 *Rodriguez v. District Court*, 120 Nev. 789, 102 P.3d 41 (2004).

6  
7 The inability of a contemnor to obey the order (without fault on their part) is  
8 a complete defense and sufficient to purge them of the contempt charged.

9  
10 *Mccormick v. Sixth Judicial District Court*, 67 Nev. 318, 326; 218 P.2d 939  
11 (1950). However, where the contemnors have voluntarily or contumaciously  
12 brought on themselves the disability to obey the order or Decree, such a defense is  
13 not available; and the burden of proving inability to comply is upon the contemnor.  
14  
15 *Id.*

16  
17 Under EDCR 5.510, “(a) A motion seeking an Order to Show Cause  
18 (OSC) for contempt must be accompanied by a detailed affidavit complying with  
19 NRS 22.030(2) that identifies the specific provisions, pages and lines of the  
20 existing order(s) alleged to have been violated, the acts or omissions constituting  
21 the alleged violation, any harm suffered or anticipated, and the need for a contempt  
22 ruling, which should be filed and served as any other motion.

23  
24  
25  
26 (b) The party seeking the OSC shall submit an ex parte application for  
27 issuance of the OSC to the court, accompanied by a copy of the filed motion  
28 for OSC and a copy of the proposed OSC.

(c) Upon review of the motion and application, the court may:  
(1) Deny the motion and vacate the hearing;  
(2) Issue the requested OSC, to be heard at the motion hearing;  
(3) Reset the motion hearing to an earlier or later time; or  
(4) Leave the hearing on calendar without issuing the OSC so as to address issues raised in the motion at that time, either resolving them or issuing the OSC at the hearing.

(d) If an OSC is issued in advance of the first hearing, the moving party shall serve it and the application for OSC on the accused contemnor.

(e) At the first hearing after issuance of an OSC, the accused contemnor may be held in contempt, or not, or the court may continue the hearing with directions on the issue. At the first or any subsequent hearing after issuance of an OSC, if the accused contemnor does not appear, a bench warrant may be issued to secure attendance at a future hearing, or other relief may be ordered.”

## II. ARGUMENT

**The order Jesus is allegedly in contempt of is not “clear,” and it is not possible for Jesus to comply.**

By way of this her motion, Catherine is asking the court to hold Jesus in contempt of the following order:

IT IS FURTHER ORDERED that if Jesus takes any steps to merge the **retirement** divided herein with another retirement program of any kind, or takes any action that prevents, decreases, or limits the collection by Catherine of the sums to be paid hereunder; Jesus shall make payments to Catherine directly in an amount sufficient to neutralize, as to Catherine, the effects of the action taken by Jesus. (Emphasis Added)

(See Amended Qualified Domestic Relation Order filed on July 27, 2022, on page 5 lines 11 through 16)

### *1. Disability vs. Retirement.*

1 NRS 125.150(1) states that upon divorce, the courts are directed to “make an  
2 equal disposition of the community property of the parties.” In Nevada, disability  
3 income is a separate property income, which may not be divided as property with  
4 on-employee spouse. *See, Powers v. Powers*, 105 Nev. 514, 779 P.2d 91 (1989)  
5 Retirement benefits contain **both retirement and disability components**, and the  
6 disability portion is shielded from distribution as property. *See Id.*  
7  
8

9 The parties were divorced in February 2013. In September 19, 2013, Jesus  
10 was approved for total and permanent disability by NV PERS and was directed to  
11 terminate his employment in order to be eligible for benefits (**Exhibit 1**). Jesus  
12 retired based on disability in October 2013, 18.84 years away from retirement. Had  
13 he retired early in October 2013, rather than being deemed disabled, it would have  
14 reduced his monthly retirement benefit from \$2,750.70 he was awarded to \$677.95,  
15 leaving \$2,072.75 of his monthly benefit due to his disability determination. As such,  
16 Catherine’s retirement benefit amount is \$151.75 since Jesus’s disability benefits are  
17 his sole and separate property. (See **Exhibit 2**)  
18  
19  
20  
21

## 22 2. Life Insurance 23

24 **NRS 125.155 Pension or retirement benefit provided by Public**  
25 **Employees’ Retirement System or Judicial Retirement Plan: Determination of**  
26 **value of interest or entitlement; disposition; termination of obligation to pay,**  
27  
28



1 subsection (2)(b) provides that “On its own motion or **pursuant to an agreement**  
2 **of the parties**, require the participating party to purchase a policy of life insurance.  
3 The amount payable under the policy **must be equal to the determined interest of**  
4 **the nonparticipating party in the pension or retirement benefits.** The  
5 nonparticipating party must be named as a beneficiary under the policy and must  
6 remain a named **beneficiary until the participating party retires. (Emphasis**  
7 **Added).**  
8  
9  
10

11 Jesus retired 8 months after the parties’ Decree of Divorce was entered. When  
12 he retired based on disability, he was no longer obligated to provide a life insurance  
13 policy to “secure” Catherine’s retirement benefits because Catherine was eligible to  
14 receive them. However, since the court made an order requiring Jesus to purchase a  
15 life insurance anyway based on Catherine’s request, Jesus applied for several  
16 policies, including applying with Catherine’s insurance agent, but he was rejected  
17 based on his medical history. (**Exhibit 3**). At worst, the face amount of life insurance  
18 policy needs to be consistent with what Catherine is actually entitled to, and the  
19 amount taken from Jesus by way of “indemnification QDRO” consistent with that  
20 amount<sup>1</sup>.  
21  
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27  
28 <sup>1</sup> Jesus maintains his argument that the Indemnification QDRO is not lawful.

1 The Order Jesus is allegedly in contempt of is clear that it is limited to  
2 **retirement**. However, Indemnification QDRO does not only pay Catherine her share  
3 of Jesus' retirement, but it also assigns the entirety of Jesus' benefits, less \$10, to  
4 Catherine to satisfy various judgements and to provide "security" in place of life  
5 insurance policy. Because the court never ruled on what part of Jesus' PERS benefits  
6 is attributable to retirement and what is attributable to disability, it is not clear what  
7 amount would be "sufficient" if he "takes any action that prevents, decreases, or limits  
8 the collection by Catherine of the sums to be paid hereunder." "Generally, an order for civil  
9 contempt must be grounded upon one's disobedience of an order that spells out the details  
10 of compliance in clear, specific and unambiguous terms so that such person will readily  
11 know exactly what duties or obligations are imposed on him." *Southwest Gas Corp. v.*  
12 *Flinkote Co.*, 99 Nev. 127, 131, 659 P.2d 861, 864 (1983), *quoting Ex parte Slavin*, 412  
13 S.W. 2d 43, 44 (Tex.1967). The order Catherine is accusing Jesus to be in contempt of  
14 falls short of the requirements.

15  
16  
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19  
20 3. *Even if the order was clear, which it is not, Jesus is not able to pay any sums to*  
21 *Catherine.*

22 Jesus is permanently and totally disabled. He has no income. As such, he is not able to  
23 provide any payments to Catherine. In addition, if Jesus does obtain employment, his he  
24 could be ineligible for retirement benefits as a result.

25  
26 **The Order Jesus is allegedly in contempt of is not "lawful".**  
27  
28

1 On July 27, 2022, apparently under mistaken belief that it is Nevada PERS  
2 administrator's responsibility to ensure this court's orders for compliance with the  
3 law beyond the scope of NRS Chapter 286, this court entered indemnification  
4 QDRO that circumvents the laws of this state by allowing Defendant to collect  
5 directly from Plaintiff's disability pay, which is not only Defendant's sole and  
6 separate property and is thus not divisible through QDRO, but is also protected  
7 from execution by judgement creditors. Plaintiff extensively argued these points  
8 before the July 27, 2022 order was entered, and he incorporates said arguments as  
9 set forth fully in this motion.  
10  
11  
12

13  
14 **Catherine failed to present a valid affidavit.**

15  
16 When a party is alleged to be in contempt of court, and the contempt alleged  
17 is not in the immediate presence of the court, the party alleging the contempt must  
18 submit to the court an affidavit of the facts constituting contempt. NRS 22.030(2).  
19 The affidavit (or declaration) must be in compliance with EDCR 5.510. The  
20 affidavit is jurisdictional. *Awad v. Wright*, 106 Nev. 407, 409, 794 P.2d 713, 713  
21 (1990), abrogated on other grounds by *Pengilly v. Rancho Santa Fe Homeowners*  
22 *Ass'n*, 116 Nev. 646, 5 P.3d 569 (2000). The declaration submitted by Catherine is  
23 not valid because it does not comply with the requirements of EDCR 5.510 in that  
24 it does not include every element required by the rule.  
25  
26  
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28

1  
2 **III. CONCLUSION**

3 The court should deny Catherine's motion for an OSC and a motion for  
4 attorney's fees because there is no basis to hold Jesus in contempt of the Amended  
5 Qualified Domestic Relationship Order entered on July 27, 2022, and there is no  
6 basis to award attorney's fees<sup>2</sup> to Catherine.  
7

8 RESPECTFULLY SUBMITTED this 18th day of November, 2022.  
9

10 /s/ Jesus Luis Arevalo  
11 Jesus Luis Arevalo  
12 *Plaintiff in Proper Person*  
13

14 **DECLARATION OF PLAINTIFF**

15 I declare, under penalty of perjury:  
16

- 17 1. I have read the foregoing opposition, and the factual averments it contains  
18 are true and correct to the best of my knowledge, except as to those matters  
19 based on information and belief, and as to those matters, I believe them to be  
20 true. Those factual averments contained in the referenced filing are  
21 incorporated here as if set forth in full.  
22  
23 2. Any Exhibit(s) in support of this Opposition will be filed separately in an  
24 Exhibit Appendix.  
25  
26  
27  
28

<sup>2</sup> . Furthermore, Catherine failed to submit a required financial disclosure form.

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

3 RESPECTFULLY SUBMITTED this 18th day of November, 2022.

4 /s/ Jesus Luis Arevalo

5 Jesus Luis Arevalo

6 *Plaintiff in Proper Person*

7  
8 **CERTIFICATE OF SERVICE**

9 I hereby certify that on 18th day of November, 2022., an accurate copy of the  
10 foregoing will be served by submitting electronically for filing and/or service with  
11 the Eighth Judicial District Court's e-filing system and served on counsel  
12 electronically in accordance with the E-service list to the following email addresses:  
13

14  
15 marshal@willicklawgroup.com

16 email@willicklawgroup.com

17 Mallory@willicklawgroup.com

18 deptelc@clarkcountycourts.us  
19  
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DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

Jesus Arevalo  
Plaintiff/Petitioner

v.  
Catherine Arevalo  
Defendant/Respondent

Case No. D-11-448514-D

Dept. VII

**MOTION/OPPOSITION  
FEE INFORMATION SHEET**

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

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

|                                     |             |                                                                                                                                                                                                            |
|-------------------------------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/>            | <b>\$25</b> | The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.                                                                                                                        |
| -OR-                                |             |                                                                                                                                                                                                            |
| <input checked="" type="checkbox"/> | <b>\$0</b>  | The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:                                                                                                            |
| <input type="checkbox"/>            |             | The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.                                                                                                                     |
| <input type="checkbox"/>            |             | The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.                                                                                            |
| <input checked="" type="checkbox"/> |             | The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on <u>December 28, 2020</u> . |
| <input type="checkbox"/>            |             | Other Excluded Motion (must specify) _____.                                                                                                                                                                |

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

|                                     |              |                                                                                                                                                                                                                                            |
|-------------------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | <b>\$0</b>   | The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:                                                                                                                                      |
| <input checked="" type="checkbox"/> |              | The Motion/Opposition is being filed in a case that was not initiated by joint petition.                                                                                                                                                   |
| <input type="checkbox"/>            |              | The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.                                                                                                                                                             |
| -OR-                                |              |                                                                                                                                                                                                                                            |
| <input type="checkbox"/>            | <b>\$129</b> | The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.                                                                                                       |
| -OR-                                |              |                                                                                                                                                                                                                                            |
| <input type="checkbox"/>            | <b>\$57</b>  | The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129. |

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

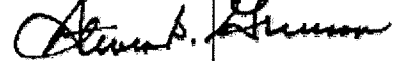
|                                                                               |            |                          |             |                          |             |                          |              |                          |             |
|-------------------------------------------------------------------------------|------------|--------------------------|-------------|--------------------------|-------------|--------------------------|--------------|--------------------------|-------------|
| The total filing fee for the motion/opposition I am filing with this form is: |            |                          |             |                          |             |                          |              |                          |             |
| <input checked="" type="checkbox"/>                                           | <b>\$0</b> | <input type="checkbox"/> | <b>\$25</b> | <input type="checkbox"/> | <b>\$57</b> | <input type="checkbox"/> | <b>\$129</b> | <input type="checkbox"/> | <b>\$54</b> |

Party filing Motion/Opposition: Jesus Arevalo Date 11/18/2022

Signature of Party or Preparer /s/ Jesus Arevalo

63

63



1 **EXHIB**

2 JESUS LUIS AREVALO  
3 4233 Galapagos Ave.,  
4 North Las Vegas, Nevada  
5 89084  
6 (702) 813-1829  
7 Plaintiff in Proper Person

8 **DISTRICT COURT**  
9 **FAMILY DIVISION**  
10 **CLARK COUNTY, NEVADA**

11 JESUS LUIS AREVALO

CASE NO: D-11-448514-D

12 Plaintiff,

13 vs.

DEPT. NO: E

14 CATHERINE AREVALO,

15 Defendant.

16 **EXHIBITS**

17  
18 EXHIBIT 1: Disability Determination

19  
20 EXHIBIT 2: Calculations of retirement portion vs. disability portion of benefits.

21 EXHIBIT 3: Denied applications for life insurance  
22  
23

24  
25 RESPECTFULLY SUBMITTED this 18th day of November, 2022.

26 /s/ Jesus Luis Arevalo

27 Jesus Luis Arevalo

28 Plaintiff in Proper Person



**CERTIFICATE OF SERVICE**

I hereby certify that on 18th day of November, 2022., an accurate copy of the foregoing will be served by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

marshal@willicklawgroup.com

email@willicklawgroup.com

Mallory@willicklawgroup.com

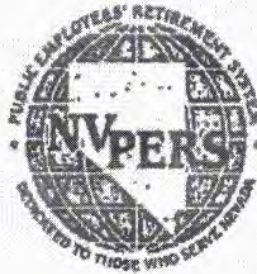
deptelc@clarkcountycourts.us

# 1

## Retirement Board

Mark R. Vincent  
Chairman  
Chris Collins  
Vice Chairman

Al Martinez  
Rusty McAllister  
Audrey Noriega  
David Olsen  
Katherine Ong



## Executive Staff

Tina M. Leiss  
Executive Officer

Vacant  
Operations Officer

Steve Edmundson  
Investment Officer

September 19, 2013

Jesus Arevalo  
7539 Rolling River Drive  
Las Vegas, NV 89131

Dear Mr. Arevalo:

The Retirement Board approved your application for total and permanent disability at the September 18, 2013, meeting. The effective date of your retirement will be the day following your last day of employment or the day following the expiration of your service credit, whichever is later. Your employer is required to submit a termination notice to PERS before your account can be activated. You must terminate employment and begin drawing benefits within 60 calendar days after the date of Board approval or remain on sick leave for the entire period from Board approval to termination. It is your responsibility to contact your personnel office to arrange for the termination of your employment if you have not already done so. We cannot activate your retirement account until this information is received.

Nevada Revised Statutes require that you complete and return a Statement of Employment and Earnings Form on an annual basis so that staff can monitor any earnings you may have received after the effective date of your disability retirement. This form will be provided to you at the appropriate time.

If you have been awarded a workers' compensation benefit due to the same disability, please contact us so that we may determine how it may affect your disability benefit from PERS. As a disability retiree, you must apply for and receive PERS Board approval before accepting any reemployment, either public or private. Upon request, a form will be provided for you to use to apply for approval.

Should you have any questions, please contact us and ask to speak with a Counseling Services representative.

Sincerely,

Cindy Yador, Manager  
Production Services Division

cc: Las Vegas Metropolitan Police Department  
Attn: Judy Bleak  
400B S. Martin Luther King Boulevard  
Las Vegas, NV 89106

5820 S. Eastern Avenue, Suite 220  
Las Vegas, NV 89119  
(702) 486-3900  
Fax: (702) 678-6934

693 W. Nye Lane  
Carson City, NV 89703  
(775) 687-4200  
Fax: (775) 687-5131

7455 W. Washington Avenue, Suite 150  
Las Vegas, NV 89128  
(702) 486-3900  
Fax: (702) 304-0697



## Fired for killing Gulf War vet, former Metro cop Jesus Arevalo still gets disability pay



Las Vegas police Undersheriff Jim Dixon answers questions regarding the termination of former officer Jesus Arevalo during a news conference at police headquarters at the corner of Martin Luther King Boulevard and Alta Drive Thursday, Oct. 17, 2013. (K.M. Cannon/Las Vegas Review-Journal)

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By MIKE BLASKY ©2014, LAS VEGAS REVIEW-JOURNAL

January 26, 2014 - 8:40 am



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Jesus Arevalo will never again work as a Las Vegas police officer, but he'll be paid by Nevadans for the rest of his life.

The former officer, who was fired for the 2011 shooting of unarmed war veteran Stanley Gibson, is getting thousands of dollars each month from Nevada's Public Employees Retirement System because he was granted a full disability retirement just before he left the department.

His disability?



\* Box #7: Distribution code(s)  
3 - Disability

OMB No. 1545-0118 **2020**

**Form 1099-R** ☐ CORRECTED (if checked)

1 Gross distribution \$ 34764.87 2a Taxable amount \$ 34764.87

2b Taxable amount not determined Total distribution

Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

PAYER'S name, street address, city, state, and ZIP code  
PUBLIC EMPLOYEES'RETIREMENT SYSTEM  
693 WEST NYE LANE  
CARSON CITY NV 89703

PAYER'S federal identification number 88-6001993 RECIPIENT'S identification number 0274

3 Capital gain (included in box 2a) \$ 4 Federal income tax withheld \$ 1968.00 5 Employee contributions (Designated Roth contributions or insurance premiums) \$ 0.00

6 Net unrealized appreciation in employer's securities \$ 7 Distribution codes 3 8 Other \$ %

9a Your percentage of total distribution % 9b Total employee contributions \$ 0.00

RECIPIENT'S name and street address (not apt. no.), city, state, and ZIP code

JESUS L AREVALO  
6935 ALIANTE PKWY STE 104 # 286  
NORTH LAS VEGAS NV 89084-5819

Account number (see instructions) 02740W 0274

11 1st year of filing (fill in one) 12 State tax withheld 13 State payer's state no. 14 State distribution 15 Local tax withheld 16 Name of locality 17 Local distribution

File this copy with your state, city, or local income tax return, when required.

VOLUME IV

OMB No. 1545-0118 **2021**

**Form 1099-R** ☐ CORRECTED (if checked)

1 Gross distribution \$ 34764.87 2a Taxable amount \$ 34764.87

2b Taxable amount not determined Total distribution

Distributions From Pensions, Annuities, Retirement Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

PUBLIC EMPLOYEES'RETIREMENT SYSTEM  
693 WEST NYE LANE  
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JESUS L AREVALO  
6935 ALIANTE PKWY STE 104 # 286  
NORTH LAS VEGAS NV 89084-5819

Account number (see instructions) 02740W 0274

11 1st year of filing (fill in one) 12 State tax withheld 13 State payer's state no. 14 State distribution 15 Local tax withheld 16 Name of locality 17 Local distribution

File this copy with your state, city, or local income tax return, when required.

RA000792









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Recipient Account  
Mailing Address & Phone  
Deduction Vendors  
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Recipient Forms  
Recipient Newsletters  
Pension Check Dates

Help  
Video Tutorials  
Help Desk FAQs  
FAQs  
Glossary of Terms  
Contact Us

Welcome Back, JESUS AREVALO  
SSN : \*\*\*-\*\*-0274  
EMAIL : wrath702@gmail.com  
Last Login : Monday, March 8, 2021 @ 12:04 AM

Owner : JESUS AREVALO  
Type : RETIREE  
Relation : OWNER  
Plan : P/F

## Your Retirement Account

[Click Here To: Change Password/ Update Email Address/Go Paperless](#)

Account Owner: JESUS AREVALO \*\*\*-\*\*-0274  
Retirement Date: 10/17/2013  
Retirement Type: Disability Retirement Option: Unmodified

### Recipient Information

#### Mailing Address

JESUS AREVALO \*\*\*-\*\*-0274  
STE 104 #286  
6935 ALIANTE PKWY  
NORTH LAS VEGAS NV 89094

Phone:  
702-613-1629

[Change Address/Phone](#)

### Next Check Information

#### Direct Deposit Instructions:

Bank: CLARK CO CU  
Route #: 322484113  
Acct Type: Checking  
Acct #: \*\*0374

[Change Bank Info](#)

#### Monthly Benefit Breakdown:

Taxable Base Benefit : \$2303.70  
PRI : \$289.88  
Federal Tax : (-)\$126.00

[View Vendor Info](#)

[Change Tax Info](#)

Net Benefit Amount : \$2467.58

#### Post Retirement Increase Month (PRI)

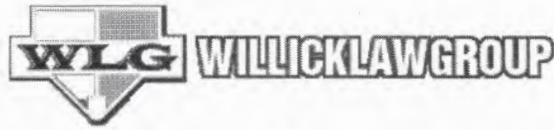
November



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Select Page



## Vol. 47 – Military Retirement Militant Groups

by Marshal S. Willick | Dec 5, 2011 | Newsletter | 0 comments

### Vol. 47 – Military Retirement Militant Groups

A legal note from Marshal Willick about developments – good, bad, and ugly – in the application of family law to cases involving military personnel (part two).

As set out in the last legal note, family law has accommodated military personnel to facilitate members' participation and fair treatment in child custody, visitation, and support matters.

Despite all the advantages handed to them, however, some military members just can't resist the temptation to ask for even more special treatment. The last legal note (posted at <https://www.willicklawgroup.com/newsletters>) debunked the rationales under which some members claimed that they were not required to support their children on the basis of the entirety of their income (like everyone else in the United States).

This note turns to a more insidious, and unfortunately, more prevalent larceny – the rationalizations of various former military members who seek to deprive their spouses of half of the retirement benefits earned during marriage, redirecting those sums into the veterans' own pockets, by way of misguided appeals to false "patriotism."

#### I. SO-CALLED "VETERAN SUPPORT GROUPS" SEEK TO PERVERT FAMILY LAW FOR THEIR PERSONAL ENRICHMENT

##### A. SYNOPSIS OF THE PROBLEM

Small but well-organized bands of former military members, seeking to undermine the relevant federal law, and many decades of State law designed to treat spouses equally under law, have mounted bursts of lobbying. Their targets are selected State Legislatures seen as vulnerable to enactment of a radical agenda seeking to deprive military spouses of the community or marital property protections held by all other



spouses, with the goal of taking the spousal share of retirement benefits and re-directing it to the military members, under any of several rationalizations.

#### B. BACKGROUND – BIG PICTURE – WHY SPOUSES SHARE IN RETIREMENTS

It is at this point a truism that retirement benefits, usually the most valuable asset of a marriage, are divisible upon divorce to at least the degree to which they were accrued during the marriage. See, e.g., Annotation, *Pension or Retirement Benefits as Subject to Assignment or Division by Court in Settlement of Property Rights Between Spouses*, 94 A.L.R. 3d 176. This is particularly true of military marriages, in which frequent moves are the norm and there is often less opportunity to accumulate large real estate equity.

In every single one of the United States, and in **every** retirement system, the decision has been made that marriage is, among other things, an economic partnership, in which the spouses share **equally** in the present and future economic benefits earned during marriage. That is true for military retirement benefits, as it is true for every single **other** kind of retirement benefits.

Law throughout the country now recognizes military retirement benefits as marital property. The reasons for this consensus are several: the benefits accrued during the marriage; income for both parties during the marriage was reduced in exchange for the deferred pension benefits; and both parties chose to endure the rigors of the military lifestyle and forego possible alternative employment which would have paid more in current wages, in order to have the pension.

But as with the child support laws discussed in the prior note, a certain segment of the military community has decided that its members are so "special" that they should be exempt from the laws governing everyone else – or, more specifically, that their spouses and children should have fewer rights than the spouses and children of all other workers in the country.

If anything, the equities are even clearer, and the arguments more transparently absurd, when employed by former military members trying to find a rationalization permitting them to pocket their former spouses' half of the military retirement benefits earned during the marriage.

#### C. BACKGROUND – MILITARY RETIREMENT BENEFITS

Even more so than with active duty pay components, the information regarding military retirement benefits is too extensive to fully recap here. Those wishing more detail should see my 1998 book, or the substantial CLE materials entitled "Divorcing the Military: How to Attack, How to Defend," posted along with forms, checklists, and many other practice aids at [https://www.willicklawgroup.com/military\\_retirement\\_benefits](https://www.willicklawgroup.com/military_retirement_benefits).

For the purpose of this discussion, the primary military retirement benefit is a non-contributory defined benefit pension plan payable after at least 20 years of service, for life, in a monthly amount dependent on the rank and years of service of the member. Additionally, military members can now participate in a version of the "Thrift Savings Plan" (TSP) – essentially the government version of a 401(k) that has long been available to Civil Service employees.

## WILLICK LAW GROUP

A DOMESTIC RELATIONS & FAMILY LAW FIRM  
3591 EAST BONANZA ROAD, SUITE 200  
LAS VEGAS, NV 89110-2101  
PHONE (702) 438-4100 • FAX (702) 438-5311  
WWW.WILLICKLAWGROUP.COM

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- ◆ NEVADA BOARD CERTIFIED FAMILY LAW SPECIALIST
- ◆ BOARD CERTIFIED FAMILY LAW TRIAL ADVOCATE  
BY THE NATIONAL BOARD OF TRIAL ADVOCACY



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### FIRM ADMINISTRATOR

FAITH FISH

### E-MAIL ADDRESSES:

(FIRST NAME OF INTENDED RECIPIENT)@WILLICKLAWGROUP.COM

March 3, 2015

Mr. Ira Hansen  
Chair, Assembly Judiciary Committee  
Legislative Building  
401 S. Carson Street, Room 3127  
Carson City, NV 89701-4747

**Re:** AB 140

Pending before your committee is AB 140, which would greatly injure Nevada family law if passed.

Specifically, it would prevent courts from using the actual income of a small group of people – as opposed to everyone else who gets divorced – in setting alimony and possibly child support. It would also permit one party, after a divorce, to effectively put back in his own pocket property awarded by the divorce court as belonging to the other spouse. Again, this would apply unequally, to only the selected group proposing the legislation.

The American Academy of Matrimonial Lawyers (the most prestigious organization of family law attorneys in the world) has formally gone on record as saying this type of legislation should be rejected, because divorce courts should have the ability to consider *all* separate property income streams – including VA disability compensation – in determining the actual assets, income, and expenses of the parties when distributing the marital estate, and in setting spousal support and child support. The Academy also urges legislatures to reject any proposal, like this one, that would prevent State divorce courts from protecting their decrees and the parties in divorce cases.

Enclosed for your review are two legal notes supplying the legal background of the situation. Legal note # 47 (“Military Retirement Militant Groups”) was issued in December, 2011, and legal note # 53 (“The Actual Legal Analysis as to 38 U.S.C. § 5301 and Alimony”) issued in October, 2012.

I have studied these issues, and taught courses to other lawyers on this subject, for over 20 years. AB 140 is awful in every way – masquerading as a flag-waving exercise, its provisions are either

Assembly Committee: Judiciary  
Exhibit: I Page: 1 of 30 Date: 03/20/15  
Submitted by: Marshal Willick

VOLUME IV

RA000797



Preemption is explained, again by the United States Supreme Court, as necessary for a federal system, but to be very strictly limited because of the obvious opportunity for abuse and inequity: "On the rare occasion when state family law has come into conflict with a federal statute, this Court has limited review under the Supremacy Clause to a determination whether Congress has 'positively required by direct enactment' that state law be pre-empted. . . . Before a state law governing domestic relations will be overridden, it 'must do "major damage" to "clear and substantial" federal interests.'"

## II. THE DISTINCTION BETWEEN PROPERTY DIVISION AND SUPPORT

Community property is defined as "All property . . . acquired after marriage by either husband or wife, or both," subject to a few exceptions. NRS 123.220. Upon divorce, courts are directed "to the extent practicable, make an equal disposition of the community property of the parties," again with a few exceptions. NRS 125.150(1).

Child and spousal support is determined through a completely different analysis. Child support is based on a percentage of "gross income," the definition of which is deliberately expansive, including "the total amount of income received each month from any source . . . ." NRS 125B.070.

A court determining spousal support is directed to award whatever "sum . . . appears just and equitable." In figuring out what is "just and equitable," courts are directed to consider "the financial condition of each spouse." Courts are further authorized, if they find it appropriate, to "set apart such portion of the . . . separate property" of either spouse that is "deemed just and equitable" to support the other party, or the parties' children. NRS 125.150.

Obviously, support draws from a much wider net than community property, since it considers the *totality* of economic resources of both parties, and is directed to achieve *equity* rather than (as with property division) a presumptively equal division of that which accrued during the marriage.

## III. DISABILITY INCOME IS *INCOME*

Most States, including Nevada, treat disability income as the separate property income stream of the employee spouse, which may not be divided as property with the non-employee spouse. *See, e.g., Powers v. Powers*, 105 Nev. 514, 779 P.2d 91 (1989) (disability retirement has two components, retirement and disability, and only the retirement component is divisible upon divorce). However, nothing requires a court in most cases to ignore reality or engage in the fantasy that the income stream does not exist when balancing the support rights and obligations of two parties.

In extremely rare circumstances, some forms of benefits have been expressly exempted from being counted as "income," due to competing policy directives. For example, the Nevada Supreme Court started its analysis in *Metz v. Metz*, 120 Nev. 786, 101 P.3d 779 (2004), with the irrefutable observation that *all* income of a child support obligor is contemplated within the scope of "gross income," and that NRS 125B.020 states that parents have a duty to support their children.

unnecessary (VA disability is already non-divisible as property upon divorce) or promote fraud, unjust enrichment, and wrongful deprivation. Ultimately, of course, former spouses who are deprived of their share of retirement benefits tend to become additional welfare recipients, consigned to an old age of destitution. I have represented many such persons.

Not only would this proposal tell the divorce courts to ignore the income of one party – but not the other – in setting alimony, it would leave former spouses open to unilateral, retroactive recharacterization of benefits awarded to them in divorce by stripping the courts of the power to protect decrees, and victims, from such actions. This would overrule decades of case law (in Nevada, the lead case is *Shelton v. Shelton*, 119 Nev. 492, 78 P.3d 507, 511 (Nev. 2003), in which the Nevada Supreme Court prevented a military member from taking back all of the payments stipulated and ordered to go to her in the divorce years earlier). I've enclosed a copy of the case.

To illustrate why the proposed bill would be an unconstitutional violation of equal protection on its face, consider the facts of the *Brownell* case discussed in legal note # 53. Both parties were totally disabled; the former member received over \$3,000 in monthly disability-based income, whereas his spouse received only \$200 in food stamps. The member was outraged when the divorce court required him to prevent his former spouse from starving in the street by awarding some alimony.

If AB 140 was the controlling law, *his* income would have been rendered “invisible” to the divorce court, but *her* \$200 in food stamp allowance would not – and would presumably have been split, giving him half of the food stamps in *addition* to the \$3,000+ in cash. The proposed bill states on its face that no court would have any ability to rectify that inequity.

In short, AB 140 is bad in virtually every way a proposed modification to law can be bad. It would treat similarly situated people unequally, would allow one group of people to cheat another out of benefits awarded to them, would prevent courts from doing equity to the parties in litigation, and would almost certainly leave a number of former spouses (virtually all women) utterly destitute, without any valid reason in law or in equity. The bill should be rejected.

I would be happy to supply whatever further information, background, or assistance the Committee might request.

Sincerely yours,  
WILICK LAW GROUP



Marshal S. Willick, Esq.

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One provision of federal law permits a military retiree, upon a finding of partial or total disability, to waive receipt of retired pay in favor of receipt, instead, of disability pay. It makes sense for a retiree to convert retired pay into a disability award, because a disability award is received tax-free, increasing the bottom line for turning one into the other. And under certain laws, a retired member with a disability can get **both** the full retirement pay **and** disability pay, concurrently.

In summary, conflict arises when a military retiree does such a conversion **after** a divorce in which a spouse was awarded a portion of the military retirement as her separate property, since the conversion to disability shuts off the retirement payments to the spouse (in whole or part), and sends that money, now called "disability pay," to the retired military member instead.

The technicalities of how such waiver and conversion works, and what courts have done about it, is too lengthy to detail here, but those that are interested should see pages 40-61 of the article noted above, where that treatment, nationally over the past 30 years, is detailed.

#### D. BACKGROUND – NEVADA CASE LAW

The Nevada Supreme Court, siding with the overwhelming majority of courts everywhere, found that a retiree who has waived military retirement benefits for disability, as allowed under the federal retirement scheme, must nevertheless indemnify a former spouse awarded a portion of that retirement benefit and pay to the former spouse what she was receiving before the conversion. See *Shelton v. Shelton*, 119 Nev. 492, 78 P.3d 507, 511 (2003).

The Court was likewise in the mainstream in holding that where retirement benefits contain both retirement and disability components, only the disability component is shielded from distribution **as property** upon divorce. The remaining disability portion is not divisible property – but it clearly constitutes a separate property income stream for all other purposes, such as calculating child or spousal support. See *Powers v. Powers*, 105 Nev. 514, 779 P.2d 91 (1989).

## II. FEDERAL LAW

### A. WHY THE USFSPA EXISTS, AND WHY IT IS FAIR

For many years, recruiters and others described the job of a military spouse as "the hardest job in the military" in recruiting literature, and recognition awards. Whether that statement was accurate or just recruiting hyperbole, there is no doubt that the ability to have the military retirement benefits after retirement has been used for decades as an enticement to **both** parties to a military marriage.

The reality of the life of a military spouse almost always involves frequent relocations (prohibiting the development of a personal career and retirement benefits), and extended periods of being solely responsible for family duties that in other households take both parents.

The 1981 United States Supreme Court case (*McCarty*) that gave rise to the federal legislation included the flat statement that "We recognize that the plight of an ex-spouse of a retired service member is often a

2

**MARK SHERMAN, CPA PROFESSIONAL CORPORATION**  
**601 SOUTH RANCHO DRIVE**  
**SUITE D32**  
**LAS VEGAS, NEVADA 89106-4827**

Phone: (702) 645-6318  
Fax: (702) 645-1604

Member  
American Institute of Certified Public Accountants  
Nevada Society of Certified Public Accountants

October 12, 2021

Jesus Arevalo  
6935 Aliante Pkwy Ste 104 #286  
Las Vegas, NV 89101

Re: NV PERS Account & QDRO Benefits Calculation

Dear Mr. Arevalo,

The purpose of this letter is to communicate our findings to you after assessing the NV PERS account details, existing QDRO, and letters from NV PERS you provided to us.

Based on your retirement date of 10/17/2013, you were 6,876 days, or 18.84 years away from retirement. Using the 4% per year reduction for early retirement, you would have had a 75.35% ( $18.84 \times 4\%$ ) reduction to your benefits, had you retired early on 10/17/13, rather than being deemed disabled. That would have reduced your monthly benefits from the \$2,750.70 you were awarded (per your final benefits verification sheet issued on 2/23/15) to \$677.95 (\$2,750.70 less a 75.35% reduction of \$2,072.75).

That being said, this leads us to assume \$677.95 of the \$2,750.70 monthly benefit you were awarded is for service, leaving \$2,072.75 of your monthly benefit being due to your disability determination.

Using \$677.95 as the monthly benefit for service, we recalculated the Alternate Payee's monthly benefit using the service credits and QDRO factors from the QDRO worksheet prepared on 9/28/2020 and arrived at the following figures:

|                                          |               |
|------------------------------------------|---------------|
| Service Credit                           | 11.71         |
| Service During Marriage                  | 3.8056        |
| Ratio (credit/during marriage)           | 0.3250        |
| Factor (50% of ratio)                    | 0.1625        |
| Monthly Benefit (service portion only)   | 677.95        |
| PRI (per QDRO worksheet)                 | <u>255.93</u> |
| Total Monthly Benefits                   | 933.88        |
|                                          |               |
| Alternate Payee (total benefit x factor) | 151.75        |
| Retiree (remainder)                      | <u>782.13</u> |
| Total Monthly Benefits                   | 933.88        |

Based on the figures above, we believe the Alternate Payee's benefit amount should be reduced to \$151.75 since your disability benefits are your sole and separate property.

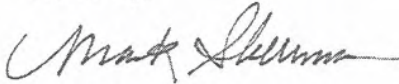
In addition, we used the following figures to calculate the community property value of the total retirement benefits earned during the marriage as follows:

|                                               |            |
|-----------------------------------------------|------------|
| Total Benefits Earned During Marriage         | 113,131.03 |
| 50% Community Property                        | 56,565.51  |
| Disability Portion (Sole & Separate Property) | 42,622.11  |
| Community Property                            | 13,943.40  |

Through today, Catherine has received 12 payments of \$488.58, which totals \$5,862.96. So using the community property portion of benefits earned during the marriage of \$13,943.40, she would currently be owed a balance of \$8,080.44. With her new calculated payment of \$151.75 it would take approximately 54 months to pay that balance.

Feel free to contact our office should you have any other questions or concerns about the above calculation.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Sherman", written in a cursive style.

Mark Sherman CPA



3



9800 Fredericksburg Road  
San Antonio, Texas 78288

JESUS L AREVALO  
6935 ALIANTE PKWY STE 104  
N LAS VEGAS NV 89084-5819

September 29, 2021

Reference: Life Insurance Application Status

Dear Mr. Arevalo,

Thank you for choosing us for your life insurance needs. We've completed our review of the following Simplified Whole Life application:

USAA number: 23909015  
Pending policy number: T746203858

Like all life insurance companies, we have guidelines that determine when coverage can or cannot be extended. Unfortunately, after carefully reviewing your application, we regret that we are unable to provide you with coverage because of your medical history; to include: [REDACTED], and post traumatic stress disorder.

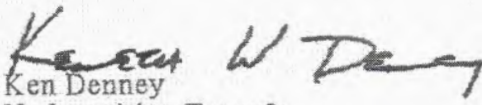
If you received any correspondence prior to this letter that you interpret as coverage, please disregard it. You do not have coverage. Also, if you have an existing policy that you were replacing, please continue paying the premiums on that policy.

The enclosed Summary of Rights explains your rights regarding your personal information in our files.

Although we are not able to insure you, there are steps you can take to improve the financial security of your loved ones. Call our USAA Retirement Income Specialist at 210-531-USAA (8722), our mobile shortcut #8722 or 800-531-8722, Monday through Friday from 7:30 a.m. to 10 p.m. CT and Saturday from 8 a.m. to 5 p.m. CT so they can help you develop a comprehensive plan.

If you have questions about the decision on this life insurance application, please call me directly at 800-235-8741, ext. 2-3162. Please contact us if you need further assistance.

Sincerely,

  
Ken Denney  
Underwriting Team 2  
USAA Life Insurance Company

Enclosure

5 "2"

Woman's Life<sup>®</sup>  
connection. community. cause.

November 22, 2021

JESUS L AREVALO  
4055 BOX CANYON FLS  
N LAS VEGAS NV 89085-4422

Re: Application No. XXXXX0679

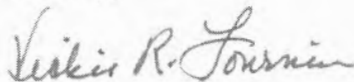
Dear Mr. Arevalo:

Thank you for providing Woman's Life the opportunity to consider your recent application for insurance and membership. After careful consideration, the application cannot be issued due to medical history. We can reconsider your eligibility with completion of referrals for hematology, cardiology, and neurology.

You may obtain additional information about this decision by completing the enclosed form, NB-75 Underwriting Results Authorization, authorizing Woman's Life to disclose the information to a physician of your choice. We provide the information in this manner to protect the confidentiality of your health information, and so your medical provider can answer any questions or concerns you may have. Please provide the physician's full name and address, and sign and date your request. We will then disclose the medical information to the physician by letter.

We are sorry that our decision could not have been more favorable.

Sincerely,



Vickie Fournier  
Director of Member Service

Cc: William Rohac  
File

# Application Individual Life Insurance

## 1 Select Application Type

- ☒ New policy
- ☐ Change to an existing policy/added benefits
- ☐ Term conversion with increase in amount
- ☐ Universal Life increase
- ☐ Select Term re-entry

Indicate the existing policy number(s)

## 2 Personal Information - Proposed Insured 1

AREVALO JESUS  
Last name First name Middle name

4055 BOX CANYON FALLS AVE  
Address

N LAS VEGAS NV 89085-4422  
City State ZIP Code

Sex: ☒ Male ☐ Female Single  
Marital status

Citizenship: ☒ United States (including territories such as Puerto Rico and Guam) ☐ Canada ☐ Other

44 08/14/1977 NV 5 / 6 165  
Age Date of birth (MM/DD/YYYY) State of birth Height (feet/inches) Weight (lbs)

[REDACTED] NV [REDACTED]-0274  
Driver's license number State SSN/ITIN

Disabled  
Occupation Employer

Annual household income: ☐ 0 - \$25,000 ☒ \$25,001 - \$50,000 ☐ \$50,001 - \$100,000 ☐ \$100,001 or more

Do you work in one of the following occupations: amusement, construction, diving, explosives, gas/oil, liquor, logging, mining, sports, military? ☐ Yes ☐ No If yes, please describe your exact duties:

Doc type 01.01



**Taxpayer Identification Number (TIN) Certification – Substitute W-9**

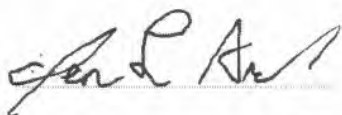
I certify under penalties of perjury that:

- (1) The TIN shown above is correct, and
- (2) I am a U.S. citizen or other U.S. person (defined below), and
- (3) Backup Withholding:
  - ☒ I am not subject to backup withholding either because I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of failure to report all interest or dividends, or the IRS has notified me that I am no longer subject to backup withholding or I am exempt from backup withholding.
  - ☐ I am subject to backup withholding.
- (4) I am exempt from reporting under the Foreign Account Tax Compliance Act (FATCA) with respect to the account(s) for which this form has been requested because I hold or otherwise maintain the account(s) in the United States.

Definition of U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**For instructions on how to complete the form, visit the IRS website at [www.irs.gov](http://www.irs.gov) or contact your local IRS office. The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding.**



07-05-2022  
Date (MM/DD/YYYY)

**SIGNATURE**

Proposed Insured 1 signature (Signature not required for juvenile application)

Date (MM/DD/YYYY)

**SIGNATURE**

Proposed Insured 2 signature

Date (MM/DD/YYYY)

**SIGNATURE**

Applicant signature

*Applicant's signature is not required unless Applicant is other than Proposed Insured 1. If a firm or corporation is to be the policyowner, please provide company name and signature of an authorized officer.*

07/05/2022  
Date (MM/DD/YYYY)

**SIGNATURE**

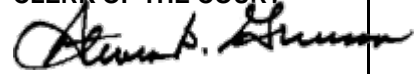
Agent/Licensed Insurance Producer signature

At Las Vegas  
City

NV  
State

64

64



**ROPP**  
WILICK LAW GROUP  
MARSHAL S. WILICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, NV 89110-2101  
Phone (702) 438-4100; Fax (702) 438-5311  
email@willicklawgroup.com  
Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHERINE AREVALO,  
N/K/A CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING: 2/7/2023  
TIME OF HEARING: 9:00 A.M.

**REPLY TO “PLAINTIFF’S OPPOSITION TO DEFENDANT’S  
MOTION FOR: ORDER TO SHOW CAUSE WHY PLAINTIFF  
SHOULD NOT BE HELD IN CONTEMPT OF COURT FOR  
FAILURE TO ABIDE BY THE COURT’S JULY 27, 2022, AMENDED  
QUALIFIED DOMESTIC RELATIONS ORDER AND ATTORNEY’S  
FEES AND COSTS”**

**I. INTRODUCTION**

Jesus’ *Opposition* revisits every issue that he has argued before this Court, the Nevada Supreme Court, and the Nevada Court of Appeals. His repeated arguments received no traction in any Court and are all *res judicata*.

As to the only arguments the Court should consider; whether the affidavit is valid; and, whether his compliance was impossible, Jesus’ argument is factually and legally wrong. If these are his only defenses, then he will be held in contempt and the only question remaining is if he will be incarcerated for this contempt.

1  
2 **II. REPLY**

3 **A. The Order is Clear and Jesus Can Comply**

4 Jesus begins his argument claiming the Court can't divide his retirement. He  
5 has made this argument *ad nauseum* and it has been rejected by every Court that has  
6 heard it. The division of the PERS benefits is *res judicata*. In fact, his most recent  
7 appeal on the entry of the *Indemnification QDRO* was recently rejected by the Nevada  
8 Supreme Court as an allowable enforcement remedy.

9 Though it is not before the Court, he again argues that the life insurance policy  
10 is not authorized. Again, this has been dealt with and is *res judicata*. He refused to  
11 cooperate in getting the policy and thus the *Indemnification QDRO* was entered. This  
12 is all final and unappealable.

13 Jesus then argues that the *Order* is not clear because the Court never ruled on  
14 what was and was not divisible. Again, *res judicata* in that the entirety of his PERS  
15 benefits are subject to division and he has caused those benefits to be stopped. The  
16 amount that he has to pay to Catherine is the full amount of his benefits minus \$10.  
17 It can't be any clearer than this.

18 Jesus then argues that he is not able to pay the sums he owes to Catherine.  
19 Jesus misses the point. He would not have to pay anything to Catherine if he just  
20 completed the required form and sent it to PERS. He has refused to do so as a direct  
21 challenge to this Court's *Orders* and to deprive Catherine of the benefits to which she  
22 is entitled.

23 He claims that if he gets work, the pension benefits would stop and she would  
24 not be paid her share. This is a circular argument as he could then pay her what is  
25 owed as is outlined in the *Indemnification QDRO* if he is working. Additionally,  
26  
27  
28



1 Jesus has worked in the past while receiving these benefits. All he has to do is clear  
2 the employment with PERS before he begins the work.<sup>1</sup>

3 Jesus then claims – yet again – that the *Order* to which he is in contempt is not  
4 “lawful.” He argued this point to the Nevada Supreme Court and they held,

5 In particular, the order does not appear appealable as a special order after final  
6 judgment because it relates to the mere enforcement of a prior district court  
7 order. See *Gumm v. Mainor*, 118 Nev. 912, 59, P.3d 1220 (2002) (recognizing  
8 that a post-judgment order must affect rights growing out of the final judgment  
9 to be appealable). Accordingly, this court concludes that it lacks jurisdiction  
10 and ORDERS this appeal DISMISSED.<sup>2</sup>

11 In other words, the *Order* is lawful and enforceable.

12 Lastly, Jesus argues that Catherine’s *Affidavit* is not valid. He claims that the  
13 *Affidavit* does not comply with the requirements of EDCR 5.510, by saying it does not  
14 include every element of the rule.

15 He is, of course, wrong. He is grasping for straws that do not exist.

16 EDCR 5.510(a) states:

17 A motion seeking an Order to Show Cause (OSC) for contempt must be  
18 accompanied by a detailed affidavit complying with NRS 22.030(2) that  
19 identifies the specific provisions, pages and lines of the existing order(s)  
20 alleged to have been violated, the acts or omissions constituting the alleged  
21 violation, any harm suffered or anticipated, and the need for a contempt ruling,  
22 which should be filed and served as any other motion.

23 Catherine’s affidavit complies with NRS 22.030(2) in that her affidavit  
24 presents “to the court or judge of the facts constituting the contempt.”

25 Next the affidavit provides a direct quote of the provision that applies and lists  
26 the date of the filed order, the page number and the lines of the *Order*. It also states  
27 what he did that was a violation of the *Order* and identifies the harm – which is the  
28 non-payment of what is owed to her.

The *Affidavit* is completely valid and thus the *Motion* is valid.

---

<sup>1</sup> See Exhibit F, copy of the approval from Nevada PERS for Jesus to work.

<sup>2</sup> See *Arevalo v. Delao*, Order Dismissing Appeal, Oct 24, 2022, 85169.

1           **B. Attorney's Fees**

2           Jesus does not provide any cogent argument as to why Catherine should not be  
3 awarded her fees and thus – since the request is unopposed – the request should be  
4 granted.

5  
6           **III. CONCLUSION**

7           Jesus' *Opposition* is without legal or factual support. He again attempts to re-  
8 argue issues that are all *res judicata* and provides no legal support for these  
9 arguments.

10          We ask the Court to find the *Opposition* unpersuasive and grant Catherine's  
11 *Motion* in its entirety which includes:

- 12           1. Finding Jesus in contempt of court.
- 13           2. Incarcerating Jesus until he either pays her the money that is due  
14 or completes the paperwork required by Nevada PERS to begin  
15 the pension payments.
- 16           3. Award Catherine her actual fees and costs, reduced to judgment  
17 collectible by all lawful means.
- 18           4. For any further relief the Court finds reasonable.
- 19

20                   **DATED** this 21<sup>st</sup> day of November, 2022.

21                                   Respectfully Submitted By:  
22                                   WILLICK LAW GROUP

23                                   //s// Richard L. Crane  
24                                   MARSHAL S. WILLICK, ESQ.  
25                                   Nevada Bar No. 2515  
26                                   RICHARD L. CRANE, ESQ.  
27                                   Nevada Bar No. 9536  
28                                   3591 E. Bonanza Road, Suite 200  
                                     Las Vegas, Nevada 89110-2101  
                                     Attorneys for Defendant

## DECLARATION OF ATTORNEY

1. I, Richard L. Crane, Esq., am one of the attorney's representing Catherine Delao, declare that I am competent to testify to the facts contained in the preceding filing.
2. I have read the preceding filing, and I have personal knowledge of the facts contained therein, unless stated otherwise. Further, the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.
3. The factual averments contained in the preceding filing are incorporated herein as if set forth in full.

**I declare under penalty of perjury, under the laws of the State of Nevada and the United State (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct.**

**EXECUTED** this 21st day of November, 2022.

//s// Richard L. Crane  
RICHARD L. CRANE, ESQ.

## CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 21<sup>ST</sup> day of November, 2022, I served a copy of the foregoing entitled document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system.
- ☐ By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- ☐ Pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.
- ☐ Pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means.
- ☐ By hand delivery with signed Receipt of Copy.
- ☐ By First Class, Certified U.S. Mail.

To the following at the address, email address, and/or facsimile number indicated below:

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085  
[wrath702@gmail.com](mailto:wrath702@gmail.com)  
[vinni702@yahoo.com](mailto:vinni702@yahoo.com)  
*Plaintiff in Proper Person*

/s/ *Victoria Javiel*

An Employee of the WILICK LAW GROUP

P:\wp19\DELAO,C\DRAFTS\00592574.WPD\RC

**EXHIBIT “F”**

**EXHIBIT “F”**

**EXHIBIT “F”**

Retirement Board

Mark R. Vincent  
Chair  
Katherine Ong  
Vice Chair

Lee-Ann Easton  
Scott M. Gorgan  
Yolanda T. King  
Timothy M. Ross  
Brian A. Wallace



*K. Reyna*

06/21/2018

11

Executive Staff

Tina Leiss  
Executive Officer

Cheryl Price  
Operations Officer

Steve Edmundson  
Investment Officer

June 21, 2018

Jesus Arevalo  
6935 Aliante Pkwy  
North Las Vegas, NV 89084

Dear Mr. Arevalo:

The Retirement Board at its regularly scheduled meeting held on June 21, 2018, approved your requests to work as a Sales/Driver/Stocking Management for Coca-Cola and Operations Supervisor Hauling for Republic Services. As long as you perform the duties outlined in your request, this employment will not affect your disability benefit.

Should you have any questions, please contact us and ask to speak with a Counseling Services representative.

Sincerely,

*Kristina Reyna*  
Kristina Reyna, Manager  
Production Services Division

## Approval Recommended

Jesus Arevalo

Former occupation: Police Officer II  
Former employer: Las Vegas Metropolitan Police Department  
Medical problem: Post Traumatic Stress Disorder, Anxiety, Panic Attacks

Mr. Arevalo was unable to perform the duties required of the job due to his medical condition.

Employment request: Sales/Driver/Stocking/Management, Operations Supervisor  
Hauling

Staff comment: A Police Officer II performs skilled law enforcement work on an assigned shift, serving in any of the patrol or specialized areas of police activities in the Las Vegas Metropolitan Police Department. Duties include patrolling assigned areas; participating in mutual aid situations, special enforcement activities, and search and rescue operations; maintaining law and order; citing and arresting violators; executing search and arrest warrants; and other related tasks. As Sales/Driver/Stocking/Management for Coca-Cola, Mr. Arevalo would be working in a warehouse, performing retail duties, driving, and working in management. As Operations Supervisor Hauling for Republic Services, Mr. Arevalo would be supervising drivers and promoting accident prevention and safety. In these positions, Mr. Arevalo will not be required to perform law enforcement duties. Therefore, Staff recommends that the Board approve Mr. Arevalo's reemployment requests.

Medical review: Nurse Stoner sees no conflict with the reasons Mr. Arevalo was found to be disabled.

**Retirement Board**

Mark R. Vincent  
Chair  
Katherine Ong  
Vice Chair

Lee-Ann Easton  
Scott M. Gorgon  
Yolanda T. King  
Timothy M. Ross  
Brian A. Wallace



**Executive Staff**

Tina Leiss  
Executive Officer

Cheryl Price  
Operations Officer

Steve Edmondson  
Investment Officer

May 21, 2018

Ms. Tina Leiss  
Public Employees' Retirement System  
693 West Nye Lane  
Carson City, Nevada 89703

Re: Jesus Arevalo

Dear Ms. Leiss:

Your attention is directed to Dr. Nickles' letter to Ms. Bilyeu dated September 6, 2013, regarding Mr. Arevalo. At that time, he was found to be disabled from being a Police Officer II for the Las Vegas Metropolitan Police Department, secondary to post traumatic stress disorder, anxiety, and panic attacks. We are now in receipt of two requests dated March 13, 2018, from Mr. Arevalo. The first one is to work as a Sales/Driver/Stocking/Management for Coca-Cola. I do not feel that the job duties conflict with the reasons for which he was found to be disabled. I recommend that the Board approve that reemployment application for Mr. Arevalo.

The second reemployment application is to work as an Operations Supervisor Hauling. I do not feel that the job duties conflict with the reasons for which he was found to be disabled. I recommend that the Board approve Mr. Arevalo's application for reemployment in the position of Operations Supervisor Hauling.

Sincerely,

Kathy Stoner, RN, CCM  
Board Medical Adviser

0618





**Public Employees' Retirement System of Nevada**  
693 W. Nye Lane, Carson City, NV 89703 (775) 687-4200 Fax (775) 687-5131  
5820 S. Eastern Ave., Suite 220, Las Vegas, NV 89119 (702) 486-3900 Fax (702) 678-6934  
7455 W. Washington Ave., Suite 150, Las Vegas, NV 89128 (702) 486-3900 Fax (702) 304-0697  
Toll Free 1-866-473-7768 Website [www.nvpers.org](http://www.nvpers.org)

**RECEIVED**

**DISABILITY REEMPLOYMENT APPLICATION**

APR 25 2018

**PART I of III**

**PERS Of Nevada**

When you received approval for disability retirement benefits from PERS, you were found to be disabled from performing your job or a comparable job for which you were qualified based on your training and experience because of an injury or mental or physical illness of a permanent nature. A disabled retired employee who seeks reemployment must apply for and receive Board approval prior to returning to any type of employment, either public or private, or the disability benefit will be suspended. In order to receive approval from the Board, the reemployment must not be found to be comparable to the position in which you were found to be disabled. To apply for Board approval of your potential reemployment, please complete and return this application, Part II - Job Analysis, and Part III - Physician's Statement to the PERS office for processing. **All parts must be received in order for your reemployment request to be presented to the Retirement Board.**

Your Name: JESUS L. AREVALO  
Mailing Address: 6935 Aliante Pkwy #104-286  
Last Four Digits of Social Security Number: \_\_\_\_\_ Daytime Phone: (702) 813-1829  
Position you were found to be disabled from: POLICE OFFICER  
Nature of the disability: PTSD  
Name of the Potential Employer: COCA - COLA  
Name of Position: SALES / DRIVER / STOCKING / MANAGEMENT

- ☐ Complete and attach Part II - Job Analysis  
☐ Complete and attach Part III - Physician's Statement - approving reemployment.

In accordance with NRS 286.640 (1) when the recipient of a disability allowance is determined by the Board to be no longer disabled, the allowance must be cancelled.

I understand that my disability benefits will be cancelled under the following situations:

- If after re-examination I am found to be no longer disabled
- I return to public service as an employee or independent contractor without board approval
- I accept private employment without board approval
- I choose to begin receiving a service retirement
- Upon my death
- At my request and I am found to no longer be disabled following re-examination

**RECEIVED**

APR 23 2018

**PERS LVE**

Jesus L. Arevalo  
Retiree Signature

3/13/18  
Date

65

65

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESUS LUIS AREVALO,  
Appellant,  
vs.  
CATHERINE MARIE AREVALO, N/K/A  
CATHERINE MARIE DELAO,  
Respondent.

Supreme Court No. 85169  
District Court Case No. D448514

**FILED**

DEC 28 2022

CLERK'S CERTIFICATE

*Elizabeth A. Brown*  
CLERK OF COURT

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDERS this appeal DISMISSED."

Judgment, as quoted above, entered this 24th day of October, 2022.

IN WITNESS WHEREOF, I have subscribed  
my name and affixed the seal of the Supreme  
Court at my Office in Carson City, Nevada this  
December 27, 2022.

Elizabeth A. Brown, Supreme Court Clerk

By: Melissa Fuller  
Administrative Assistant



D-11-448514-D  
CCJD  
NV Supreme Court Clerks Certificate/Judgn  
5017376



IN THE SUPREME COURT OF THE STATE OF NEVADA

JESUS LUIS AREVALO,  
Appellant,  
vs.  
CATHERINE MARIE AREVALO, N/K/A  
CATHERINE MARIE DELAO,  
Respondent.

No. 85169

**FILED**

OCT 24 2022

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

*ORDER DISMISSING APPEAL*

This is a pro se appeal from a post-divorce decree district court order directing (1) appellant to obtain a life insurance policy, (2) that an indemnification QDRO will not be entered if appellant obtains the required life insurance, (3) counsel for respondent to notify the court if a compliant life insurance policy is obtained, and (4) that if appellant fails to timely obtain life insurance, the indemnification QDRO shall be submitted to the court for signature. Eighth Judicial District Court, Family Court Division, Clark County; Charles J. Hoskin, Judge.

Review of the notice of appeal and documents before this court reveals a jurisdictional defect. The order challenged on appeal does not appear to be substantively appealable. *See Brown v. MHC Stagecoach, LLC*, 129 Nev. 343, 345, 301 P.3d 850, 851 (2013) (this court “may only consider appeals authorized by statute or court rule”). In particular, the order does not appear appealable as a special order after final judgment because it relates to the mere enforcement of a prior district court order. *See Gumm v. Mainor*, 118 Nev. 912, 59, P.3d 1220 (2002) (recognizing that

a post-judgment order must affect rights growing out of the final judgment to be appealable). Accordingly, this court concludes that it lacks jurisdiction and

ORDERS this appeal DISMISSED.

*Hardesty*, J.  
Hardesty

*Stiglich*, J.  
Stiglich

*Herndon*, J.  
Herndon

cc: Hon. Charles J. Hoskin, District Judge, Family Court Division  
Jesus Luis Arevalo  
Willick Law Group  
Eighth District Court Clerk

IN THE SUPREME COURT OF THE STATE OF NEVADA

JESUS LUIS AREVALO,  
Appellant,  
vs.  
CATHERINE MARIE AREVALO, N/K/A  
CATHERINE MARIE DELAO,  
Respondent.

Supreme Court No. 85169  
District Court Case No. D448514

REMITTITUR

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: December 27, 2022

Elizabeth A. Brown, Clerk of Court

By: Melissa Fuller  
Administrative Assistant

cc (without enclosures):  
Hon. Charles J. Hoskin, District Judge  
Jesus Luis Arevalo  
Willick Law Group \ Marshal S. Willick

RECEIPT FOR REMITTITUR

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on DEC 28 2022.

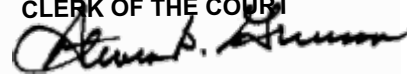
HEATHER UNGERMANN  
Deputy District Court Clerk

RECEIVED  
APPEALS  
DEC 28 2022

CLERK OF THE COURT

66

66



ATEAR

Name: Jesus L Arevalo

Address: 4233 Galapagos Ave

N. Las Vegas, NV 89084

Telephone: 702-813-1829

Email Address: JLrev702@yahoo.com

In Proper Person

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Jesus L Arevalo**

Plaintiff,

vs.

**Catherine M Arevalo**

Defendant.

CASE NO.: D-11-448514-D

DEPT: E

HEARING DATE: 2-7-2023

TIME OF HEARING: 9:00 am

**VIDEO APPEARANCE REQUEST**

(Your name) Jesus L Arevalo, (☒ check one) ☒ Plaintiff  
/ ☐ Defendant, requests that the following person be allowed to testify by remote court  
appearance via video conference, pursuant to Rule 4 of the Nevada Supreme Court's Rules  
Governing Appearance by Audiovisual Transmission Equipment: (☒ check one) ☐ Myself /  
☐ Witness: Jesus L Arevalo. This request is for the hearing date and  
time above for the (☒ check one):

- ☒ Motion Hearing  
☐ Case Management Conference  
☐ Trial / Evidentiary Hearing

- ☐ Trial Setting Conference  
☐ Other: \_\_\_\_\_

The person subject to this request has executed the Consent on the next page and agrees  
to be bound by the oath given by the Court Clerk, Eighth Judicial District Court and to be  
subject to the jurisdiction of this Court for purposes related to this testimony.

(Your Name) Jesus L Arevalo agrees to provide all exhibits to the  
witness in advance in the same form as have been or will be submitted to the Court Clerk.

Any objection to this request must be made in writing within two (2) judicial days of  
service of this request.



If the IT department wants to test and verify the functionality of the party/witness's video conference connectivity with the Court's IT department, the contact information of the party or witness for the test is:

Name: Jesus L Arevalo  
Email Address: JLrev702@yahoo.com  
Phone Number: 702-813-1829

DATED (today's date) 01-31-2023, 20\_\_

Submitted By: (Signature) ▶ /s/ Jesus L Arevalo

Printed Name: Jesus L Arevalo

**CONSENT**

*(to be signed by the person who wants to appear by video)*

By making this request for Audiovisual Transmission Equipment Appearance, the undersigned agrees to be bound by the oath given by the Court Clerk over the video conference connection and to be subject to the jurisdiction of this Court for purposes related to this testimony. I certify that the video connection has been successfully tested at <http://bluejeans.com/111>, prior to submitting this application.

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

DATED (today's date) 01-31, 2023

(Signature of party or witness) ▶ /s/ Jesus L Arevalo

Printed Name: Jesus L Arevalo

### CERTIFICATE OF SERVICE

I, (your name) Jesus L Arevalo declare under penalty of perjury under the law of the State of Nevada that I served the Audiovisual Transmission Equipment Appearance and Audiovisual Transmission Equipment Consent in the following manner:

- ☐ **Mail:** By depositing a copy in the U.S. Mail in the State of Nevada, postage prepaid, on the (day) \_\_\_\_\_ of (month) \_\_\_\_\_, 20\_\_ addressed to:  
(Print the name and address of the person you mailed the document to)

Name: Marshal S Willick

Address: williclawgroup.com

City/State/Zip: \_\_\_\_\_

- ☒ **Electronic:** Through the Court's electronic service system on (date) 02-02-2023  
at (time) 3:45 ☐ a.m. ☒ p.m.

DATED (today's date) 02-02-2023, 20\_\_

Submitted By: (Signature) ▶ /s/ Jesus L Arevalo

67

67



JESUS LUIS AREVALO  
4322 Galapagos Ave.,  
North Las Vegas, Nevada 89084  
(702) 813-1829  
*Plaintiff in Proper Person*

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

JESUS LUIS AREVALO

**CASE NO: D-11-448514-D**

Plaintiff,

**DEPT. NO: E**

vs.

**DATE OF HEARING: 02/07/2023**

CATHERINE AREVALO,

**TIME OF HEARING: 9:00 am**

Defendant.

**PLAINTIFF'S SUPPLEMENTAL POINTS AND AUTHORITY**

Plaintiff, Jesus Luis Arevalo, appearing In Proper Person, respectfully  
submits this *Plaintiff's Brief Re: Order to Show Cause*.

This Brief is filed and based upon the papers and pleadings on file herein,  
the Points and Authorities detailed below, and any and all evidence adduced at the  
evidentiary hearing.

THEREFORE, Plaintiff, Jesus Luis Arevalo, requests the following relief:

1. That the Court find that Plaintiff is not in contempt.
2. An order Denying Defendant's request for attorney's fees and costs.

1 RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of February, 2023.

2  
3 /s/ Jesus Luis Arevalo

4 Jesus Luis Arevalo

5 *Plaintiff in Proper Person*

6  
7 **I. POINTS AND AUTHORITIES**

8 Pursuant to NRS 22.010, contempt includes acts of disobedience or  
9 resistance to any lawful writ, order, rule or process issued by the court. Any order  
10 meant to be the subject of a contempt proceeding must be clear, unambiguous, and  
11 set forth the details of compliance in clear, specific terms, so the parties will know  
12 what duties or obligations are imposed. *Cunningham v. District Court*, 102 Nev.  
13 551, 729 P.2d 1328 (1986). The moving party carries the burden of demonstrating  
14 the other party had the ability to comply with the order, and the violation of the  
15 order was willful. *Rodriguez v. District Court*, 120 Nev. 789, 102 P.3d 41 (2004).  
16  
17  
18  
19

20 The inability of a contemnor to obey the order (without fault on their part) is  
21 a complete defense and sufficient to purge them of the contempt charged.

22 *McCormick v. Sixth Judicial District Court*, 67 Nev. 318, 326; 218 P.2d 939  
23

24 (1950). However, where the contemnors have voluntarily or contumaciously  
25 brought on themselves the disability to obey the order or Decree, such a defense is  
26  
27  
28

1 not available; and the burden of proving inability to comply is upon the contemnor.

2 *Id.*

3  
4 Under EDCR 5.510, “(a) A motion seeking an Order to Show Cause (OSC) for  
5 contempt must be accompanied by a detailed affidavit complying with NRS  
6 22.030(2) that identifies the specific provisions, pages and lines of the existing  
7 order(s) alleged to have been violated, the acts or omissions constituting the  
8 alleged violation, any harm suffered or anticipated, and the need for a contempt  
9 ruling, which should be filed and served as any other motion.  
10  
11

12  
13 Generally, an order for civil contempt must be grounded upon one’s  
14 disobedience of an order that spells out the details of compliance in clear, specific  
15 and unambiguous terms so that such person will readily know exactly what duties  
16 or obligations are imposed on him.” *Southwest Gas Corp. v. Flinkote Co.*, 99 Nev.  
17 127, 131, 659 P.2d 861, 864 (1983), *quoting Ex parte Slavin*, 412 S.W. 2d 43, 44  
18 (Tex.1967). The order Catherine is accusing Jesus to be in contempt of falls short  
19 of the requirements  
20  
21  
22  
23

## 24 **II. FACTUAL BACKGROUND**

25 The parties were divorced in February 2013. In September 19, 2013, Jesus was  
26 approved for total and permanent disability by NV PERS and was directed to  
27  
28

1 terminate his employment in order to be eligible for benefits (**Exhibit 1**). Jesus  
2 retired based on disability in October 2013, 18.84 years away from retirement.  
3

4 In late 2013/2014 the 8th district court of Clark County, NV and Judge  
5 Duckworth affirmed and acknowledged that Jesus was disabled with both parties  
6 present at the hearing. Neither the court nor Catherine requested a different form of  
7 security under NCRP 60(b) at that time because Jesus was unable to secure a life  
8 insurance policy due to him being disabled, and because benefits were already in  
9 effect, so there was nothing to “secure.”  
10  
11

12  
13 Eight years later, this court decided to rewrite the divorce decree, in clear  
14 violation of NCRP 60(b). See hearing on 11-30-2021 (time stamp of video time  
15 7:35 - 8:03). Yet in a hearing on 6-22-2022 time stamp (20:07-20:29) this same  
16 court explains it cannot go back and revisit the life insurance policy issue, basically  
17 recognizing NCRP 60(b) without saying it.  
18  
19

### 20 **III. ARGUMENT**

#### 21 **A. Contempt is not willful.**

22 Jesus is permanently and totally disabled. Due to this Court’s order entering  
23 indemnification QDRO, he has no income. As such, he is not able to provide any  
24 payments to Catherine. In addition, Jesus is ineligible for retirement benefits  
25 because he was forced to seek re-employment.  
26  
27  
28

1 Jesus has 1 child in common with Catherine and they share legal and split physical  
2 custody. He also has 2 other biological children living with him full time whom he  
3 is responsible for supporting, and a step daughter. Jesus could not just sit around  
4 and not work and hope \$10 a month, the amount that this court left Jesus with  
5 when it granted Catherine's request to enter indemnification QDRO, would feed,  
6 clothe and shelter him and his children. This is not in the best interest of the  
7 children. One would think this would have been a major consideration for a family  
8 court system before making a parent "Destitute" because attorney Willick was  
9 owed attorney's fees, among other things.

13  
14 Chapter 286 of Nevada Revised Statutes is the rule of law when it comes to  
15 disability allowance retirement. It establishes the process for determination  
16 whether disabled and how disability is approved. It also establishes when and how  
17 a recipient receives their disability allowance retirement. It also sets forth steps one  
18 needs to take in order to stay on disability and whether or not reemployment is  
19 permissible, and steps on how to re-employ.

22 More specifically, according to NRS chapter 286, when attempting to  
23 seeking reemployment, the disabled retiree must petition NV Pers pursuant to the  
24 guidelines laid out. It takes approximately three months for NV Pers to review a  
25 petition to go back to work. However, *no prospective employer is going to wait*  
26 *three months for a prospective employee to accept an offer for employment.*



1 Since this court created Jesus' financial hardship, making him "DESTITUTE" and  
2 taking 100% of his disability allowance retirement income, He had no choice, but  
3 to immediately seek reemployment. The Court recognized Jesus' financial  
4 condition when it entered an order allowing him to proceed *in forma pauperis*.  
5

6 Because Jesus was legally obligated by Chapter 286 of NRS to notify NV  
7 Pers about seeking employment, and because he can could not wait for 3 months,  
8 NV Pers by law had to suspend his disability allowance retirement. If he did not  
9 notify NV Pers, and remained a disabled-allowance retiree, he would be criminally  
10 liable for fraud.  
11

12 These NRS rules of law, when it comes to disability & disability allowance  
13 retirement through NV Pers has been presented to this court twice. Once in the  
14 *Christopher Reahm v Stephanie Reahm* (Case No. D-15-508183-D ) and once in  
15 this case, Jesus Arevalo v. Catherine Arevalo . Which leaves Jesus wondering if  
16 this court has actually taken the time to read chapter 286 of NRS as it relates to the  
17 rule of law regarding PERS as it pertains to disability. The court ruled in favor of  
18 these NRS Disability Laws with the *Realm* case, yet did the complete opposite in  
19 this case. If this court has a bias and should recuse itself.  
20  
21  
22  
23

24  
25 Also at that hearing on 6-22-2022, ( time stamp 12:46 ) this court stated yes it is,  
26 disability is your sole and separate property. The court denies it's their legal  
27  
28

1 responsibility to follow the laws of disability income exemptions because it is  
2 NVPERS Executive Officer or it's designees job to review and reject if the QDRO  
3 if it does NOT follow NRS 286.6703. The court also goes on to play word games  
4 in the 6-22-2022 hearing, ( time stamp 14:00-14:27 ). Judge Hoskin states,  
5 "Disability changes how if I am able to distribute those funds it doesn't change the  
6 fact you can execute on those funds".  
7

8  
9 This court clearly disregarded Nevada Law NRS 21.909(1)(ee) & (ii), along  
10 with NRS 286.670, which both talk about exemptions from "execution". What is  
11 more troubling is this court "WILLFULLY" disregarded Federal Law 42 US Code  
12 407 as well, along with the American Disability Act section 504. This court has  
13 also been violating Jesus' American Disability Act Rights of 42 US CODE  
14 12203(b) since it was reassigned to Jesus' case in October of 2019. When  
15 American Disability Act Rights are violated, it is also a "Civil Rights violation".  
16 There are now state protections in place under new Nevada Supreme Court case  
17 *Law Mack v. Williams*.  
18

19  
20  
21 Jesus attempted to appeal decisions from both the November 3rd, 2021, and  
22 the June 6 2022, hearing through Supreme Court of Nevada. Somehow the  
23 Supreme Court of Nevada doesn't seem to think they have jurisdiction over these  
24 matters. So, Jesus is only left with the remedy of filing a federal and civil rights  
25 complaint.  
26  
27  
28

1 The current indemnification QDRO is also very ambiguous and completely  
2 different than a life insurance policy. This court had already stated and discussed  
3 that any security (Indemnification QDRO) put in place to protect Catherine's  
4 benefits would be done in a manner similar to a life insurance policy. The portion  
5 of the indemnification QDRO that was to cover the life insurance policy would be  
6 put in a separate account, which neither party could touch until the death of either  
7 party. However, this was not done and Catherine was receiving 100% of Jesus'  
8 retirement to be spent however she feels fit. So, if she was to pass away  
9 NOTHING would revert back to Jesus.

13 This court created this issue and are the ones that knocked Jesus out of  
14 disability allowance retirement status. It was not Jesus' fault that he is no longer in  
15 retirement status and per Chapter 286 of the NRS. A QDRO is only valid when a  
16 retiree is in retirement status or in this case "eligible" to retire, which Jesus is no  
17 longer eligible. It was not the Plaintiff ( dad ) that was at fault or in willful  
18 contempt of court. That fault falls on the Mr Willick, Richard Crane and this  
19 courts.

23 Another legal situation this court should be made aware of is NVPERS as it  
24 pertains to Federal Social security. When an individual works for the state of  
25 Nevada and is a NV PERS participant, they are exempt from federal social security  
26 and do not pay into it. So, when a NVPERS member get injured in the course of  
27

1 their employment and become 100% disabled, the participant CANNOT claim  
2 Social Security disability or any type of social security assistance and does NOT  
3 qualify because they did not pay into Social Security. NVPERS disability  
4 allowance retirement is their only option when they become disabled, leaving them  
5 DESTITUTE if something happens to their NV PERS Disability Allowance  
6 Retirement, which is exactly what happened in this case  
7  
8

### 9 **III. CONCLUSION**

10  
11 The court should find that Jesus is not in contempt and deny Catherine's request  
12 for fees.  
13

14 RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of February, 2023.  
15

16 /s/ Jesus Luis Arevalo  
17 Jesus Luis Arevalo  
18 *Plaintiff in Proper Person*  
19

### 20 **DECLARATION OF PLAINTIFF**

21  
22 I declare, under penalty of perjury:

- 23 1. I have read the foregoing Brief, and the factual averments it contains are true  
24 and correct to the best of my knowledge, except as to those matters based on  
25 information and belief, and as to those matters, I believe them to be true.  
26 Those factual averments contained in the referenced filing are incorporated  
27 here as if set forth in full.  
28 2. Any Exhibit(s) in support of this Brief will be filed separately in an Exhibit  
Appendix.

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

3 RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of February, 2023.

4 /s/ Jesus Luis Arevalo  
5 Jesus Luis Arevalo  
6 *Plaintiff in Proper Person*

7  
8 **CERTIFICATE OF SERVICE**

9  
10 I hereby certify that on this 3<sup>rd</sup> day of February, 2023, an accurate copy of the  
11 foregoing will be served by submitting electronically for filing and/or service with  
12 the Eighth Judicial District Court's e-filing system and served on counsel  
13 electronically in accordance with the E-service list to the following email  
14 addresses:  
15

16  
17 marshal@willicklawgroup.com

18 email@willicklawgroup.com

19 Mallory@willicklawgroup.com

20 [deptelc@clarkcountycourts.us](mailto:deptelc@clarkcountycourts.us)

21  
22  
23 **I declare under penalty of perjury under the law of the State of Nevada that**  
24 **the foregoing is true and correct.**

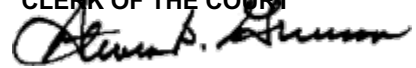
25 RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of February, 2023.

26  
27 /s/ Jesus Luis Arevalo  
28 Jesus Luis Arevalo  
*Plaintiff in Proper Person*

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Filing Code: CSERV  
Your Name: Jesus L Arevalo  
Address: 4233 Galapagos Ave  
  
Telephone: 702-813-1829  
Email Address: JLrev702@yahoo.com

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

Jesus L Arevalo

Plaintiff,

vs.

Catherine Arevalo

Defendant.

CASE NO.: D-11-448514-D

DEPT: E

**CERTIFICATE OF SERVICE**

I, declare under penalty of perjury under the law of the State of Nevada that the following is true and correct. That I served the: **(check all that apply)**

- ☐ Motion      ☐ Answer      ☐ Financial Disclosure Form  
☐ Opposition      ☐ Reply      ☐ Exhibit Appendix  
☒ Other: Video Appearance Request

In the following manner: **(check one)**

- ☐ **Mail:** By depositing a copy in the U.S. Mail, postage prepaid, on  
(date you mailed it) \_\_\_\_\_, 20\_\_ addressed to:

(Print the name and address of the person you mailed the document to)

Marshal S Willick

Dept E

- ☒ **Electronic:** Through the Court's electronic service system on (date) 02/03/2023.

DATED (today's date) February 4 th 2023.

Submitted By: (your signature) /s/ Jesus L Arevalo

(print your name) Jesus L Arevalo

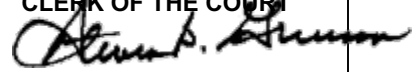


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NEO

Electronically Filed  
2/6/2023 12:33 PM  
Steven D. Grierson  
CLERK OF THE COURT



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\* \* \*

Jesus Luis Arevalo, Plaintiff  
vs.  
Catherine Marie Arevalo,  
Defendant.

Case No: D-11-448514-D  
Department E

**NOTICE OF ENTRY OF ORDER**

Please take notice that an ORDER DENYING PLAINTIFF'S VIDEO  
APPEARANCE REQUEST was entered in the foregoing action and  
the following is a true and correct copy thereof.

Dated: February 06, 2023

\_\_\_\_/s/ Sherri Estes\_\_\_\_

Sherri Estes  
Judicial Executive Assistant  
Department E

## CERTIFICATE OF SERVICE

I hereby certify that on the above file stamp date:

☐ I placed a copy of the foregoing NOTICE OF ENTRY OF ORDER in the appropriate attorney folder located in the Clerk of the Court's Office of:

☒ I provided, the foregoing NOTICE OF ENTRY OF ORDER to:

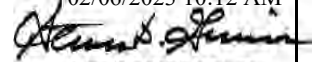
Jesus Luis Arevalo  
[Wrath702@gmail.com](mailto:Wrath702@gmail.com)  
[Vinni702@yahoo.com](mailto:Vinni702@yahoo.com)

Marshal Shawn Willick  
[marshal@willicklawgroup.com](mailto:marshal@willicklawgroup.com)

Richard L. Crane  
[email@willicklawgroup.com](mailto:email@willicklawgroup.com)

\_\_\_\_/s/ Sherri Estes\_\_\_\_

Sherri Estes  
Judicial Executive Assistant  
Department E

  
CLERK OF THE COURT

ORDR

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

Jesus Luis Arevalo,  
Plaintiff,

vs.

Catherine Marie Arevalo,  
Defendant.

Case No.: D-11-448514-D

Dept.: E

**ORDER DENYING  
PLAINTIFF'S VIDEO APPEARANCE REQUEST**

This Court having reviewed this file FINDS that Plaintiff, Jesus Luis Arevalo, submitted *Video Appearance Request* on February 3, 2022. Plaintiff requests to appear by video for the hearing scheduled for February 7, 2023. That Hearing is an *Order to Show Cause* Hearing, wherein Plaintiff was directed to appear, in-person, to show cause why he should not be held in contempt of Court orders. *See Order to Show Cause*, filed November 18, 2022.

The procedure in District Courts shall be administered to secure efficient, speedy, and inexpensive determinations in every action. Furthermore, EDCR 5.502(e)(3) states that this Court can consider a motion and issue a decision on the papers at any time without a hearing.

1 Plaintiff's *Video Appearance Request* provides no basis for his  
2  
3 inability to appear as ordered. EDCR 5.609 states:

4 “(a) Unless otherwise directed by the court, all hearings **except for**  
5 **evidentiary hearings, trials, and proceedings to show cause why**  
6 **sanctions should not be imposed** shall be conducted by utilizing  
7 simultaneous audiovisual or telephonic transmission equipment.”  
8 (*Emphasis added*).

9 Further, within the *Rules Governing Appearance by Telephonic*  
10 *Transmission Equipment for Civil and Family Court Proceedings*, Rule 4(1),  
11 it lists the hearings wherein a party shall be allowed to appear using  
12 telephonic transmission equipment. An *Order to Show Cause* hearing is not  
13 listed in subsections (a) through (h). As the type of hearing is not mandated  
14 by the Rule, and that Plaintiff should be given every opportunity to  
15 adequately show cause why he should not be held in contempt, good cause  
16 does not exist to permit appearance by electronic means.  
17  
18

19 NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiff's  
20 *Video Appearance Request* is DENIED.  
21

22 IT IS SO ORDERED  
23

24 Dated this 6th day of February, 2023

25   
26

27 se

28 ABA 659 603F 39E2  
Charles J. Hoskin  
District Court Judge

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Jesus Luis Arevalo, Plaintiff

CASE NO: D-11-448514-D

7 vs.

DEPT. NO. Department E

8 Catherine Marie Arevalo,  
9 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  
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 2/6/2023

15 Marshal Willick

marshal@willicklawgroup.com

16 Reception Reception

email@willicklawgroup.com

17 Justin Johnson

Justin@willicklawgroup.com

18 Jesus Arevalo

wrath702@gmail.com

19 Jesus Arevalo

vinni702@yahoo.com

70

70

D-11-448514-D      Jesus Luis Arevalo, Plaintiff  
vs.  
Catherine Marie Arevalo, Defendant.

**February 07, 2023      09:00 AM      Motion**

**HEARD BY:**      Hoskin, Charles J.      **COURTROOM:** Courtroom 24

**COURT CLERK:**      Mansfield, Quentin

**PARTIES PRESENT:**

**Catherine Marie Arevalo, Counter Claimant,  
Defendant, Present**

**Marshal Shawn Willick, Attorney, Present**

**Richard L. Crane, Attorney, Present**

**Jesus Luis Arevalo, Counter Defendant, Plaintiff,  
Present**      **Pro Se**

**Luis Jesus Arevalo, Subject Minor, Not Present**

**Public Copy Request, Other, Not Present**

**JOURNAL ENTRIES**

DEFENDANT'S MOTION FOR ORDER TO SHOW CAUSE WHY PLAINTIFF SHOULD NOT BE HELD IN CONTEMPT OF COURT FOR FAILURE TO ABIDE BY THE COURT'S July 27, 2022, AMENDED QUALIFIED DOMESTIC RELATIONS ORDER AND ATTORNEY'S FEES AND COSTS

Plaintiff, Jesus Arevalo, Defendant, Catherine Arevalo, and Defendant's Counsel, Richard Crane, Esq., were present via VIDEO CONFERENCE through the BlueJeans application. Defendant's Counsel, Marshal Willick, Esq., was present before the Court in proper person.

The Court NOTED the papers and pleadings on file and reviewed the history of the case. Upon inquiry of the Court, Plaintiff stated he had a fever and was experiencing Covid-19 and flu-like symptoms. The Court further NOTED that the November, 2022 Order to Show Cause did not specifically reference a Court Order to hold the Plaintiff in contempt.

Mr. Crane provided discussion regarding the violation of the Qualified Domestic Relations Order (QDRO) by Plaintiff and the specific provision that he is not to interrupt the receipt of retirement benefits by Defendant. Mr. Crane argued that Plaintiff interrupted the benefits by not filling out an annual report to continue receiving benefits as he was required to do. Mr. Crane further argued Plaintiff could not receive benefits due to his new employment, although he could disclose the employment to PERS through the referenced annual form. Upon inquiry of the Court, Mr. Crane affirmed he was arguing that Plaintiff was in violation of the most recent Indemnification QDRO.

Plaintiff provided discussion regarding his current employment with Amazon, his retirement status, and his claim that the QDRO was only valid during his retirement. Upon inquiry of the Court, Plaintiff argued he did not violate the QDRO and claimed his actions were not willful. Plaintiff further stated he could not fill out his annual report due to his seeking of employment because of a lack of income. Plaintiff argued that the Court was violating his Americans with Disabilities Act rights and maintained he was 100 percent disabled.



Mr. Crane requested that Plaintiff be held in contempt and for \$500.00 to be assessed for each of Plaintiff's missed payments. Mr. Crane also requested 25 days of incarceration for each missed payment for a total of 125 days. Mr. Crane further requested for the purge amount to be set at \$2,500.00 plus the total amount of missed payments. Upon inquiry of the Court, Mr. Crane maintained that the Court could incarcerate Plaintiff on civil contempt without appointing Plaintiff an attorney. Mr. Crane stated he could provide citations to the Court.

Mr. Willick provided discussion regarding Plaintiff's failure to act constituting as an action in itself. Upon inquiry of the Court, Mr. Willick stated Plaintiff was not filling out the required form in order to keep Defendant from receiving the payments. Upon further inquiry of the Court, Mr. Willick stated Plaintiff could cure the contempt by filling out the required form for his PERS retirement benefits.

Upon inquiry of the Court, Plaintiff stated he would be committing fraud if he were to fill out the form due to currently being employed. Plaintiff provided further discussion regarding his actions not being willful.

Mr. Crane referenced the Affidavit attached to Defendant's Motion which provided the Order, page and line numbers that Plaintiff was in violation of. Mr. Crane also stated that a Certificate of Service was attached to the QDRO showing that Plaintiff was properly served. Upon inquiry of the Court, Plaintiff stated he did not take any steps to limit the collection of benefits by Defendant. Plaintiff also maintained the QDRO was not valid due to him not being in retirement status.

COURT stated its FINDINGS and ORDERED the following:

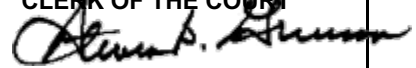
1. The Court hereby FINDS that Plaintiff is in violation of the 07/27/2022 Amended Qualified Domestic Relations Order, specifically, Page 5, lines 11 through 16. The Court FINDS that the violation is WILLFUL and FINDS Plaintiff to be in CONTEMPT of Court.
2. Plaintiff SHALL be SANCTIONED \$100.00 for each missed payment of his retirement benefits to Defendant.
3. Plaintiff's missed payments of retirement benefits to date SHALL hereby be reduced to JUDGMENT. Said amount shall be collectible by any legal means bearing the legal rate of interest until paid in full.
4. Mr. Crane SHALL have leave to file a Supplement with regard to the issue of appointing an attorney for a finding of civil contempt.
5. Mr. Crane shall prepare the Order and submit to the Court for review and signature.
6. CASE CLOSED upon entry.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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71



**SUPP**  
WILICK LAW GROUP  
MARSHAL S. WILICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, NV 89110-2101  
Phone (702) 438-4100; Fax (702) 438-5311  
email@willicklawgroup.com  
Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING: 2/7/2023  
TIME OF HEARING: 9:00 a.m.

**SUPPLEMENT CASE LAW TO  
DEFENDANT'S MOTION FOR:  
ORDER TO SHOW CAUSE WHY PLAINTIFF SHOULD NOT BE HELD  
IN CONTEMPT OF COURT FOR FAILURE TO ABIDE BY THE  
COURT'S JULY 27, 2022, AMENDED QUALIFIED DOMESTIC  
RELATIONS ORDER  
AND ATTORNEY'S FEES AND COSTS**

As requested, Defendant, Catherine Delao, by and through her attorneys of the  
WILICK LAW GROUP, hereby submits the following supplemental case law to her  
*Motion for Order to Show Cause Why Plaintiff Should Not Be Held In Contempt of  
Court for Failure to Abide by the Court's July 27, 2022, Amended Qualified*

1 *Domestic Relations Order and Attorney's Fees and Costs* as authorized by the Court  
2 at the hearing held on February 7, 2023.

3  
4 Exhibit A Copy of Case *Lewis v. Lewis*, 132 Nev. 453, 373 P.3d 878 (2016).

5  
6 As the Court noted at the above captioned hearing, the *Lewis* case identifies  
7 and discusses when a Court must appoint counsel in contempt proceedings.  
8 Specifically the Nevada Supreme Court held:

9 [T]he Sixth Amendment guarantee of the right to counsel applies only in  
10 criminal prosecutions. Whether a contempt proceeding is classified as criminal  
11 or civil in nature depends on whether it is directed to punish the contemner or,  
12 instead, coerce his compliance with a court directive.

13 Criminal sanctions are punitive in that they serve the purpose of preserving the  
14 dignity and authority of the court by punishing a party for offensive behavior.  
15 In contrast, civil contempt is said to be remedial in nature, as the sanctions are  
16 intended to benefit a party by coercing or compelling the contemnor's future  
17 compliance, not punishing them for past bad acts. Moreover, a civil contempt  
18 order is indeterminate or conditional; the contemnor's compliance is all that  
19 is sought and with that compliance comes the termination of any sanctions  
20 imposed. Criminal sanctions, on the other hand, are unconditional or  
21 determinate, intended as punishment for a party's past disobedience, with the  
22 contemnor's future compliance having no effect on the duration of the  
23 sentence imposed.<sup>1</sup>

24 The Court went on to say in the Conclusion of the case:

25 If a contempt order does not contain a purge clause, it is criminal in nature and  
26 the Sixth Amendment right to counsel applies.

27 Here, our requested relief was that Jesus be found in contempt and to be fined  
28 \$500 per missed payment.<sup>2</sup> We also asked that Jesus be incarcerated for 25 days for  
each missed payment. We asked that the purge amount be the total of the fine plus  
the amount of the missed payments.

---

25 <sup>1</sup> See *Lewis v. Lewis*, 132 Nev. 453, 373 P.3d 878 (2016), citing to *Rodriguez*  
26 *v. Eighth Judicial Dist. Court*, 120 Nev. 798, 804-05, 102 P.3d 41, 45-46 (2004).

27 <sup>2</sup> The Court ordered \$100 per missed payment.

1 In accordance with *Lewis*, as long as this purge clause is included in the  
2 contempt *Order*, the contempt is civil and there is no requirement under the 6th  
3 Amendment to the United States Constitution that Jesus be appointed counsel.

4 As an aside, because this Court has granted *in forma pauperis* designation to  
5 Jesus, the Court should also review the holding in *Rodriguez*.<sup>3</sup>

6 In the *Rodriguez* case, the Nevada Supreme Court held:

7 The court opined that the trial court is the proper forum to determine the need  
8 for counsel, taking into account relevant factors such as the party's ability to  
9 understand the proceeding, the complexity of the issues, and the defenses that  
10 might be presented. The court adopted a case-by-case analysis, providing the  
11 trial court with discretion to determine whether fundamental fairness requires  
12 the appointment of counsel in any given case. We believe, consistent with  
13 Lassiter, that this case-by-case approach is the best rule of law.<sup>4</sup>

14 In other words, as long as Jesus understood the proceedings – which are not at  
15 all complex – and knew his appropriate defenses, there is no need for appointed  
16 counsel in a civil contempt case, even if the party is indigent, as long as there is a  
17 purge clause in the *Order*.

18 **DATED** this 7th day of August, 2020.

19 WILICK LAW GROUP

20 // s // *Richard L. Crane*

21 **MARSHAL S. WILICK, ESQ.**  
22 Nevada Bar No. 2515  
23 **RICHARD L. CRANE, ESQ.**  
24 Nevada Bar No. 9536  
25 3591 E. Bonanza Road, Suite 200  
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27 (702)438-4100; Fax (702)438-5311  
28 Attorney for Defendant

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29 <sup>3</sup> *Rodriguez v. Eighth Judicial Dist. Court*, 120 Nev. 798, 102 P.3d 41 (2004).

30 <sup>4</sup> *Id.*, citing to *State ex rel. Department of Human Services v. Rael*, 97 NM 640,  
31 642 P.2d 1099 (1982).

## CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 7th day of February, 2023, I caused the above and foregoing document to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system.
- ☐ By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.
- ☐ Pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means.
- ☐ By hand delivery with signed Receipt of Copy.
- ☐ By First Class, Certified U.S. Mail.
- ☐ By placing same to be deposited for mailing in the United States Mail, Certified, Return Receipt Requested, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

To the address, email address, and/or facsimile number indicated below:

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085  
[wraith702@gmail.com](mailto:wraith702@gmail.com)  
*Plaintiff in Proper Person*

//s// Justin K. Johnson  
An Employee of the WILICK LAW GROUP

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# EXHIBIT A

1 IN THE SUPREME COURT OF THE STATE OF NEVADA

2 WESLEY ALLEN LEWIS,  
Appellant,

3 vs.

4 MARIA DANIELA LEWIS, A/K/A MARIA DANIELA PERDOMO,  
Respondent.

5 No. 66497

6 Appeal from district court orders modifying child custody and holding appellant in  
7 contempt. Eighth Judicial District Court, Family Court Division, Clark County; Gayle  
8 Nathan, Judge.

9 Affirmed in part, reversed in part, and remanded.

10 Greenberg Traurig, LLP, and Tami D. Cowden, Las Vegas, for Appellant.

11 Fine & Price Law Group and Frances-Ann Fine, Henderson, for Respondent.

12 BEFORE HARDESTY, SAITTA and PICKERING, JJ.

13 OPINION

14 By the Court, SAITTA, J.:

15 The Sixth Amendment's right to counsel applies only to criminal proceedings. Thus,  
16 in deciding whether that right applies to contempt proceedings, the question is  
17 whether the contempt is civil or criminal in nature. This opinion addresses whether  
18 a contempt order is required to contain a purge clause, which gives the defendant the  
19 opportunity to purge himself of the contempt sentence by complying with the terms  
20 of the contempt order, in order to be considered civil in nature and avoid invoking the  
21 Sixth Amendment's right to counsel.

22 We hold that a contempt order that does not contain a purge clause is criminal in  
23 nature. Because the district court's contempt order in this case did not contain a purge  
24 clause, appellant's constitutional rights were violated by imposing a criminal sentence  
25 without providing appellant with counsel. We further hold that the district court  
26 abused its discretion by improperly basing its decision to modify custody on  
27 appellant's failure to comply with a court order and by failing to consider and set  
28 forth its findings as to the NRS 125.480(4) (2009) factors for determining the child's  
best interest.

FACTUAL AND PROCEDURAL HISTORY

Appellant Wesley Allen Lewis and respondent Maria Daniela Lewis divorced in  
2011. They had one minor child at the time of the divorce. The divorce decree  
awarded Wesley and Maria joint physical custody of the child and imposed upon  
Wesley an obligation to pay child support to Maria.



1 In 2013, Maria filed a motion seeking to hold Wesley in contempt of court for lack  
2 of payment of child support, among other things. After a hearing, the district court  
3 issued an order on October 14, 2013, determining that Wesley had child support  
4 arrearages in the amount of \$9,012.38. The district court also held Wesley in  
5 contempt of court for his failure to pay child support and ordered him to pay \$500 for  
6 each month that he had failed to pay child support, for a total of \$5,500. The contempt  
7 order further included a jail sentence of ten days for each month that he had failed to  
8 pay child support, but the sentence was stayed contingent upon Wesley making all  
9 future payments. The district court also found Wesley willfully underemployed and  
10 determined Wesley's imputed gross monthly income based on what he would make  
11 if fully employed. Based on his imputed income, the district court ordered Wesley to  
12 pay child support of \$91 per month, \$50 per month for one-half of the child's health  
13 insurance, and \$100 per month for child support arrearages. Lastly, the order required  
14 Wesley to take the child to tutoring classes on Mondays after school and to pay  
15 one-half of the cost of the tutoring.

16 In 2014, Maria filed a motion to modify custody and enforce the 2013 order. After a  
17 hearing at which Wesley represented himself, the district court entered an order  
18 awarding Maria primary physical custody of the child. The order also adopted prior  
19 findings from the 2013 order that Wesley was willfully underemployed, and it used  
20 Wesley's imputed gross monthly income from that order as the basis to modify his  
21 child support obligation subsequent to the modification of the custodial arrangement.  
22 The district court's order further required Wesley to continue taking the child to  
23 tutoring classes and to pay one-half of those costs. Finally, the district court held  
24 Wesley in contempt of court for his failure to pay three months of child support and  
25 take the child to tutoring classes over the summer. The district court sentenced  
26 Wesley to 20 days in jail for each missed payment and 20 days for the missed tutoring  
27 classes, for a total of 80 days. The district court then stayed the contempt sentence on  
28 the condition that Wesley "follow the Orders of the Court."

Wesley raises the following issues on appeal: (1) whether the district court violated  
his Sixth Amendment right to counsel by not appointing him counsel before holding  
him in criminal contempt, (2) whether the district court abused its discretion by  
modifying the child custody arrangement, and (3) whether the district court abused  
its discretion by ordering Wesley to continue to pay for half of the child's tutoring  
expenses.

## DISCUSSION

Wesley's Sixth Amendment right to counsel was violated by the district court's  
contempt order

Wesley argues that because the district court's order of contempt was criminal in  
nature, he had a Sixth Amendment right to counsel during the proceedings before the  
district court. We normally review an order of contempt for abuse of discretion. In *re*  
*Water Rights of the Humboldt River*, 118 Nev. 901, 907, 59 P.3d 1226, 1230 (2002).  
However, we review constitutional issues de novo. *Jackson v. State*, 128 Nev. 598,  
603, 291 P.3d 1274, 1277 (2012).

The district court's contempt order was criminal in nature

1 [T]he Sixth Amendment guarantee of the right to counsel applies only in criminal  
2 prosecutions. Whether a contempt proceeding is classified as criminal or civil in  
3 nature depends on whether it is directed to punish the contemner or, instead, coerce  
4 his compliance with a court directive.

5 Criminal sanctions are punitive in that they serve the purpose of preserving the  
6 dignity and authority of the court by punishing a party for offensive behavior. In  
7 contrast, civil contempt is said to be remedial in nature, as the sanctions are intended  
8 to benefit a party by coercing or compelling the contemnor's future compliance, not  
9 punishing them for past bad acts. Moreover, a civil contempt order is indeterminate  
10 or conditional; the contemnor's compliance is all that is sought and with that  
11 compliance comes the termination of any sanctions imposed. Criminal sanctions, on  
12 the other hand, are unconditional or determinate, intended as punishment for a party's  
13 past disobedience, with the contemnor's future compliance having no effect on the  
14 duration of the sentence imposed.

9 Rodriguez v. Eighth Judicial Dist. Court, 120 Nev. 798, 804-05, 102 P.3d 41, 45-46  
(2004) (citations omitted).

10 In Rodriguez, the district court issued a contempt order for Rodriguez to spend 25  
11 days in jail for failing to pay child support, with the possibility of early release upon  
12 his payment of the outstanding arrearages. Id. at 804, 102 P.3d at 45. The Rodriguez  
13 court reasoned that the contempt order was civil in nature because "[t]he district  
14 court's intent was to compel Rodriguez's compliance with the support order for the  
15 benefit of his daughter, not to punish him for any ongoing noncompliance." Id. at  
16 805, 102 P.3d at 46. Therefore, the court held that the Sixth Amendment right to  
17 counsel did not apply to the proceedings. Id.

15 However, the United States Supreme Court has identified an additional factor in  
16 determining whether a contempt order is civil or criminal—that is, in order for a  
17 contempt order imposing a determinate sentence to be civil in nature, it must contain  
18 a purge clause. Hicks v. Feiock, 485 U.S. 624, 640 (1988). A purge clause gives the  
19 defendant the opportunity to purge himself of the contempt sentence by complying  
20 with the terms of the contempt order. Id.

19 Here, the district court issued a contempt order against Wesley for failing to (1) pay  
20 child support, and (2) take the child to her tutoring classes, pursuant to a previous  
21 court order. The order directed Wesley to serve 80 days in jail, but it stayed the jail  
22 sentence contingent upon Wesley following all future court orders. Thus, like  
23 Rodriguez, it appears that the district court's intent was to compel Wesley's  
24 compliance with the support order for the benefit of his daughter, not to punish him  
25 for any ongoing noncompliance. However, the order failed to contain a purge clause  
26 that would allow Wesley to purge himself of the contempt sentence. Thus, if the stay  
27 was lifted due to a missed payment by Wesley, he would have no way to purge his  
28 sentence to avoid or get out of jail. While it is possible that the district court intended  
for Wesley to be able to purge himself of his sentence and get out of jail in such a  
situation by paying any missed payment, the order does not so state. Therefore, we  
hold that because the district court's contempt order did not contain a purge clause,  
it was criminal in nature and Wesley's Sixth Amendment right to counsel was  
violated when the contempt order was entered after proceedings in which he was not  
represented by counsel.<sup>2</sup> The district court abused its discretion in its order modifying  
child custody. This court reviews modifications of child custody under an abuse of

1 discretion standard. *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241 (2007).  
2 “[A] modification of primary physical custody is warranted only when (1) there has  
3 been a substantial . change in circumstances affecting the welfare of the child, and (2)  
4 the child’s best interest is served by the modification.” *Id.* at 150, 161 P.3d at 242.  
5 However, when modifying joint physical custody, it is only necessary to consider  
6 whether the modification is in the child’s best interest. *Rivero v. Rivero*, 125 Nev.  
7 410, 430, 216 P.3d 213, 227 (2009).

8 The district court’s order stated that it was modifying custody because it was in the  
9 child’s best interest “based on [Wesley’s] conduct over the past ten (10) months.” The  
10 order failed to specify which conduct it was referring to, although the district court  
11 did make factual findings in the order that Wesley had child support arrearages and  
12 had not followed the court’s order to pay half of the child’s medical insurance. The  
13 district court also (1) found that Wesley was not credible when he testified that he  
14 spent two hours a night going over the child’s homework, (2) had concerns about  
15 Wesley not charging the child’s phone so that Maria could have daily contact with the  
16 child, and (3) was concerned that Wesley was not taking the child to her tutoring  
17 classes. Lastly, the order stated that the district court found Wesley to be in contempt  
18 for failing to pay child support and half of the tutoring costs.

19 The district court also made oral pronouncements as to the best interest of the child,  
20 stating:

21 You know, Mr. Lewis, in the space of ten months, you demonstrated to The Court  
22 by your own behavior in this—your own conduct, I should say, that it’s in the best  
23 interest of the minor child that I change the custodial arrangement, from not paying  
24 your support to not taking her to [tutoring], to ignoring her medical needs, to not  
25 making yourself available with a voicemail, to not following my Court orders, even  
26 so far as making sure your child’s phone stay plugged in and charged so that Mom  
27 can have access to her, and to the tardies and the absentee record, especially the  
28 tardies and the absentee records. Those are significant factors The Court looks at.

29 The district court abused its discretion by improperly basing its decision on  
30 Wesley’s failure to pay child support, medical insurance costs, and tutoring costs

31 “This court has made it clear that a court may not use changes of custody as a sword  
32 to punish parental misconduct; disobedience of court orders is punishable in other  
33 ways.” *Sims v. Sims*, 109 Nev. 1146, 1149, 865 P.2d 328, 330(1993).

34 Here, the district court appeared to base its order modifying child custody, at least in  
35 part, on the fact that Wesley failed to pay child support, his portion of the medical  
36 insurance for the child, and his portion of the tutoring costs in violation of a previous  
37 court order. The written order stated that the custody modification was in the child’s  
38 best interest because of Wesley’s actions in the months prior to the order, which  
39 included his failure to follow the court’s order. In its oral pronouncement as to the  
40 best interest of the child, the district court specifically spoke of Wesley’s failure to  
41 pay child support and his failure to follow court orders as factors that it considered.  
42 Because Wesley’s failure to follow court orders may not be considered as a factor in  
43 determining the child’s best interest during a modification of custody, we hold that  
44 the:district court abused its discretion.

1 The district court abused its discretion by failing to consider the NRS 125.480(4)  
2 (2009) factors in determining the child's best interest

3 "In determining the best interest of the child, the court shall consider and set forth its  
4 specific findings concerning, among other things," the factors set out in NRS  
5 125.480(4). NRS 125.480(4) (2009) (emphasis added). "Specific findings and an  
6 adequate explanation of the reasons for the custody determination are crucial to  
enforce or modify a custody order and for appellate review." Davis v. Ewalefo, 131  
Nev., Adv. Op. 45, 352 P.3d 1139, 1143 (2015) (internal quotation marks omitted).  
"Without them, this court cannot say with assurance that the custody determination  
was made for appropriate legal reasons." Id.

7 Here, other than Wesley's failure to follow the court's order, the district court based  
8 its determination of the best interest on the finding that Wesley did not attend to the  
9 child's medical needs, was not accessible by phone or voicemail, and failed to make  
10 the child available to Maria by phone when in Wesley's custody. The district court  
11 also considered the child's school tardiness and absentee record while in Wesley's  
12 custody, and Wesley's failure to participate in child therapy sessions set up by Maria.  
13 While these findings could correspond to some of NRS 125.480(4) (2009)'s factors,  
14 the district court nonetheless failed to adequately set forth its specific findings as to  
15 each factor, and it is unclear from the district court's order and oral findings when  
read together whether every NRS 125.480(4) (2009) factor was considered.  
Therefore, we hold that the district court abused its discretion by failing to set forth  
specific findings as to all of NRS 125.480(4) (2009)'s factors in its determination of  
the child's best interest during a modification of custody. Because the district court  
abused its discretion by improperly considering Wesley's failure to comply with court  
orders and failing to enter specific factual findings as to each of the statutory  
best-interest-of-the-child factors, we reverse the district court's order modifying child  
custody.

16 The district court did not abuse its discretion by ordering Wesley to continue paying  
17 for tutoring classes

18 Wesley argues that because the minor child tested at or above grade level on the Clark  
19 County School District's CRTs and received As and Bs at school, she had completed  
20 the conditions of the district court's 2013 order regarding additional tutoring classes.  
21 Wesley further argues that there was no evidence to support a finding that the minor  
child had continuing special education needs, see NRS 125B.080(9), and that  
therefore the district court abused its discretion by ordering Wesley to pay for  
additional tutoring classes.

22 The district court's 2013 order stated, in relevant part, that the minor child "shall  
23 continue to receive tutoring services until she is testing at or above grade level as  
24 tested by [the tutoring school]." Although she was found to be at or above grade level  
25 on the Clark County School District's CRTs and received As and Bs at school, she  
26 still tested below grade level in math as tested by the tutoring school. Therefore, we  
27 hold that the conditions of the district court's 2013 order were not satisfied and the  
28 district court did not abuse its discretion by enforcing its 2013 order requiring Wesley  
to continue to pay for half of the tutoring expenses.

1 CONCLUSION

2 If a contempt order does not contain a purge clause, it is criminal in nature and the  
3 Sixth Amendment right to counsel applies. Because the contempt order in this case  
4 did not contain a purge clause, we hold that Wesley's constitutional rights were  
5 violated when the contempt order was entered against him when he was  
unrepresented by counsel at the contempt proceedings. Therefore, we vacate the  
district court's contempt order and order that Wesley be appointed counsel if he is  
found to be indigent and not already otherwise represented.

6 We further hold that the district court abused its discretion by improperly considering  
7 Wesley's failure to comply with court orders in modifying custody and by failing to  
8 specifically set forth specific findings regarding all of NRS 125.480(4) (2009)'s  
9 factors. However, the district court did not abuse its discretion by ordering Wesley  
to pay for additional tutoring classes for the minor child. Therefore, we affirm in part,  
reverse in part, and remand this case to the district court for further proceedings  
consistent with this opinion.

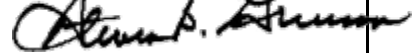
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Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING:  
TIME OF HEARING:

**EX PARTE APPLICATION FOR  
BENCH WARRANT**

Defendant, Catherine Delao, by and through her attorneys, the WILICK LAW GROUP, pursuant to NRS 179.395, hereby files her *Ex Parte Application for Bench Warrant*, wherein she requests that this Court issue a Bench Warrant for the immediate arrest of Jesus Arevalo for his continued Civil Contempt of Court.

Specifically, Jesus Arevalo did commit civil contempt in direct view of the Court by not appearing at the scheduled time for an *Order to Show Cause Hearing* on February 7, 2023, at 9:00 a.m., in Department E of the Family Division.

Additionally, Jesus Arevalo, at the end of the *Order to Show Cause Hearing* was found to be in contempt of court for his failure to comply with the orders of the

1 Court. Specifically, he did not comply with the *Qualified Domestic Relations Order*  
2 issued on July 27, 2022, which included the following provision on page 5 lines 11  
3 through 16:

4 IT IS FURTHER ORDERED that if Jesus takes any steps to merge the  
5 retirement divided herein with another retirement program of any kind, or  
6 takes any action that prevents, decreases, or limits the collection by Catherine  
7 of the sums to be paid hereunder; Jesus shall make payments to Catherine  
8 directly in an amount sufficient to neutralize, as to Catherine, the effects of the  
9 action taken by Jesus.

10 This Court found that Jesus did willingly and without cause, violate this *Order*  
11 on five occasions by first not filling out the required forms that would keep the  
12 Nevada PERS benefits being payable to Catherine Delao, and then by not making  
13 payments to Catherine Delao so as to neutralize the amounts not paid by Nevada  
14 PERS over the months of October 2022, through February 2023.

15 At the hearing, Catherine requested the incarceration of Jesus for 25 days for  
16 each violation of his continued contempt with a purge clause of payment of the fines  
17 awarded by the Court and the missed Nevada PERS benefits.<sup>1</sup>

18 This Court requested briefing on its authority to incarcerate Jesus without  
19 appointing him counsel. That *Supplemental* brief was filed on February 7, 2023.

20 Based on the results of that brief and the finding of civil contempt committed  
21 by Jesus, Catherine asks that the Court use coercive incarceration to compel Jesus to  
22 comply with these and all other orders of the Court.

23 Included herein is a proposed Bench Warrant for the immediate arrest and  
24 incarceration of Jesus Arevalo.<sup>2</sup> The incarceration shall be for a period of not more  
25 than 125 days unless Jesus shortens this period by complying with the terms of the  
26 purge provision.

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27 <sup>1</sup> The Court awarded Catherine \$100 from Jesus for each missed payment for a total fine of  
28 \$500.

<sup>2</sup> See Exhibit A.



1 We ask the Court to instruct the Sheriff of Clark County Nevada to  
2 immediately apprehend and incarcerate Jesus under this Bench Warrant.

3 This Application is based upon the pleadings and papers on file herein, and the  
4 attached *Declaration of Richard L. Crane, Esq.*

5 **DATED** this 9<sup>th</sup> day of February, 2023.

6 WILICK LAW GROUP

7 // s // *Richard L. Crane*

8 MARSHAL S. WILICK, ESQ.

9 Nevada Bar No. 2515

10 RICHARD L. CRANE, ESQ.

11 Nevada Bar No. 9536

12 3591 E. Bonanza, Suite 200

13 Las Vegas, Nevada 89110-2101

14 (702) 438-4100 Fax (702) 438-5311

15 Attorneys for Defendant

1                                    **DECLARATION OF RICHARD L. CRANE , ESQ.**

2            1.        I, Richard L. Crane, Esq., declare that I am an associate attorney at the  
3        WILICK LAW GROUP, am one of the attorneys representing the Defendant, Catherine  
4        Delao, and that I am competent to testify to the facts contained in the preceding filing.

5            2.        I have read the preceding filing, and I have knowledge of the facts  
6        contained therein, unless stated otherwise. Further, the factual averments contained  
7        therein are true and correct to the best of my knowledge, except those matters based  
8        on information and belief, and as to those matters, I believe them to be true.

9            3.        On February 7, 2023, Jesus Arevalo did commit direct contempt of court  
10       by not appearing personally as ordered by the Court for the scheduled *Order to Show*  
11       *Cause* hearing date set for 9:00 A.M.

12          4.        Additionally, Jesus was found in contempt for failure to comply with  
13       orders of this Court, specifically the *Order* issued on July 27, 2022, to not do  
14       anything to interfere with the Nevada PERS benefit payments to Catherine Delao or  
15       to make up those payments if the benefit was stopped. Jesus did not complete the  
16       required forms to allow Nevada PERS to continue to make payments to Catherine and  
17       he did not make up the missed payments to Catherine as required by the *Order*.

18          5.        Due to his contempt, Jesus should be incarcerated for a period of time  
19       not to exceed 125 days unless he fills out the necessary paperwork to restart the  
20       Nevada PERS benefits to Catherine Delao, pays the fines levied by the Court (\$500),  
21       and makes up all of the missed Nevada PERS payments which are \$3,119.72 times  
22       the 5 missed payments for a total of \$15,598.60 without interest, as of this writing.

1           6.       This request is made in good faith and not to delay adjudication of the  
2 issues or for any improper purpose.

3           **I declare under penalty of perjury, under the laws of the State of**  
4           **Nevada and the United States (NRS 53.045 and 28 U.S.C. § 1746),**  
5           **that the foregoing is true and correct.**

6           EXECUTED this 9<sup>th</sup> day of February, 2023

7                               *// s // Richard L. Crane*

8                               \_\_\_\_\_  
9                               RICHARD L. CRANE, ESQ.

10                           P:\wp19\DELAO,C\DRAFTS\00604283.WPD/rle

**EXHIBIT “A”**

**EXHIBIT “A”**

**EXHIBIT “A”**

**BNCH**  
WILLICK LAW GROUP  
MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, NV 89110-2101  
Phone (702) 438-4100; Fax (702) 438-5311  
email@willicklawgroup.com  
Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING:  
TIME OF HEARING:

**BENCH WARRANT**

TO: THE STATE OF NEVADA

TO: Any Sheriff, Constable, Marshal, Policeman or Peace Officer within this State:

This matter having come on for hearing on the 7th day of February, 2023, in the Family Division, Department E of the Eighth Judicial District Court, County of Clark; and the Court being fully advised in the premises, both as to subject matter as well as to the parties thereto, and that jurisdiction is proper in Nevada, and good cause appearing therefore;

IT APPEARING to the Court that the Plaintiff JESUS AREVALO was heretofore ordered to appear before the above entitled Court on 7th day of February,

2023, on the charge of CONTEMPT OF COURT for failure to abide by the court order relating to Order filed July 27, 2022 and having failed to personally appear at said time, and having been found guilty of CONTEMPT OF COURT for failing to make up Nevada PERS pension benefits to his ex-wife Catherine Delao after causing those payments to be suspended by Nevada PERS (5 instances);

NOW, THEREFORE, YOU ARE COMMANDED TO ARREST and deliver said person into the custody of the Sheriff of Clark County.

IT IS FURTHER ORDERED that Department E of the District Court Family Division is to be notified within 72 hours of Jesus Arevalo's arrest so that an expedited hearing may be set before the Honorable Charles Hoskins. There shall be no depopulation release. Jesus has the ability to purge this contempt by filing the required paperwork with Nevada PERS to restart the pension benefits to Catherine Delao, and payment of \$16,098.60. Said monies are to be held until the Court orders their disbursal.

THE COURT HEREBY FINDS that Jesus Arevalo is in Contempt of Court.

THE COURT FURTHER FINDS, that Jesus Arevalo is sentenced to 125 days incarceration in Clark County Detention Center unless the purge clause above is completed in full.

THIS WARRANT MAY BE SERVED AT ANY HOUR OF THE DAY OR NIGHT.

Dated this \_\_\_\_ of February, 2023

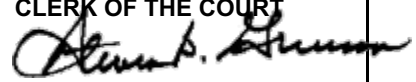
Bail Amount \$16,098.60

Charge: Contempt of Court

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**MOT**  
WILLICK LAW GROUP  
MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, NV 89110-2101  
Phone (702) 438-4100; Fax (702) 438-5311  
email@willicklawgroup.com  
Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING:  
TIME OF HEARING:

ORAL ARGUMENT REQUESTED: Yes ☒ No

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

**DEFENDANT'S MOTION FOR INCARCERATION**

**I. INTRODUCTION**

This *Motion* is being filed as we have no other recourse to get Jesus to comply with the *Orders* of the Court. He has no fear of additional financial sanctions as he just won't pay them. Without access to his Nevada PERS, Catherine will go unpaid for the tens of thousands of dollars she is owed.



1 We ask the Court to appoint counsel and hold a hearing on why Jesus should  
2 not be immediately incarcerated for his proven contempt.

3  
4 **II. FACTS**

5 The Facts in Catherine's *Motion for: Order to Show Cause Why Plaintiff*  
6 *Should not be Held in Contempt of Court for Failure to Abide by the Court's July 27,*  
7 *2022, Amended Qualified Domestic Relations Order and Attorney's Fees and Costs*  
8 are incorporated here in full. Only new facts since the Motion was filed will be  
9 recited below.

10 Catherine filed her *Motion* on November 4, 2022. The Court set the *Motion*  
11 for hearing for February 7, 2023. This setting was noticed on November 5.

12 The Court issued the *Order to Show Cause* on November 18; it was served on  
13 Jesus.

14 Jesus filed his *Opposition to Motion* on November 19. Catherine filed her  
15 *Reply* on November 21.

16 Jesus filed his *Video Appearance Request* on February 3, and his *Supplemental*  
17 *Points and Authority, Affidavit of Service, and Video Appearance Request Affidavit*  
18 *of Service* on February 4.

19 The Court denied Jesus' request for an audio/visual appearance on February  
20 6.

21 The Court held the *Order to Show Cause* hearing on February 7. Despite the  
22 Court denying his request, Jesus did not personally appear as required by the Court.<sup>1</sup>

23 At the hearing, the Court found Jesus to be in contempt of court for interfering  
24 in Catherine receiving her share of the PERs pension and refusing to fill out the  
25 simple form required for those payments to continue, and for not making up to her,

---

26  
27 <sup>1</sup> During the hearing, Jesus claimed to once again have suddenly come down ill on the date  
28 set for a court hearing (this has happened repeatedly in prior hearings). Staff for the WILLICK LAW  
GROUP heard Jesus continue speaking after the video record ended. He stated that there was "no  
way" he was ever stepping into the courtroom again. Staff are willing to testify to this statement.

1 as ordered, the sums his actions caused to not be paid to her. Further, the Court  
2 ordered sanctions against Jesus in the amount of \$100 per payment he refused to  
3 make to Catherine to make up. The Court indicated that it was unable to incarcerate  
4 Jesus for his contempt without appointing him counsel.

5 Undersigned counsel informed the Court that appointment of counsel for civil  
6 contempt is not a requirement and asked for permission to file a supplemental brief.  
7 permission was granted.

8 Later the same day, counsel filed the supplemental brief which included  
9 reference to *Lewis* which held that appointment of counsel even for an indigent  
10 litigant is discretionary in a civil contempt case where incarceration is sought, so long  
11 as a purge clause is included.<sup>2</sup>

12 Catherine filed her *Ex Parte Application for Bench Warrant* and proposed  
13 *Bench Warrant* on February 9, 2023.

14 The Court returned the *Bench Warrant* unsigned.<sup>3</sup>

15 This *Motion* follows.

### 17 **III. ARGUMENT**

#### 18 **A. Appointment of an Attorney is Discretionary**

19 In *Lewis*, the Nevada Supreme Court held:

20 [T]he Sixth Amendment guarantee of the right to counsel applies only in  
21 criminal prosecutions. Whether a contempt proceeding is classified as  
22 criminal or civil in nature depends on whether it is directed to punish the  
23 contemner or, instead, coerce his compliance with a court directive. Criminal  
24 sanctions are punitive in that they serve the purpose of preserving the dignity  
and authority of the court by punishing a party for offensive behavior. In  
contrast, civil contempt is said to be remedial in nature, as the sanctions are  
intended to benefit a party by coercing or compelling the contemnor's future

---

25 <sup>2</sup> *Lewis v. Lewis*, 132 Nev. 453, 373 P.3d 878 (2016).

26  
27 <sup>3</sup> The Court's rejection was worded as follows: "Your proposed order or document requiring  
28 a judge's signature to the court has been returned for the following reason(s): Notwithstanding the  
provided Supplement, this Court is unwilling to incarcerate Plaintiff for his contempt without first  
appointing him an attorney."

1 compliance, not punishing them for past bad acts. Moreover, a civil contempt  
2 order is indeterminate or conditional; the contemnor's compliance is all that  
3 is sought and with that compliance comes the termination of any sanctions  
4 imposed. Criminal sanctions, on the other hand, are unconditional or  
determinate, intended as punishment for a party's past disobedience, with the  
contemnor's future compliance having no effect on the duration of the  
sentence imposed.

5 The Court went on to say in the Conclusion of the case:

6 If a contempt order does not contain a purge clause, it is criminal in nature and  
7 the Sixth Amendment right to counsel applies.

8 As such, a hearing on civil contempt where the contemnor has the ability to  
9 purge the contempt and refuses to do so, can be incarcerated without infringing on his  
10 6th Amendment rights.

11 Anticipating Jesus' claim that he can't afford counsel and thus would still need  
12 to have appointed counsel, we refer to the holding in *Rodriguez*.<sup>4</sup>

13 In the *Rodriguez* case, the Court held:

14 The court opined that the trial court is the proper forum to determine the need  
15 for counsel, taking into account relevant factors such as the party's ability to  
16 understand the proceeding, the complexity of the issues, and the defenses that  
17 might be presented. The court adopted a case-by-case analysis, providing the  
trial court with discretion to determine whether fundamental fairness requires  
the appointment of counsel in any given case. We believe, consistent with  
*Lassiter*, that this case-by-case approach is the best rule of law.<sup>5</sup>

18 Based on the Court's rejection of our proposed *Bench Warrant* and the cited  
19 reason, we understand that we have to file a motion (this motion) seeking  
20 appointment of counsel for Jesus, followed by a hearing on why Jesus should not be  
21 incarcerated for contempt.

22 As such, we request the Court appoint Jesus counsel for an immediate hearing  
23 on why he should not be incarcerated for at least 25 day for each missed Nevada  
24 PERS payment with the purge clause being that if he signs the proper paperwork to  
25 which only he has access and pays the back Nevada PERS pension payments, the

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26 <sup>4</sup> *Rodriguez v. Eighth Judicial Dist. Court*, 120 Nev. 798, 102 P.3d 41 (2004).

27 <sup>5</sup> *Id.*, citing to *State ex rel. Department of Human Services v. Rael*, 97 NM 640,  
28 642 P.2d 1099 (1982).

1 incarceration will be suspended or terminated if he is already in the Clark County  
2 Detention Center.

3  
4 **IV. ATTORNEY'S FEES**

5 NRS 22.100(3) authorizes this Court to award attorney's fees and costs to  
6 Catherine for Jesus' contempt:

7 3. In addition to the penalties provided in subsection 2, if a person is found  
8 guilty of contempt pursuant to subsection 3 of NRS 22.010, the court may  
9 require the person pay to the party seeking to enforce the writ, order, rule or  
process the reasonable expenses, including, without limitation, attorneys fees,  
incurred by the party as a result of the contempt.

10 Therefore, Catherine requests the Court order Jesus to reimburse Catherine the  
11 attorney's fees and costs for this contempt action.

12  
13 **A. Legal Basis**

14 "[I]t is well established in Nevada that attorney's fees are not recoverable  
15 unless allowed by express or implied agreement or when authorized by statute or  
16 rule."<sup>6</sup> Attorney's fees may be awarded in a pre- or post-divorce motion/opposition  
17 under NRS 125.150.<sup>7</sup> In addition, and because we believe that Catherine will be the  
18 prevailing party in this matter, she should receive an award of attorney's fees and  
19 costs pursuant to NRS 18.010(2).<sup>8</sup> In addition to NRS 22.100(3) cited above, this  
20 Court can award attorney's fees under EDCR 5.219:

21 Sanctions may be imposed against a party, counsel, or other person, after  
22 notice and an opportunity to be heard, for unexcused intentional or negligent  
conduct including but not limited to:

23 (a) Presenting a position that is obviously frivolous, unnecessary, or  
unwarranted;

24 (b) Multiplying the proceedings in a case so as to increase costs unreasonably  
and vexatiously;

25  
26 <sup>6</sup> *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

27 <sup>7</sup> NRS 125.150.

28 <sup>8</sup> NRS 18.010(2).

- 1 (c) Failing to prepare for a proceeding;  
2 (d) Failing to appear for a proceeding;  
3 (e) Failing or refusing to comply with these rules; or  
4 (f) Failing or refusing to comply with any order or directive of the court.<sup>9</sup>

5 Here, Jesus has multiplied the proceeding vexatiously and has refused to  
6 comply with the orders of this Court.

7 **B. Disparity in Income**

8 The Court is required to “consider” the disparity in the parties’ income  
9 pursuant to *Miller*<sup>10</sup> and *Wright v. Osburn*.<sup>11</sup> Parties seeking attorney fees in family  
10 law cases must support their fee request with affidavits or other evidence that meets  
11 the factors in *Brunzell*<sup>12</sup> and *Wright*.<sup>13</sup> We will provide the *Brunzell* analysis below.  
12 As to *Wright*, the holding is minimal:

13 The disparity in income is also a factor to be considered in the award of  
14 attorney fees. It is not clear that the district court took that factor into  
15 consideration.<sup>14</sup>

16 The Court did not hold that the decision of the award of attorney’s fees hinged on a  
17 disparity in income. Only that it is one of the many factors that must be considered.  
18 While Jesus has entered into agreements with his spouse to try to stymie collections,  
19 his household income is considerable; this factor is, at most, neutral.  
20  
21  
22

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23 <sup>9</sup> EDCR 5.219.

24 <sup>10</sup> 121 Nev. 619, 119 P.3d 727 (2005).

25 <sup>11</sup> 114 Nev. 1367, 1370, 970 P.2d 1071, 1073 (1998).

26 <sup>12</sup> *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969).

27 <sup>13</sup> 114 Nev. 1367, 970 P.2d 1071 (1998).

28 <sup>14</sup> *Id.* at 1370, 970 P.2d at 1073 (1998).

1           **C.     *Brunzell* Factors**

2           With specific reference to Family Law matters, the Court has adopted  
3 “well-known basic elements,” which in addition to hourly time schedules kept by the  
4 attorney, are to be considered in determining the reasonable value of an attorney’s  
5 services qualities, commonly referred to as the *Brunzell*<sup>15</sup> factors:

- 6           1.     *The Qualities of the Advocate*: his ability, his training, education,  
7                   experience, professional standing and skill.  
8           2.     *The Character of the Work to Be Done*: its difficulty, its intricacy, its  
9                   importance, time and skill required, the responsibility imposed and the  
10                  prominence and character of the parties where they affect the  
11                  importance of the litigation.  
12           3.     *The Work Actually Performed by the Lawyer*: the skill, time and  
13                   attention given to the work.  
14           4.     *The Result*: whether the attorney was successful and what benefits  
15                   were derived.

16           Each of these factors should be given consideration, and no one element should  
17 predominate or be given undue weight.<sup>16</sup> Additional guidance is provided by  
18 reviewing the “attorney’s fees” cases most often cited in Family Law.<sup>17</sup>

19           The *Brunzell* factors require counsel to make a representation as to the  
20 “qualities of the advocate,” the character and difficulty of the work performed, the  
21 work actually performed by the attorney, and the result obtained.

22           First, respectfully, we suggest that the supervising counsel is A/V rated, a  
23 peer-reviewed and certified (and re-certified) Fellow of the American Academy of  
24 Matrimonial Lawyers, and a Certified Specialist in Family Law.<sup>18</sup>

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25           <sup>15</sup> 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

26           <sup>16</sup> *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

27           <sup>17</sup> Discretionary Awards: Awards of fees are neither automatic nor compulsory, but within  
28 the sound discretion of the Court, and evidence must support the request. *Fletcher v. Fletcher*, 89  
Nev. 540, 516 P.2d 103 (1973); *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980); *Hybarger v.*  
*Hybarger*, 103 Nev. 255, 737 P.2d 889 (1987).

<sup>18</sup> Per direct enactment of the Board of Governors of the Nevada State Bar, and independently  
by the National Board of Trial Advocacy. Mr. Willick was privileged (and tasked) by the Bar to  
write the examination that other would-be Nevada Family Law Specialists must pass to attain that  
status.

1 Richard L. Crane, Esq., the attorney primarily responsible for drafting this  
2 *Motion*, has practiced exclusively in the field of family law for over 15 years under  
3 the direct tutelage of supervising counsel, and has substantial experience dealing with  
4 complex family law cases.

5 As to the “character and quality of the work performed,” we ask the Court to  
6 find our work in this matter to have been adequate, both factually and legally; we  
7 have diligently reviewed the applicable law, explored the relevant facts, and believe  
8 that we have properly applied one to the other.

9 The fees charged by paralegal staff are reasonable, and compensable, as well.  
10 The tasks performed by staff in this case were precisely those that were “some of the  
11 work that the attorney would have to do anyway [performed] at substantially less cost  
12 per hour.”<sup>19</sup> As the Nevada Supreme Court reasoned, “the use of paralegals and other  
13 nonattorney staff reduces litigation costs, so long as they are billed at a lower rate,”  
14 so “‘reasonable attorney’s fees’ . . . includes charges for persons such as paralegals  
15 and law clerks.”

16 Justin K. Johnson, paralegal with the WILICK LAW GROUP, was primarily the  
17 paralegal on this case. Justin earned a Certificate of Achievement in Paralegal  
18 Studies and was awarded an Associates of Applied Science Degree in 2014 from  
19 Everest College. He has been a paralegal for a total of eight years; assisting  
20 attorney’s in several aspects of law.

21 The work actually performed will be provided to the Court upon request by  
22 way of a *Memorandum of Fees and Costs* (redacted as to confidential information),  
23 consistent with the requirements under *Love*.<sup>20</sup>  
24  
25

---

26  
27 <sup>19</sup> *LVMPD v. Yeghiazarian*, 129 Nev. 760, 312 P.3d 503 (2013), citing to *Missouri v. Jenkins*,  
491 U.S. 274 (1989).

28 <sup>20</sup> *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998).

1       **V.       CONCLUSION**

2       Based on the above, Catherine requests of the Court the following orders:

- 3       1.       Incarcerating Plaintiff, Jesus Luis Arevalo, until he signs the required
- 4               form to reinstate Ms. Delao's share of the PERS benefits and all the
- 5               arrears are paid.
- 6       2.       If the Court needs Mr. Arevalo to have representation, then appoint him
- 7               one so this matter can be resolved.
- 8       3.       Awarding Catherine the entirety of her fees and costs.
- 9       4.       For any other awards this Court deems just and proper.

10       **DATED** this 17th day of February, 2023

11                               Respectfully Submitted By:

12                               WILLICK LAW GROUP

13                               *// s // Richard L. Crane*

14                               \_\_\_\_\_  
15                               MARSHAL S. WILLICK, ESQ.  
16                               Nevada Bar No. 2515  
17                               RICHARD L. CRANE, ESQ.  
18                               Nevada Bar No. 9536  
19                               3591 E. Bonanza, Suite 200  
20                               Las Vegas, Nevada 89110-2101  
21                               (702) 438-4100 Fax (702) 438-5311  
22                               Attorneys for Defendant



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2. I have read the preceding filing, and I have knowledge of the facts contained therein, unless stated otherwise. Further, the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

**I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct.**

//s// *Richard L. Crane*

**RICHARD L. CRANE, ESQ.**

## CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Willick Law Group and that on this 17th day of February 2023, I caused the above and foregoing document entitled to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☒ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- ☐ by hand delivery with signed Receipt of Copy.
- ☐ by First Class, Certified U.S. Mail.

To the persons listed below at the address, email address, and/or facsimile number indicated:

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085  
[wrath702@gmail.com](mailto:wrath702@gmail.com)

Jesus Arevalo  
6935 Aliante Pkwy., Ste. 104 #286  
N. Las Vegas, NV 89084

Jesus Arevalo  
5612 N. Decatur Blvd., Ste. 130  
P.O. Box 321  
Las Vegas, NV 89031

//s// Justin K. Johnson

An Employee of the Willick Law Group

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DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

JESUS LUIS AREVALO,  
Plaintiff/Petitioner

-v.-

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant/Respondent

Case No. D-11-448514-D

Department E

**MOTION/OPPOSITION  
FEE INFORMATION SHEET**

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

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

- ☒ **\$25** The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.
- Or-
- ☐ **\$0** The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:
- ☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
- ☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
- ☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on \_\_\_\_\_.
- ☐ Other Excluded Motion (must specify) \_\_\_\_\_.

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

- ☒ **\$0** The Motion/Opposition being filed with this form is **not** subject to the \$129 or the \$57 fee because:
- ☒ The Motion/Opposition is being filed in a case that was not initiated by joint petition.
- ☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.
- Or-
- ☐ **\$129** The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.
- Or-
- ☐ **\$57** The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

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

The total filing fee for the motion/opposition I am filing with this form is:

☐ \$0 ☒ **\$25** ☐ \$57 ☐ \$82 ☐ \$129 ☐ \$154

Party filing Motion/Opposition: Willick Law Group Date: 2/17/23

Signature of Party or Preparer: /s/ Justin K. Johnson

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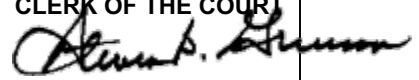
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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Steven D. Grierson  
CLERK OF THE COURT



Jesus Luis Arevalo, Plaintiff

vs.

Catherine Marie Arevalo, Defendant.

Case No.: D-11-448514-D

Department E

**NOTICE OF HEARING**

Please be advised that the Defendant's Motion for Incarceration in the above-entitled matter is set for hearing as follows:

**Date:** May 02, 2023

**Time:** 9:00 AM

**Location:** Courtroom 24  
Family Courts and Services Center  
601 N. Pecos Road  
Las Vegas, NV 89101

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

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Francis Yanez  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

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

By: /s/ Francis Yanez  
Deputy Clerk of the Court

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*Heather S. Linn*

CLERK OF THE COURT

**ORDER**

WILLICK LAW GROUP  
MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, NV 89110-2101  
Phone (702) 438-4100; Fax (702) 438-5311  
email@willicklawgroup.com  
Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHINE AREVALO,  
N/K/A CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING: 2/7/2023  
TIME OF HEARING: 9:00 am

**ORDER AFTER THE FEBRUARY 7, 2023, HEARING**

This matter came on for hearing at the above date and time before the  
Honorable Charles Hoskin, District Court Judge, Family Division, on

- (1) *Defendant's Motion For: Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court for Failure to Abide by the Court's July 27, 2022, Amended Qualified Domestic Relations Order and Attorney's Fees and Costs;*
- (2) *Plaintiff's Opposition to "Defendant's Motion For: Order to Show Cause Why Plaintiff Should Not Be Held in Contempt of Court for Failure to Abide by the Court's July 27, 2022, Amended Qualified Domestic Relations Order and Attorney's Fees and Costs; and*
- (3) *Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Order to Show Cause Why Plaintiff Should Not be Held in Contempt of Court for Failure to Abide by the Court's July 27, 2022, Amended Qualified Domestic Relations Order and Attorney's Fees and Costs.*

1 Defendant, Catherine Delao, (“Cat”), was present audiovisually via BlueJeans,  
2 and represented by her counsel, Richard L. Crane, Esq., who appeared audiovisually,  
3 and Marshal S. Willick, Esq., who appeared in person, of the WILICK LAW GROUP,  
4 and Plaintiff, Jesus Luis Arevalo, (“Jesus”), was present audiovisually via BlueJeans,  
5 in Proper Person.

6 The Court, having reviewed the papers and pleadings on file herein, and good  
7 cause appearing, made the following findings and orders:

8 **THE COURT HEREBY FINDS:**

- 9 1. Jesus is in violation of the July 27, 2022, *Amended Qualified Domestic*  
10 *Relations Order*, specifically, Page 5, Lines 11 through 16.  
11 2. Jesus’ violation was willful.  
12 3. Jesus is in contempt of Court.

13  
14 **THE COURT HEREBY ORDERS:**

- 15 4. Jesus shall be sanctioned \$100 for each missed payment of his retirement  
16 benefits to Cat.  
17 5. Jesus’ missed payments of retirement benefits to date shall hereby be  
18 reduced to judgment. This amount shall be collectible by all legal means bearing the  
19 legal rate of interest until paid in full.  
20 6. The WILICK LAW GROUP may file a supplement regarding the case law  
21 surrounding the Court’s capability to incarcerate a party without the appointment of  
22 counsel.

23 \*\*\*\*\*

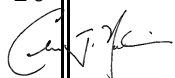
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26 \*\*\*\*\*

27 \*\*\*\*\*

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7. The Willick Law Group shall prepare the *Order* from today's hearing.

**Dated this 22nd day of February, 2023**

*Ch. J. Mc*

QM

Dated this 22nd day of February, 2023

Respectfully Submitted By:  
WILLICK LAW GROUP

**34B 00E DFFD FA9D**  
**Charles J. Hoskin**  
**District Court Judge**

// s // *Richard L. Crane*

**MARSHAL S. WILLOCK, ESQ.**  
Nevada Bar No. 2515  
**RICHARD L. CRANE, ESQ.**  
Nevada Bar No. 9536  
3591 E. Bonanza Rd., Suite 200  
Las Vegas, Nevada 89110  
(702) 438-4100; Fax (702) 438-5311  
Attorneys for Defendant

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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Jesus Luis Arevalo, Plaintiff

CASE NO: D-11-448514-D

7 vs.

DEPT. NO. Department E

8 Catherine Marie Arevalo,  
9 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  
recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 2/22/2023

15 Marshal Willick

marshal@willicklawgroup.com

16 Reception Reception

email@willicklawgroup.com

17 Justin Johnson

Justin@willicklawgroup.com

18 Jesus Arevalo

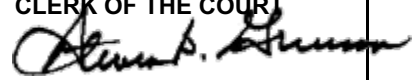
wrath702@gmail.com

19 Jesus Arevalo

vinni702@yahoo.com

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**EPAO**  
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email@willicklawgroup.com  
Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

DATE OF HEARING: 5/2/2023  
TIME OF HEARING: 9:00 am

**EX PARTE APPLICATION FOR  
ORDER SHORTENING TIME**

Defendant, Catherine Delao, by and through her attorneys, the WILICK LAW GROUP, pursuant to EDCR 5.514, hereby files her *Ex Parte Application for an Order Shortening Time*, wherein she requests that this Court expedite the time in which to hear matters pertaining to *Defendant's Motion for Incarceration* filed on February 17, 2023.

\*\*\*\*\*

1 This Application is based upon the pleadings and papers on file herein, and the  
2 attached *Declaration of Richard L. Crane, Esq.*

3 **DATED** this 23rd day of February, 2023.

4 WILICK LAW GROUP

5 // s // *Richard L. Crane*

6 MARSHAL S. WILICK, ESQ.

7 Nevada Bar No. 2515

8 RICHARD L. CRANE, ESQ.

9 Nevada Bar No. 9536

10 3591 E. Bonanza, Suite 200

11 Las Vegas, Nevada 89110-2101

12 (702) 438-4100 Fax (702) 438-5311

13 Attorneys for Defendant

1                                    **DECLARATION OF RICHARD L. CRANE , ESQ.**

2            1.        I, Richard L. Crane, Esq., declare that I am an associate attorney at the  
3        WILICK LAW GROUP, am one of the attorneys representing the Defendant, Catherine  
4        Delao, and that I am competent to testify to the facts contained in the preceding filing.

5            2.        I have read the preceding filing, and I have knowledge of the facts  
6        contained therein, unless stated otherwise. Further, the factual averments contained  
7        therein are true and correct to the best of my knowledge, except those matters based  
8        on information and belief, and as to those matters, I believe them to be true.

9            3.        Jesus' refusal to keep the pension in pay status by failing to complete the  
10       required Nevada PERS forms has resulted in the suspension of payment of the  
11       benefits. These benefits were for not only her marital share of the pension, but were  
12       to pay down the arrearages amassed by JESUS during this litigation and to establish  
13       an amount equal to the value of a life insurance policy Jesus was ordered to obtain,  
14       but refused to comply.

15           4.        If anything were to happen to Jesus, the benefits would no longer be  
16       payable and waiting multiple months before the Court can hear the matter will only  
17       amplify the debt and the time to repay the same. Additionally, Jesus has a history of  
18       running up debts and refusing to pay them unless he is held in contempt with the  
19       threat of incarceration. As shown at the last hearing, even this threat is not enough  
20       to force him to comply with this Court's Orders.

21           5.        On February 7, 2023, the Court held the *Order to Show Cause* hearing  
22       pursuant to the Catherine's *Motion for an Order to Show Cause*.

23           6.        Jesus, despite being ordered to attend in person, refused to appear in  
24       person. He consistently refuses to take any steps required to fix his interference with  
25       Catherine's benefits. It is clear he has no respect for this Court's Orders or authority.  
26  
27  
28

7. The Court has refused to incarcerate Jesus to force his capitulation with its *Orders* without appointing him counsel first. As such, Catherine requests that time for the appointment of counsel be shortened so that incarceration can begin soonest.

8. Every month that is allowed to pass without rectifying Catherine's access to her PERS Benefits increases the arrears in this matter. The higher the amount of arrears gets, the less likely it will be Catherine will ever be made whole.

9. Catherine is requesting the hearing on *Defendant's Motion for Incarceration* be held at the Court's earliest opportunity.

10. This request is made in good faith and not to delay adjudication of the issues or for any improper purpose.

**I declare under penalty of perjury, under the laws of the State of Nevada and the United States (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct.**

EXECUTED this 23rd day of February, 2023

// s // *Richard L. Crane*

RICHARD L. CRANE, ESQ.

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## CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 23rd day of February, 2023, I caused the foregoing document to be served as follows:

- [X] Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- [ ] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- [ ] pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;
- [ ] by hand delivery with signed Receipt of Copy.

To the litigant(s) listed below at the address, email address, and/or facsimile number indicated:

Mr. Jesus Luis Arevalo  
4055 Box Canyon Falls  
Las Vegas, NV 89085  
wrath702@gmail.com

Mr. Jesus Arevalo  
6935 Aliante Pkwy., Ste. 104 #286  
N. Las Vegas, NV 89084

Mr. Jesus Arevalo  
5612 N. Decatur Blvd., Ste. 130  
P.O. Box 321  
Las Vegas, NV 89131

//s// Justin K. Johnson

Employee of the WILICK LAW GROUP

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*Heather S. Linn*

CLERK OF THE COURT

OST

~~ORDER~~

WILLICK LAW GROUP  
MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, NV 89110-2101  
Phone (702) 438-4100; Fax (702) 438-5311  
email@willicklawgroup.com  
Attorney for Defendant

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

JESUS LUIS AREVALO,  
Plaintiff,

vs.

CATHERINE AREVALO  
n/k/a CATHERINE DELAO,  
Defendant.

CASE NO: D-11-448514-D  
DEPT. NO: E

**ORDER TO SHOW CAUSE and  
ORDER SHORTENING TIME**

Upon application of the WILLICK LAW GROUP, and good cause appearing therefor:

**IT IS HEREBY ORDERED** that the request for an *Order Shortening Time* is hereby granted.

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**IT IS FURTHER ORDERED** that the time for hearing *Defendant's Motion to Incarcerate*, filed February 17, 2023, is hereby shortened, and that said *Notice of Hearing* shall be changed to the 23rd day of March, 2023, at the hour of 10:00 a.m./p.m. in Department E.

IT IS FURTHER ORDERED that the Order to Show Cause, filed November 18, 2022, shall be incorporated into this Order.

IT IS FURTHER ORDERED that Plaintiff's physical presence at that hearing is required.

**Dated this 24th day of February, 2023**

*Chas. J. Felt*

**919 9D5 F1F6 75C2**  
**Charles J. Hoskin**  
**District Court Judge**

Respectfully Submitted By:

WILLICK LAW GROUP

// s // *Richard L. Crane*

**MARSHAL S. WILLICK, ESQ.**  
Nevada Bar No. 2515  
**RICHARD L. CRANE, ESQ.**  
Nevada Bar No. 9536  
3591 E. Bonanza, Suite 200  
Las Vegas, Nevada 89110-2101  
(702) 438-4100 Fax (702) 438-5311  
Attorneys for Defendant

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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Jesus Luis Arevalo, Plaintiff

CASE NO: D-11-448514-D

7 vs.

DEPT. NO. Department E

8 Catherine Marie Arevalo,  
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14 Service Date: 2/24/2023

15 Marshal Willick

marshal@willicklawgroup.com

16 Reception Reception

email@willicklawgroup.com

17 Justin Johnson

Justin@willicklawgroup.com

18 Jesus Arevalo

wrath702@gmail.com

19 Jesus Arevalo

vinni702@yahoo.com

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ORDR

02/28/2023 4:15 PM

*Charles J. Hoskin*  
CLERK OF THE COURT

CHRISTOPHER R. TILMAN, ESQ.  
Nevada Bar No. 05150  
1211 So. Maryland Pkwy  
Las Vegas, Nevada 89104  
CRT@Christophertilman.com  
(702) 214-4214  
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

JESUS LUIS AREVALO,  
Plaintiff,

Case No. D-11-448514-D  
Dept No. E

vs.

March 23, 2023

CATHERINE MARIE AREVALO,  
Defendant.

Date of Hearing: March 23, 23  
Time of Hearing: 10:00 a.m

**ORDER APPOINTING COUNSEL AND WAIVING ALL DISTRICT COURT FEES**

This matter having come before this Court, and good cause appearing,

IT IS HEREBY ORDERED that as of February 23, 2023, CHRISTOPHER R. TILMAN, ESQ., is hereby appointed by this Court to represent Plaintiff, JESUS LUIS AREVALO, with regard to this matter.

IT IS FURTHER ORDERED that all District Court fees and costs associated with this matter be waived and Counsel shall be paid at the indigent defense counsel hourly rate.

Dated this 28th day of February, 2023

*Charles J. Hoskin*

Submitted by *[Signature]*

53B 875 600C 214E  
Charles J. Hoskin  
District Court Judge

CHRISTOPHER R. TILMAN, ESQ.  
Nevada Bar No. 5150  
1211 South Maryland Parkway  
Las Vegas, Nevada 89104  
Attorney for Defendant

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Jesus Luis Arevalo, Plaintiff

CASE NO: D-11-448514-D

7 vs.

DEPT. NO. Department E

8 Catherine Marie Arevalo,  
9 Defendant.

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19 Justin Johnson

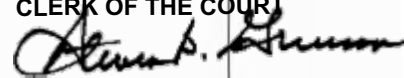
Justin@willicklawgroup.com

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1 **OPP**

2 JESUS LUIS AREVALO

3 4322 Galapagos Ave.,

4 North Las Vegas, Nevada 89084

(702) 813-1829

5 *Plaintiff in Proper Person*

6  
7 **DISTRICT COURT**  
8 **FAMILY DIVISION**  
9 **CLARK COUNTY, NEVADA**

10 JESUS LUIS AREVALO

11 Plaintiff,

12 vs.

13 CATHERINE AREVALO,

14 Defendant.

CASE NO: D-11-448514-D

DEPT. NO: E

DATE OF HEARING:

TIME OF HEARING:

ORAL HEARING REQUESTED

16  
17  
18 **PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR**  
19 **INCARCERATION**

20 Plaintiff, Jesus Luis Arevalo, appearing In Proper Person, respectfully submits  
21 this *Plaintiff's Opposition to Defendant's Motion for Incarceration*.  
22

23 This opposition is made and based upon the papers and pleadings on file  
24 herein, the Points and Authorities detailed below, and the attached Declaration of  
25 Plaintiff, Jesus Luis Arevalo.  
26  
27  
28

1 THEREFORE, Plaintiff, Jesus Luis Arevalo, requests the following relief:

- 2 1. That the Court denies Defendant's motion.  
3 2. That the Court denies Defendant's request for attorney's fees and costs.  
4

5 RESPECTFULLY SUBMITTED this 3rd day of March, 2023.  
6

7 /s/ Jesus Luis Arevalo

8 Jesus Luis Arevalo

9 *Plaintiff in Proper Person*

10 **POINTS AND AUTHORITIES**

11 **I. RELEVANT FACTS**

12 Catherine filed her Motion for an Order to Show Cause on November 4,  
13 2022, requesting that "Jesus should be held in Contempt of Court for failure to  
14 abide by the Court's July 27, 2022 Amended Qualified Domestic Relations  
15 Order<sup>1</sup>," which is directed to the Nevada PERS administrator. Catherine alleged  
16 that Jesus was in violation of the following provision:  
17  
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20 IT IS FURTHER ORDERED that if Jesus takes any steps to merge the retirement  
21 divided herein with another retirement program of any kind, or takes any action  
22 that prevents, decreases, or limits the collection by Catherine of the sums to be  
23 paid hereunder; Jesus shall make payments to Catherine directly in an amount  
24 sufficient to neutralize, as to Catherine, the effects of the action taken by Jesus.  
(See Qualified Domestic Relations Order, page 5 lines 11 through 16)  
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28 <sup>1</sup> See p. 5 at 15-22 of Defendant's Motion for OSC filed on November 4, 2022.

1 Specifically, Catherine argued that “the Court can hold Jesus in contempt of  
2 court for his allowing the PERS pension benefits to be suspended and for not  
3 making the payments to Catherine “in an amount sufficient to neutralize, as to  
4 Catherine, the effects of the action taken by Jesus.” (See p.7 of Defendant’s  
5 Motion for OSC filed on November 4, 2022)  
6

7  
8 The court issued an Order to Show Cause on November 18, 2022.  
9

10 Jesus filed his opposition on November 19, 2022, arguing, among other  
11 things, that the order is not clear and that it was impossible for him to comply with  
12 it because he did not have sufficient income and was forced to seek employment to  
13 support his family.  
14

15  
16 On February 7, 2023, the court held the Order to Show Cause hearing, which  
17 was criminal in nature. Despite there being no purge clause in the Order to Show  
18 cause and Jesus not waiving his right to counsel, the Court did not appoint counsel  
19 to Jesus and proceeded with the criminal contempt hearing.  
20

21  
22 During the hearing, Catherine’s counsel argued that “Plaintiff interrupted the  
23 benefits by not filling out an annual report to continue receiving benefits as he was  
24 required to do. Mr. Crane further argued Plaintiff could not receive benefits due to  
25 his new employment, although he could disclose the employment to PERS through  
26 the referenced annual form” and “requested that Plaintiff be held in contempt and  
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1 for \$500.00 to be assessed for each of Plaintiff's missed payments. **Mr. Crane also**  
2 **requested 25 days of incarceration for each missed payment for a total of 125**  
3 **days. Mr. Crane further requested for the purge amount to be set at \$2,500.00**  
4 **plus the total amount of missed payments. Upon inquiry of the Court, Mr.**  
5 **Crane maintained that the Court could incarcerate Plaintiff on civil contempt**  
6 **without appointing Plaintiff an attorney.** Mr. Crane stated he could provide  
7 citations to the Court.” See p. 2-3 of Court Minutes from February 7, 2023 OPSC  
8 hearing. (Emphasis added.)  
9  
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12 The Court found that Jesus was in willful violation of the July 27, 2022,  
13 Amended Qualified Domestic Relations Order. The court reduced the missed  
14 payments of benefits to judgement and sanctioned Jesus \$100.00 dollars for each  
15 missed payment. The court then closed the case. *See* Court Minutes from February  
16 7, 2023, OSC hearing.  
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20 Later the same day, Catherine's counsel filed the supplemental brief arguing  
21 that in *Lewis*, the Court held that appointment of counsel even for an indigent  
22 litigant is discretionary in a *civil* contempt case where incarceration is sought, so  
23 long as a purge clause is included.  
24  
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1 On February 9, 2023. Catherine filed her Ex Parte Application for Bench  
2 Warrant and proposed Bench Warrant. The Court returned the Bench Warrant  
3 unsigned.  
4

## 5 II. ARGUMENT 6

7 In Nevada, the rules of civil procedure and case law generally prohibit a  
8 party from re-filing a motion for the same relief that has already been decided and  
9 denied. Nevada Rule of Civil Procedure 12(d) provides that a party may not  
10 reassert a motion that has been denied on the merits, except upon a showing of new  
11 facts or a change of law. Furthermore, Nevada case law has held that a party  
12 cannot "re-litigate" an issue that has already been decided by a court. For example,  
13 in *Canfora v. Coast Hotels & Casinos, Inc.*, 121 Nev. 771, 122 P.3d 1075 (2005),  
14 the Nevada Supreme Court held that a party cannot bring a successive motion for  
15 summary judgment on the same issue that was previously decided by the court.  
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20 In *Leven v. Frey*, 116 Nev. 1090, 14 P.3d 323 (2000), the Nevada Supreme  
21 Court held that "when a district court fails to address a specific request for relief in  
22 a motion, the request is deemed denied." The court further explained that this rule  
23 is consistent with the principles of judicial economy and fairness, as it allows  
24 parties to know the court's ruling on all issues raised in the motion.  
25  
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1 Similarly, in *Burson v. Moran*, 93 Nev. 34, 558 P.2d 820 (1977), the court held  
2 that "failure of the court to specifically rule on a request constitutes a denial  
3 thereof, where it is plain from the record that the court considered and ruled on the  
4 motion as a whole."  
5

#### 6 **A. The Court has Already Found Jesus in Criminal Contempt**

7

8 The Nevada Supreme Court has held that contempt proceedings, while usually  
9 called civil or criminal, are, strictly speaking, neither. They may best be  
10 characterized as *sui generis*, and may partake of the characteristics of both. *See*  
11 *Warner v. Second Judicial Dist. Court In & For County of Washoe*, 111 Nev.  
12 1379, 1382, 906 P.2d 707, 709 (1995)(quoting *Marcisz v. Marcisz*, 65 Ill.2d 206,  
13 312, 357 N.E.2d 477, 479 (1976)) Whether a contempt proceeding is classified as  
14 criminal or civil in nature depends on whether it is directed to punish the  
15 contemnor or, instead, coerce his compliance with a court directive. *See Rodriguez*  
16 *v. Eighth Judicial Dist. Court ex rel. County of Clark*, 120 Nev. 798, 804-05, 102  
17 P.3d 41, 45-46 (2004)  
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22 The Court articulated the difference between criminal and civil contempt in the  
23 following manner:  
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26 Criminal sanctions are punitive in that they serve the purpose of preserving  
27 the dignity and authority of the court by punishing a party for offensive  
28 behavior. In contrast, civil contempt is said to be remedial in nature, as the  
sanctions are intended to benefit a party by coercing or compelling the



1       contemnor's future compliance, not punishing them for past bad acts.  
2       Moreover, a civil contempt order is indeterminate or conditional; the  
3       contemnor's compliance is all that is sought and with that compliance comes  
4       the termination of any sanctions imposed. Criminal sanctions, on the other  
5       hand, are unconditional or determinate, intended as punishment for a party's  
6       past disobedience, with the contemnor's future compliance having no effect  
7       on the duration of the sentence imposed. *See Rodriguez, supra.* at 804-05,  
8       102 P.3d at 45-46

9       Further, the Nevada Supreme Court has held that any contempt order that  
10       does not contain a purge clause is criminal in nature and, therefore, the accused has  
11       a Constitutional right to counsel. *See Lewis v. Lewis*, 132 Nev. \_\_\_, 373 P.3d 878  
12       (2016) The district court would also be required to follow the higher exculpatory  
13       evidence and criminal procedure. Other Constitutional safeguards that must be  
14       applied throughout the proceedings include, notice of charges, the rights of  
15       confrontation and examination, the privilege against self-incrimination, and other  
16       defenses and mitigating factors. *See Id.*, at 377

17       The character of the contempt proceeding is significant in that criminal  
18       proceedings will invoke certain procedural safeguards. A criminal contempt order  
19       issued to punish violation of an order requires proof beyond a reasonable doubt  
20       that the conduct was contemptuous. *See Hicks v. Feiock*, 485 U.S. 624, 631B32  
21       (1988); *City Council of Reno v. Reno Newspapers*, 105 Nev. 886, 893B94, 784  
22       P.2d 974, 979 (1989); *In re Winship*, 397 U.S. 358 (1970)

23       Catherine requests that the Court issues the order incarcerating Plaintiff,  
24       Jesus Luis Arevalo, until he signs the required form to reinstate Ms. Delao's share  
25

1 of the PERS benefits and all the arrears are paid. However, by making this request,  
2 she is trying to take a second bite of the apple and re-litigate the issues that have  
3 already been decided by this Court. The principle of finality, which is a  
4 fundamental aspect of the legal system provides that once a court has made a final  
5 decision on an issue, that decision should be respected and enforced, and the  
6 parties should not be allowed to re-litigate the same issue over and over again.  
7  
8

9 Here, the Court already denied Catherine's request to incarcerate Jesus at the  
10 February 7, 2023, hearing, and Catherine cannot re-litigate this issue. As such,  
11 there is no need for an attorney because the hearing Jesus would need an attorney  
12 already took place on February 7, 2023. The Court has already held a contempt  
13 hearing and found Jesus in criminal contempt without appointing counsel and  
14 sanctioned him accordingly. In addition, the court denied Catherine's request for  
15 attorney's fees. Catherine's request to appoint an attorney for Jesus for a hearing  
16 that has already happened is nonsensical.  
17  
18  
19

20 Furthermore, the Order to Show Cause did not have a "purge amount," nor did  
21 it have a purge clause requiring Jesus to sign anything. Catherine thus cannot  
22 retroactively turn criminal proceedings that has already taken place into civil  
23 proceeding by filing a motion seeking another, *coercive* order against Jesus, just  
24 like she cannot make additional arguments and request without bringing an  
25 appropriate motion. It appears that Catherine does not like the outcome of the  
26  
27  
28



1 hearing, and she hopes that the Court will disregard Jesus' due process rights and  
2 overlook the law. Her request to incarcerate Jesus should be denied.

### 3 4 **III. CONCLUSION**

5  
6 Catherine's motion should be denied.

7  
8 RESPECTFULLY SUBMITTED this 3rd day of March, 2023

9 /s/ Jesus Luis Arevalo  
10 Jesus Luis Arevalo  
11 *Plaintiff in Proper Person*  
12

### 13 **DECLARATION OF PLAINTIFF**

14  
15 I declare, under penalty of perjury:

- 16 1. I have read the foregoing opposition, and the factual averments it contains  
17 are true and correct to the best of my knowledge, except as to those matters  
18 based on information and belief, and as to those matters, I believe them to be  
19 true. Those factual averments contained in the referenced filing are  
20 incorporated here as if set forth in full.
- 21 2. Any Exhibit(s) in support of this Opposition will be filed separately in an  
22 Exhibit Appendix.

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

25  
26 RESPECTFULLY SUBMITTED this 3rd day of March, 2023.

/s/ Jesus Luis Arevalo  
Jesus Luis Arevalo  
Plaintiff in Proper Person

## CERTIFICATE OF SERVICE

I hereby certify that on 3rd day of March, 2023, an accurate copy of the foregoing will be served by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

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Mallory@willicklawgroup.com

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