

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY AND GEORGINA
STUART

Petitioners,

v.

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

Respondent.

and

STEVE EGGLESTON, an individual,

Real Party-In-Interest.

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CASE NO. 87906 Clerk of Supreme Court

DISTRICT COURT CASE NO.
A-16-748919-C

**APPENDIX TO
PETITIONERS' EMERGENCY MOTION TO STAY
DISTRICT COURT PROCEEDINGS PENDING CONSIDERATION OF
EMERGENCY PETITION FOR WRIT OF MANDAMUS**

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**APPENDIX TO PETITIONERS' MOTION
TO STAY DISTRICT COURT PROCEEDINGS**

NUMBER	DOCUMENT	BATES NUMBER
1	Complaint, filed 12/30/2016	MTS 0001-0023
2	Defendants' Motion for Summary Judgment, filed 9/29/2023 (without Exhibits which were filed in the District Court under seal)	MTS 0024-0054
3	Eighth Judicial District Court Docket, highlighted as pertinent hereto	MTS 0055-0070
4	Email from Law Clerk to the Honorable Susan Johnson, January 17, 2024, 10:58 a.m., declining to hear Motion to Stay on an Order Shortening Time	MTS 0071
5	Findings of Fact, Conclusions of Law and Order, EJDC, filed 1/15/2024	MTS 0072-0093
6	First Amended Complaint, filed 8/10/2017	MTS 0094-0120
7	Plaintiff's Opposition to Defendants' Motion for Summary Judgment, filed 10/17/2023 (without Exhibits which were filed in the District Court under seal)	MTS 0121-0151

RESPECTFULLY SUBMITTED this 17th day of January, 2024.

OLSON CANNON GORMLEY & STOBERSKI

/s/ Felicia Galati, Esq.

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Attorneys for Petitioners Clark County and Stuart

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of January, 2024, I served a true and correct copy of the above and foregoing **APPENDIX TO PETITIONERS' EMERGENCY MOTION TO STAY DISTRICT COURT PROCEEDINGS PENDING CONSIDERATION OF EMERGENCY PETITION FOR WRIT OF MANDAMUS** by electronic service through the Nevada Supreme Court's website upon the following:

THE HONORABLE SUSAN J. JOHNSON
EIGHTH JUDICIAL DISTRICT COURT
DEPARTMENT 22
Regional Justice Center, Courtroom 16D
200 Lewis Avenue
Las Vegas, NV 89155
Respondent
Via U.S. Mail

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/s/ Lisa Rico
An Employee of OLSON CANNON GORMLEY & STOBERSKI

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/s/ Felicia Galati, Esq.

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/s/ Lisa Rico
An Employee of OLSON CANNON GORMLEY & STOBERSKI

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1 Steve Eggleston -
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3 Pilton, England, Post Code: ba4 4nx
4 +44 7801 931682
5 PLAINTIFF, IN PRO PER

DISTRICT COURT
CLARK COUNTY, NEVADA

7 STEVE EGGLESTON,
8
9 Plaintiff,
10
11 -vs-
12
13 GEORGINA STUART; DEPARTMENT OF
14 FAMILY SERVICES, CHILD SUPPORT
15 SERVICES, CLARK COUNTY, NEVADA;
16 LISA CALLAHAN; BRIAN CALLAHAN;
17 AND DOES 1 THROUGH 100, INCLUSIVE,
18 Defendants.

CASE NO.
DEPT NO.

COMPLAINT FOR CIVIL RIGHTS
VIOLATIONS, CHILD
ABDUCTION, CONSPIRACY,
DEFAMATION

JURISDICTION

19 1. At all relevant times, Plaintiff STEVE EGGLESTON (Plaintiff or "Eggleston") resided in
20 Clark County, Nevada, and was the natural father of two young boys, Minor Son 1 (now 5 years
21 of age), and Minor Son 2 (now 4 years of age) (collectively "the Eggleston Boys").

22 2. At all relevant times, Defendant GEORGINA STUART was a Senior Family Services
23 Specialist employed by Defendant DEPARTMENT OF FAMILY SERVICES, CHILD
24 SUPPORT SERVICES, CLARK COUNTY, NEVADA ("CPS").

25 g. At all relevant times, Defendant CPS is a public entity providing child support services
26 in
27 Clark County, Nevada, and Defendant GEORGINA STUART (except for certain occasions)
28 has acting within the course and scope of her employment at Defendant CPS.
Civil Complaint -- Eggleston vs. Stuart, et al.

1 4. On information and belief, at All relevant times, Defendants LISA CALLAHAN and
2 BRIAN CALLAHAN are individuals living in the State of Illinois in the greater Chicago area.

3 5. At all relevant times, Laura Battistella ("Battistella") was the natural mother of the
4 Eggleston Boys as well as four children from her previous marriage ("the Rodriguez Children"),
5 of which two were pre-teens ("the Rodriguez Pre-Teens") and two were teenagers ("the
6 Rodriguez Teens").

7 6. At all relevant times, until early January 2015, Eggleston and Battistella lived together in a
8 single family dwelling ("the Family Home") in Clark County, Nevada, together with the
9 Eggleston Boys and some combination of the Rodriguez Children (first all four, then the oldest
10 departed to college, then the second oldest returned to Chicago to live with the Callahan
11 defendants).

12 FACTUAL ALLEGATIONS

13
14 7. On information and belief, in early December 2014, one of the teenage Rodriguez
15 Children called 911, reporting that her mother, Battistella, had spoken words of suicidal ideation.

16 8. Thereafter, an emergency response team arrived at the Family Home and, on information
17 and belief, took Battistella to an emergency mental healthcare facility, where she was checked in
18 for suicide watch.

19 9. On information and belief, Battistella had no prior history of attempted suicide or suicidal
20 ideation. She later denied having any suicidal desires, saying her words were just a figure of
21 speech expressing her being upset.

22 10. On information and belief, thereafter Defendant GEORGINA STUART, purportedly
23 acting in the course and scope of her employment with Defendant CPS, arrived at the Family
24 Home to conduct an investigation, though she did not tell Plaintiff the purpose for her visit. It
25 appeared to be a routine follow-up where minor children lived in the home to ensure another
26 adult was present.
27

1 11. To Plaintiff's knowledge, there were no allegations of abuse or neglect of the children,
2 and at no times were the children ever subjected to actual or imminent abuse or neglect. At all
3 relevant times, Plaintiff was led to believe the CPS visit was protocol following any mental
4 healthcare response of a parent with children,

5 12. At all times, Plaintiff was a fit parent and fully capable of managing the children during
6 Battistella's absence as described above.

7 13. On or about the day before Christmas, Defendant GEORGINA STUART interviewed
8 Plaintiff for a very short time in the Family Home. No suggestion of any kind was made that any
9 of the children were in any kind of danger or that Plaintiff was unfit or being investigated as unfit
10 to exercise custody over the children.

11 14. Battistella was released on Christmas Day and returned home. Soon after, Defendant
12 GEORGINA STUART returned to the Family Home to interview Plaintiff and Battistella. At
13 that time, Defendant GEORGINA STUART appointed Plaintiff and the oldest Rodriguez child
14 supervisory guardians of the children. Plaintiff signed a document making this appointment
15 official and defining his obligations, which he at all times fulfilled. Further, on information and
16 belief, no suggestion was made by anyone that Plaintiff failed in any way to fulfil his obligations
17 under this appointment.

18 15. During the same visit, Defendant Georgian Stuart asked Plaintiff to take a baseline Drug
19 and Alcohol test in the next few days, indicating it was part of the established protocol. Plaintiff
20 agreed and did so, and promptly thereafter, on information and belief, Defendants CPS and
21 GEORGINA STUART received delivery of Plaintiff's test results showing he was not using or
22 abusing alcohol or drugs.

23 16. Over the holidays and into the new year, Defendant GEORGINA STUART returned to
24 the Family Hone on several occasions. During one visit, she represented that Defendant CPS
25 was involved in a "brand new program" that was funding situations like that of the Eggleston-
26 Battistella family, that she had recommended the family for inclusion in the program, and that, jf

1 they agreed to; participate in the program, a team of professionals would help accomplish the
2 well-being of the family in light of Battistella's condition. Defendant GEORGINA STUART
3 specifically asked Plaintiff if he was willing to participate, as he had expressed that he was
4 seriously considering the option of immediately moving from the Family Home and taking the
5 Eggleston Boys with him in light of everything that had transpired.

6 17. Plaintiff and Battistella counselled, ministered and considered Defendant GEORGINA
7 STUART's proposal, then agreed to accept it, committing to make best efforts to keep the family
8 together. Thereafter, they promptly informed Defendant GEORGINA STUART that they would
9 participate in the program.

10 18. Soon thereafter, Defendant GEORGINA STUART (a) informed Plaintiff that he and
11 Battistella had been approved for the program, (b) returned to the Family Home with a team of
12 professionals (about a half dozen in all) that would be working with them under the new
13 program, confirming expressly that they had been accepted into the program and confirming,
14 further, that they would be the first family to kick it off.

15 19. Oddly, on one visit, Defendant GEORGINA STUART pulled Plaintiff aside and spoke
16 words to the effect, "This is an important new project to the County. A lot of money is involved.
17 Do not let us down." Plaintiff assured her that they would do their best but this raised questions
18 about her motivation and professionalism, as the best interests of the family and the children, not
19 funding the department, should have been paramount. Thereafter, Plaintiff sought assurance
20 from Defendant GEORGINA STUART that she was authorized to admit the family to the
21 program and they could rely upon this, to which she promptly replied that she had full authority
22 and they such reliance was warranted. At no time did she remotely suggest that further approval
23 above her pay grade as a "Senior Family Services Specialist" would be required.

24 20. Defendant GEORGINA STUART then scheduled an appointment to start the program
25 with Plaintiff, Battistella, the Eggleston Boys and the minor Rodriguez children on or about
26 January 6, 2015, commencing with a meeting scheduled at the Family Home at about 1:00 pm, at
27
28

1 which the team previously introduced would begin their work. Toward this elid, she indicated
2 she needed everyone to be home to meet the official team and establish protocols for going
3 forward. In this connection, over the holidays, Defendant LISA CALLAHAN, Battistella's
4 sister, had arrived from Indiana, or somewhere in the greater Chicago area, purportedly to assist
5 the family in their time of need over the holidays by helping watch the children and supporting
6 her sister.

7 21. During this time, there was no suggestion, mention or discussion of any kind with
8 Plaintiff that Defendant GEORGINA STUART or anyone else believed or had expressed the
9 belief that the children had been subject to any kind of neglect or abuse or were in imminent risk
10 thereof, or that Plaintiff was not a fit parent. Indeed, Plaintiff's youngest son had been in the
11 hospital for several days, having suffered from a burst appendix when the diagnosis was
12 originally missed by the first hospital to which he had been taken several times for an upset
13 stomach.

14
15 22. In the course of the foregoing visits, Defendant GEORGINA STUART represented that
16 Clark County would assist with rent for January 2015 (over \$2000), and that Plaintiff would
17 count on (i.e., rely upon) that commitment in adjusting his December work schedule, so that
18 Plaintiff could be with the family during these hard times — with Battistella in rehabilitation and
19 his youngest son in the hospital - and concentrate on commencing the new program and making
20 it a success for CPS. Pursuant thereto, on January 2, 2015, Plaintiff sent this email to Defendant
21 GEORGINA STUART:

22 "Hi Georgina!

23 I'm checking in via email so you have my online information. It's listed below.

24
25 Laura said she attended AA yesterday and Lisa (who attended with her) says she did well.
26 Already I can hear in Laura the voice of the person I fell in love with and the mom the kids know
and love. It would be wonderful to have her back.

27 Little [youngest son] is struggling [because of his burst appendix], which is a complicating
28 emotional layer, but [oldest daughter] and Laura have stayed at the hospital with him
throughout. I visit and hold his hand once or twice a day, while trying to keep the battleship

Egglestella (as we call it - Eggleston / Battistella, Laura's maiden name) afloat. [Youngest son] is daddy's man.

Laura confirmed a few minutes ago she's planning to get her Baseline test today, and I'm planning to do the same when I visit [my youngest son] and am on that side of town later today. We are limited of course by having one car between me, Laura, [and the two teenage girls who are visiting for the holidays]. At least Lisa has a rental and has been able to take the kids the last two nights.

I wanted to confirm that a rent check will be arriving at the house today. It should be made payable to [the landlord], who owns the house and is our landlord. We deposit the check directly into his account at Bank of America. Sometimes he asks us to deposit cash, but he has not done so this month.

You indicated the check (amount \$2035) will be delivered to the house today. Can you possibly let me know what time the delivery will arrive so I can be sure to be here to receive it? If by chance no one is here, can it be left under the mat at the front door? Let me know if there's a protocol to follow.

Your involvement and the new program are a Godsend. Thank you.

Sincerely, Steve."

23. On January 5, 2015, Plaintiff emailed Defendant GEORGINA STUART as follows, confirming delivery of the information she had requested pursuant to the program:

"Hi Georgina!

I'm attaching the following:

1. My bank statement for the last 90 days.
2. My pay stub for teaching at Sanford Brown College - IADT. I get this every 2 weeks but not for the holidays as the students are off and I only get paid for classes taught. This will renew mid-month in January, as classes start again this week (I teach 8 hours Tuesdays and Thursdays this term.)
4. Receipts showing rent payments for Sept-Nov 2014. I could not find the Dec receipt and must have misplaced it in all the chaos. It was paid, however, and it was paid on time.
5. A large wire transfer from 7/18 showing I do get paid in chunks on the management side of my business from time to time.
6. A current artist contract for [artist] for \$3,000. He could only pay \$1000 in December (which went toward bills and auto repair) but despite its language the second payment will not be here until the 3rd or 4th week of January due to cash flow issues on his end.

Also, I have an annual contract with [another artist] for \$5,000 which he says he will renew on 2/1. He has the option of paying it over the next 6 months, or in a discounted lump sum of \$4,000, which is how he paid last year. That is probable to occur, so by mid-January we should be back on our feet beginning with my teaching check.

1 Laura's contribution is \$300 more or less every two weeks (she's at the hospital and thus far I've
2 been unable to find her stubs), for a total of \$600 more or less, plus daily tips of \$20-40 (she
works 4 days per week, 30 hours per week total).

3 I have printed hard copies that I'll give to you at our meeting. Steve."

4 24. Later that same day, Plaintiff emailed Defendant GEORGINA STUART again:

5 "I found this Chase bank for Laura showing direct deposits on this card (she does not have an
6 actual account, just a debit card for direct payment), of \$381 on 9/23 and \$356 on 10/7. This is
7 typical of each month except of course this December 2014. Steve"

8 25. On or about January 6, 2015, the very morning of the scheduled first meeting of the first
9 day of the program, Plaintiff sent yet another email to Defendant GEORGINA STUART:

10 "Hi Georgina, here's my address (texted as well): Sanford Brown College/IADT, 2495 Village
11 View Drive, Henderson, NV 89074. They can leave it under my name at the front desk, or call
12 me at 702-772-3286 and I'll come down. Thanks! Steve"

13 26. On or about the afternoon of January 6, 2015, at about 1:00 p.m., Plaintiff and Battistella
14 were at the family house as scheduled and waiting anxiously for Defendant Georgina Stuart to
15 arrive with her team to kick off the new program and help them keep the family together.

16 Instead, here's what happened:

17 (a) Defendant GEORGINA STUART arrived at the Family Home with two armed
18 police officers wearing highly visible, holstered guns, Defendant LISA CALLAHAN and several
19 other people whose role was not defined. This was not the team previously selected to help the
20 family.

21 (b) Defendant GEORGINA STUART, policemen at her side, entered the Family
22 Home and announced to Plaintiff and Battistella in these words or words to this effect: "Either
23 you sign temporary guardianship of all the children over to Lisa *right now* or the police are
24 taking your children into custody *right now* and you will *never* see them again."

25 (c) Battistella, after the import of the words set in, started screaming and crying and
26 ran into the back yard, utterIpsiefavt*Dtdpftaltaixiicitby izsteSdxfalkeepolicemen as the other
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1 policeman stood sentry at the back store, blocking any exit, with his hand on his pistol indicating
2 he was prepared to draw and use it at a moment's notice.

3 (d) The announcement came as a total shock. When Plaintiff asked what happened to
4 the program, Defendant GEORGINA STUART indicated the family would not be participating
5 in the program. She stated that her supervisory had overridden her decision at the last moment.
6 No further explanation was given, the family was not put into the program, and no rental
7 assistance was provided.

8 (e) On information and believe, Defendants GEORGINA STUART and LISA
9 CALLAHAN had conspired previously to pull this off as one or both of them had temporary
10 guardianship papers in her/their hands and presented them for signing. Their execution of the
11 conspiracy was obviously designed to be an ambush, giving Plaintiff and Battistella no
12 reasonable time to consider their options, consult with an attorney, or secure legal protection.
13 Note, in this connection, that neither the Eggleston Boys nor the minor Rodriguez children were
14 present at the house, and could not conceivably be considered in any kind of actual or imminent
15 danger at this time.

16 (f) As Battistella screamed in the background, Defendant GEORGINA STUART and
17 one or both of the police officers (depending on the exact moment, as it was in the manner of a
18 tag team) repeatedly threatened Plaintiff with the immediate removal of his children if he did not
19 sign "now." This happened even after Plaintiff stated that he needed to call his family law
20 attorney, specialist Emily McFarling, Esq., "right now." One police officer repeated several
21 times that Plaintiff did not have time to call anyone, that "you need to sign right now or your
22 children will be taken," or words to this effect.

23 (g) Notwithstanding the authorities intimidating him, Plaintiff excused himself to his
24 home office, where he was able to reach his attorney, Emily McFarling, Esq., on his mobile, and
25 then insist that Defendant GEORGINA STUART talk to her, which she did. On information and
26 belief, during this conversation, Defendant GEORGINA STUART expressly represented to
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1 Attorney McFarling that, if Plaintiff signed the temporary guardianship papers, so as to allow
2 time to get Battistella out of the house and into a resident treatment program, the Eggleston Boys
3 would be returned to him in several days.

4 (h) Though under coercion and duress, Plaintiff pulled Defendant LISA CALLAHAN
5 aside to his home office to discuss the potential temporary guardianship. At that time, Plaintiff
6 expressly informed Defendant LISA CALLAHAN that he was signing under coercion and duress
7 and that she had no permission to remove the Eggleston Boys from the State of Nevada. She
8 stated she understood.

9 (i) Soon thereafter, Plaintiff and Battistella, accompanied by Defendant LISA
10 CALLAHAN, signed a previously-prepared temporary guardianship form in front of nearby
11 notary in order to prevent the police from removing the children "right now" and causing him to
12 never see the Eggleston Boys again.

13 (j) Within the hour, the Family Home was empty, except for Plaintiff. Everyone was
14 gone, and he was standing there alone, his boys taken and his life in shambles.

15 (k) All of her belongings left behind, Battistella never returned to the Family Home.
16 On information and belief, she was put on a plane to Colorado to stay with her Aunt and her
17 whereabouts were secreted from Plaintiff. As a result, Plaintiff would not learn for weeks that
18 Battistella had been permanently relocated, leaving Plaintiff to handle all the bills and
19 maintenance and somehow carry on.

20 (l) Despite her assurance to the contrary, Defendant LISA CALLAHAN abducted
21 and removed the Eggleston Boys from the state and, on information and belief, together with
22 Defendant Brian Callahan, hide them at their apartment in Indiana (or the greater Chicago area),
23 neither contacting Plaintiff nor disclosing the whereabouts or condition of the Eggleston Boys to
24 him.

25 (m) On information and belief, neither Defendant LISA CALLAHAN nor Defendant
26 BRIAN CALLAHAN ever signed or notarized the temporary guardianship document as required
27 Civil Complaint – Eggleston vs. Stuart, et al.
28

1 by the legal recitatils on the document and as required by Nevada law, such that the
2 guardianship document was *void ab initio* and never took legal effect, separate and apart from
3 and in addition to duress, coercion and fraud previously described.

4 (n) At all times, on information and belief, the removal of the Eggleston Boys
5 constituted an unlawful and malicious abduction, on one level no different in import than a child
6 kidnapping by a total stranger.

7 (o) At all times, on information and belief, the actions of Defendants CPS,
8 GEORGINA STUART, and the police constituted a de facto custodial taking of the Eggleston
9 Boys, triggering all the constitutional and legal rights that would be triggered had the police
10 taken the boys into direct custody and took them away in the back of their police cars.

11 (p) Several weeks later, Plaintiff's attorney, Emily McFarling, Esq., spoke to
12 Defendant GEORGINA STUART by phone over the status of her investigation and the return of
13 the Eggleston Boys. Among other things, Defendant GEORGINA STUART represented to
14 McFarling that she had no objection to Plaintiff resuming immediate custody of the Eggleston
15 Boys, and expressly confirmed that no Report of abuse or neglect would be issued against
16 Plaintiff, indicating expressly that the "file would soon be closed."

17 (q) After speaking to Defendant Georgian Stuart, Attorney McFarling served the
18 Callahan Defendants with notice of objection to the abduction of the Eggleston Boys and
19 expressly revoked any temporary guardianship of the Boys, as expressly allowed by statute even
20 if the document had been properly signed and notarized by all parties, which it was not.

21 (r) On information and belief, in contravention of her representations to Attorney
22 McFarling, Defendant GEORGINA STUART, in conspiracy with her supervisor and other
23 employees and/or officers of CPS, conspired to issue a false report that Plaintiff had subjected
24 the children to abuse or neglect or imminent threat thereof, and failure to protect, when in fact he
25 was at all times a fit parent and such report was not warranted or justified on any grounds,
26 among them, to wit:
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1 Defendant GEORGINA STUART never inquired of Plaintiff about his fitness as
2 parent, and never suggested to him that his children were subject to allegations of abuse or
3 neglect by anyone, much less him;

4 (2) Defendant GEORGINA STUART never contacted or spoke to any person with
5 actual personal knowledge of the manner in which the children were being raised and taken care
6 of, including neighbors who entrusted their children with Plaintiff and Battistella, friends and
7 clients;

8 (3) Defendant GEORGINA STUART never contacted the doctors for any of the
9 children, which doctors would have told her that there was no history and no signs of anything
10 abnormal for any of the children, as indeed there wasn't;

11 (4) Defendant GEORGINA STUART never contacted any of the teachers or child
12 care minders who taught and watched the children regularly; and

13 (5) Defendant GEORGINA STUART did no due diligence on Defendants LISA or
14 BRIAN CALLAHAN, including inquiry into potential elder abuse or neglect of her own mother
15 and failure to properly raise her own teenage daughter, who was rumoured to be pregnant from a
16 Chicago area gang member, and not working or capable of holding down a job.

17 (s) Unbeknown to Plaintiff at the time of filing, on information and belief, several
18 months later the CALLAHAN Defendants secretly filed a legal action for guardianship of the
19 Eggleston Boys in an Illinois state court, falsely and fraudulently representing among other
20 things that Plaintiff and Battistella had consented to her temporary guardianship, that the
21 temporary guardianship was legal and valid, and that Plaintiff had been determined to be unfit as
22 a parent.

23 (t) Not knowing of the above filing at the time, as he had not been notified of the
24 proceedings, named or served, Plaintiff filed for paternity, physical and legal custody of the
25 Eggleston Boys in Clark County District Court, the only proper forum for jurisdiction of the
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1 custody of the Eggleston Boys, and obtained an Order confirming paternity, determining Plaintiff
2 was a fit father, and awarding him full legal and physical custody of the Boys ("Custody Order").

3 (u) Plaintiff, through legal counsel McFarling and directly, promptly served that
4 Custody, Paternity and Fitness Order on the CALLAHAN Defendants and repeatedly demanded
5 return of the Eggleston Boys. This demand was ignored. The Boys were never returned.

6 (v) From the time the Eggleston Boys were abducted on or about January 6, 2015,
7 Plaintiff has been allowed to see his sons only once, for about 30 minutes, at a hearing in Will
8 County, Illinois, which had been initially concealed from him by the CALLAHAN Defendants
9 but which had been revealed to Battistella by one of her minor daughters when Battistella had
10 been flown there to visit her children for Mother's Day 2015.

11 (w) Except for that one occasion, on information and belief, the CALLAHAN
12 Defendants, aided, abetted and assisted by Defendants CPS and GEORGINA STUART, as well
13 as family members and others whose names and involvement are not currently known, have
14 abducted, concealed and kept the Eggleston Boys from Plaintiff, their father, without legal or
15 moral cause, in violation of the federal and state Constitutions, civil laws, criminal laws,
16 Plaintiffs fundamental right as a father and parent, the Eggleston Boys' fundamental rights as
17 children, Plaintiffs Civil Rights, and the Clark County Court Custody Order.

18 (x) Though the CALLAHAN Defendants allowed Plaintiff occasional weekly phone
19 calls with the Eggleston Boys beginning in the summer of 2015, Plaintiff was cut off without
20 justification or any explanation of any kind in January 2016. Plaintiff has not heard from, talked
21 to, or seen his sons since that time, the last statement being made to him by his oldest son, "dad,
22 do you remember the good old days?"
23

24 FIRST CAUSE OF ACTION

25 (Civil Rights — Violation of 42 U.S.C. section 1983 — Defendants Georgina Stuart, CPS and
26

27 Does 1 through 60, inclusive)

28 27. Plaintiff incorporates by reference as if set forth herein all previous allegations.
Civil Complaint — Eggleston vs. Stuart, et al.

1 28. On information and belief, at all times relevant to this Cause of Action, Defendant CPS
2 exercised power possessed by virtue of state law and Defendant Georgina Stuart, as an employee
3 of Defendant CPS, acted under color of state law.

4 29. On information and belief, at all times relevant to this Cause of Action, the conduct
5 alleged herein by Defendant CPS and Defendant Georgina Stuart resulted from actions taken on
6 the part of a government entity that implemented or executed a policy statement, ordinance,
7 regulation, or decision officially adopted and promulgated by that body's officers, or the result of
8 the entity's custom, the custom and policy being a moving force behind the deprivation of
9 Plaintiff's rights, damages and request for relief alleged herein, including but not limited to the
10 following:

11 (a) With indifference to an obvious need, and knowing this indifference would likely
12 result in a CPS employee making a wrong decision, with regard to the actions alleged herein,
13 Defendant CPS failed to train its employees on responses to suicide ideation, situations where
14 one parent was allegedly unfit and one parent was fit to be a parent over young children, and/or
15 situations where two unmarried parents lived together with children from different parents, the
16 one living at the home being fit, among other things;

17 (b) At no time was neglect of, abuse of, or failure to protect the Eggleston boys made,
18 such that Defendant CPS and Defendant Georgina Stuart fabricated and made up the existence of
19 the making of such a report to justify their wrongful, illegal and unconstitutional actions as
20 alleged herein;

21 (c) Defendant CPS and Defendant Georgina Stuart failed to disclose and explain any
22 allegations or reports of child abuse or neglect to Plaintiff, and/or alleged failure to protect,
23 thereby depriving him of notice and any fair opportunity to respond and provide convincing,
24 irrefutable evidence that he was a fit parent; in addition to the evidence thereof already in their
25 custody;
26
27

1 (d) Defendant CPS and Defendant Georgina Stuart failed to properly investigate any such
2 allegations or report, including but not limited to:

3 (1) failing to properly and competently interview Plaintiff as to Plaintiffs fitness
4 as a parent and the fact the Eggleston Boys were never subject to abuse or neglect or under
5 imminent threat thereof (e.g., Defendant Georgina Stuart interviewed Plaintiff only once, for
6 approximately 15 minutes the day before Christmas while she was in a big hurry to leave,
7 interviewed Plaintiff only about Battistella's condition and not the children, and never once
8 suggested Plaintiff was unfit as a parent or that any of the children were subject to abuse or
9 neglect or under imminent threat thereof; and other material witnesses which she made no effort
10 to even contact);

11 (2) failing to contact material witnesses as to the ongoing proper care received by
12 the Rodriguez children and the Eggleston Boys over the preceding days, months, and years (and
13 corresponding utter and total lack of abuse or neglect), including neighbors who customarily
14 entrusted their children with Plaintiff and Battistella (and vice-versa), family friends who visited
15 the house, teachers and parents of students from the school attended by the Rodriguez children,
16 and doctors who saw and treated all of the children (there never, ever being any documentation
17 or suggestion of abuse or neglect by any of them);

18 (3) failing to conduct any due diligence as to the significant unfitness as
19 custodians of the Callahan Defendants to whom Plaintiff was coerced to give custody of the
20 Eggleston Boys under threat of unlawful removal (e.g., strong evidence exists that Defendant
21 Lisa Callahan committed elder abuse of her mother when she was suffering from Alzheimer's
22 disease, that she evidenced significant irresponsibility in managing her mother's care, and that
23 she had made clearly inappropriate decisions adversely affecting her mother's health and well-
24 being, and that she had raised her only daughter with such little guidance and care that she
25 became pregnant as a teenager from an alleged gangbanger).
26
27
28

1 (e) Defendant Georgian Stuart concealed material facts about her investigation and
2 intentions from Plaintiff, with the purpose of depriving him of the opportunity and ability to
3 protect his fundamental parental rights and protect the Eggleston Boys from wrongful removal,
4 all as part of an ongoing custom and practice of abusing her power and authority and taking
5 actions designed, not to advance the best interests of parents, children and families, but rather, to
6 enhance the budgets and monetary allocations to Defendant CPS, i.e., Defendants CPS and
7 Defendant Stuart put budget money and their own job security over the health and welfare of
8 families and children;

9 (f) After misleading Plaintiff, Defendant Georgian Stuart implemented an "Ambush
10 Strategy," as alleged above, complete with law enforcement officers looking ready to draw their
11 guns, with the purpose of depriving him of the opportunity and ability to protect his fundamental
12 parental rights and protect the Eggleston Boys from wrongful removal, all as part of an ongoing
13 custom and practice of abusing her power and authority and taking actions designed, not to
14 advance the best interests of parents, children and families, but rather, to enhance the budgets
15 and monetary allocations to Defendant CPS, i.e., Defendants CPS and Defendant Stuart put
16 budget money and their own job security over the health and welfare of families and children;

18 (g) Defendant Georgian Stuart misrepresented her authority to offer and promise
19 Plaintiff rent assistance and enter into the program with Plaintiff and Battistella by, among other
20 things, falsely representing to Plaintiff that she had the authority both to commit the rental funds
21 and put them in the new program (e.g., Plaintiff specifically asked Stuart if she had the authority
22 to make these representations, to which she said she did, asked her if a Supervisor needed to
23 approve it, to which she said he/she did not, and reaffirmed that he could rely on her since he
24 was turning down work to help watch the children, to which she said he could);

26 (h) On information and belief, on the night of January 5, 2015, Defendant Georgina
27 Stuart's Supervisor overrode her promises and agreement to provide Plaintiff rental assistance
28 and enter them into the new program, causing Stuart to take actions designed to cover up her
Civil Complaint — Eggleston vs. Stuart, et al.

1 misrepresentations and misdeeds and abuse her power and authority and take actions designed,
2 not to advance the best interests of parents, children and families, but rather, to enhance the
3 budgets and monetary allocations to Defendant CPS, and to protect the funding of the new
4 program and, therefore, the jobs and entitlements of both herself and her Supervisor in times of
5 state and county budgetary pressure and crisis;

6 (i) On information and belief, scrambling to cover her tracks and/or those of here
7 Supervisor, to protect the new program and to avoid potential legal liability, among other things
8 known to the CPS and Stuart Defendants, Defendant Georgina Stuart decided to execute the
9 "Ambush Plan" plan to cover-up her misfeasance and malfeasance in handling the situation,
10 knowing in most cases the "Ambush Plan" would crush the family emotionally and financially
11 and thus render them unable to protect their legal rights or those of the children in question,
12 whose rights, health, and well-being would be substantially and permanently injured;

13 (j) On information and belief, Defendants CPS and Stuart employed a known,
14 unconstitutional method of coercing parents into signing over temporary custody to third parties
15 when removing the children was not warranted or justified, so as to cover their tracks,
16 accomplish unconstitutionally and illegally what could not be accomplished constitutionally and
17 legally, all as part of an ongoing custom and practice of abusing power and authority and taking
18 actions designed, not to advance the best interests of parents, children and families, but rather, to
19 enhance the budgets and monetary allocations to Defendant CPS in difficult financial times, i.e.,
20 Defendants CPS and Defendant Stuart put budget money and their own job security over the
21 health and welfare of families and children;

22 (k) On information and belief, on or about January 5, 2016, Defendant CPS and
23 Defendant Georgina Stuart exercised custody over the Eggleston boys, used the power and
24 intimidation of Clark County police officers to carry out their plan and scheme, and otherwise
25 coerced Plaintiff into involuntarily signing a guardianship document making the Callahan
26 Defendants guardians of the Eggleston boys, without any just or probable cause, exigent
27
28

1 circumstances, Lmergency or other valid constitutional and legal reason, other than an able of
2 power and Plaintiff's rights, including fundamental parental rights, as alleged herein; and

3 (1) On information and belief, Defendant CPS and Defendant Georgian Stuart issued
4 and/or caused to be issued a written report against Plaintiff accusing him of neglect, abuse and/or
5 failure to protect the Rodriguez children, over whom he didn't even have custody, and Eggleston
6 boys, over whom he did, said report containing false, fraudulent and misleading allegations
7 against Plaintiff and drawing conclusions not warranted or justified by the allegations made.

8 30. On information and belief, as a legal and proximate result of the foregoing, Plaintiff was
9 denied his fundamental, constitutional right of parenthood and fatherhood, has been irreparably
10 damaged by the deprivation of raising his sons and sharing their love and joy, experienced
11 extreme and severe pain, suffering, and bodily injury (including loss of sleep, nightmares,
12 headaches, etc.), suffered extreme and severe emotional distress, incurred substantial financial
13 losses and injuries, and such other and further injury and damages according to proof but which
14 exceed the jurisdictional minimum of this court, well in excess of \$10 million.
15

16 31. On information and belief, said Defendants acted with fraud, oppression, malice and a
17 malignant heart in violating Plaintiff's rights, abusing its position of public trust, permanently
18 scarring the Eggleston Boys, including callously depriving them of their love and familiar
19 relationship with their father, and undermining the proper working of a free and democratic
20 country.

21 Accordingly, Plaintiff prays for relief as hereinafter set forth.

22 SECOND CAUSE OF ACTION

23 (Civil Rights — Conspiracy, Aiding and Abetting Violation of 42 U.S.C. section 1983 — All
24

25 Named Defendants and Does 1 through 50, inclusive)

26 32. Plaintiff incorporates by reference as if set forth herein all previous allegations.

27 33. On information and belief, Defendants Georgina Stuart, CPS, Lisa Callahan, Brian

28 Callahan, and Does 1 through 60, inclusive, conspired, agreed among themselves, assisted, aided
Civil Complaint — Eggleston vs. Stuart, et al.

1 and/Lr abetted each other in causing, carrying out, implementing, and/or accomplishing, by
2 wrongful deed, fraud, cover-up and/or otherwise, the allegations of wrongdoing and omission
3 alleged in the First Cause of Action.

4 34. On information and belief, as a legal and proximate result of the foregoing, Plaintiff was
5 denied his fundamental, constitutional right of parenthood and fatherhood, has been irreparably
6 damaged by the deprivation of raising his sons and sharing their love and joy, experienced
7 extreme and severe pain, suffering, and bodily injury (including loss of sleep, nightmares,
8 headaches, etc.), suffered extreme and severe emotional distress, incurred substantial financial
9 losses and injuries, and such other and further injury and damages according to proof but which
10 exceed the jurisdictional minimum of this court, well in excess of \$10 million.

11 35. On information and belief, said Defendants acted with fraud, oppression, malice and a
12 malignant heart in violating Plaintiff's rights, abusing its position of public trust, permanently
13 scarring the Eggleston Boys, including callously depriving them of their love and familiar
14 relationship with their father, and undermining the proper working of a free and democratic
15 country.
16

17 Accordingly, Plaintiff prays for relief as hereinafter set forth.
18

19 THIRD CAUSE OF ACTION

20 (Intentional Infliction of Emotional Distress — All Named Defendants and Does 40 through 100,
21 inclusive)
22

23 36. Plaintiff incorporates by reference as if set forth herein all previous allegations.

24 37. On information and belief, the conduct, actions and omissions of Defendants, and each of
25 them, as alleged herein, were and are outside all possible bounds of human decency, were and
26 are utterly intolerable in a free, democratic and civilized community, were and are extreme and
27 outrageous conduct committed with the intention of, or with reckless disregard for, inflicting
28 extreme and severe mental emotional distress on Plaintiff and the Eggleston Boys, which
Civil Complaint — Eggleston vs. Stuart, et al.

behavior actually and/or proximately caused Plaintiff to suffer the/injuries and damages alleged herein.

38. On information and belief, as a legal and proximate result of the foregoing, Plaintiff was denied his fundamental, constitutional right of parenthood and fatherhood, has been irreparably damaged by the deprivation of raising his sons and sharing their love and joy, experienced extreme and severe pain, suffering, and bodily injury (including loss of sleep, nightmares, headaches, etc.), suffered extreme and severe emotional distress manifesting itself in physical and bodily injury, incurred substantial financial losses and injuries, and such other and further injury and damages according to proof but which exceed the jurisdictional minimum of this court, well in excess of \$10 million.

39. On information and belief, said Defendants acted with fraud, oppression, malice and a malignant heart in violating Plaintiff's rights, abusing its position of public trust, permanently scarring the Eggleston Boys, including callously depriving them of their love and familiar relationship with their father, and undermining the proper working of a free and democratic country.

Accordingly, Plaintiff prays for relief as hereinafter set forth.

FOURTH CAUSE OF ACTION

(Defamation, Libel & Slander — Against All Named Defendants Except Defendant Brian Callahan, and Does 25 — 75, inclusive)

40. Plaintiff incorporates by reference as if set forth herein all previous allegations.

41. On information and belief, Defendants CPS, Georgina Stuart, and Does 25 — 50, inclusive, on specific dates known to them within the last two years, made verbal and written statements of and concerning Plaintiff:

- (a) That he was an unfit parent;
 - (b) That he had neglected the Eggleston boys and other children;
 - (c) That he had abused the Eggleston boys and other children; and
- Civil Complaint — Eggleston vs. Stuart, et al.

1 (d) That he had failed to protect the Eggleston boys from the actions of others,
2 including, specifically, their mother.

3 42. On information and belief, Defendant Lisa Callahan and Does 45 — 75, inclusive, on
4 specific dates known to them within the last two years, made verbal statements of and
5 concerning Plaintiff:

6 (a) That he was an unfit parent;

7 (b) That he had neglected the Eggleston boys and other children;

8 (c) That he had abused the Eggleston boys and other children; and

9 (d) That he had failed to protect the Eggleston boys from the actions of others,
10 including, specifically, their mother.

11 43. The aforesaid statements were false and known to be false by each of the charged
12 defendants, were published to third parties who understood them to be of and concerning
13 Plaintiff and who understood them to be derogatory of his character.

14 44. On information and belief, the aforesaid statements were not privileged as to all
15 Defendants in that they were made with malice.

16 45. On information and belief, the aforesaid statements were not privileged as to Defendant
17 Lisa Callahan and Does 45 — 75, inclusive, in that they were made as part of a pattern and
18 practice of unconstitutional actions and inactions, were made to defraud Plaintiff and cover up
19 illegal and unconstitutional behaviour, and were outside any routine privileged statements.

20 46. On information and belief, as a legal and proximate result of the foregoing, Plaintiff was
21 denied his fundamental, constitutional right of parenthood and fatherhood, has been irreparably
22 damaged by the deprivation of raising his sons and sharing their love and joy, experienced
23 extreme and severe pain, suffering, and bodily injury (including loss of sleep, nightmares,
24 headaches, etc.), suffered extreme and severe emotional distress manifesting itself in physical
25 and bodily injury, suffered actual financial damages, and incurred substantial financial losses and
26
27
28

1 injuries, and such other and further injury Id damages according to proof but which exceed the
2 jurisdictional minimum of this court, well in excess of \$10 million.

3 47. On information and belief, said Defendants acted with fraud, oppression, malice and a
4 malignant heart in violating Plaintiff's rights, abusing its position of public trust, permanently
5 scarring the Eggleston Boys, including callously depriving them of their love and familiar
6 relationship with their father, causing Plaintiff irreparable harm, and/or undermining the proper
7 working of a free and democratic country.

8 Accordingly, Plaintiff prays for relief as hereinafter set forth.

9 RELIEF REQUESTED

- 10 1. Compensatory damages in the sum of \$10 million or according to proof;
11 2. Damage to Plaintiff's reputation in the sum of \$10 million or according to proof;
12 3. Punitive damages in the sum of \$50 million or according to proof;
13 4. Interlocutory and Permanent Injunctive relief, including but not limited to:
14 a. Return of sole, permanent custody of the Eggleston Boys to Plaintiff forthwith;
15 b. Bar of any contact by the Callahan Defendants or any of their family members of
16 the Eggleston Boys except as, when and if expressly allowed by Plaintiff and/or
17 Nevada courts;
18 c. Correcting, Improving and Offering State of the Art CPS Training, Procedure and
19 Protocols for investigating suicide ideation scenarios, blended families with
20 children from different parents, unmarried parents living together with children
21 from different parents, and situations where one parent is allegedly not fit and one
22 parent clearly is fit, among other things;
23 d. Eliminating, banning and educating against the use of armed police officers,
24 threats of child removal, denial of counsel involvement, and other deceitful,
25 fraudulent, abusive and illegal actions used as subterfuges to remove children
26 from their parent or parents and circumvent the law, proper procedure and the
27 Civil Complaint — Eggleston vs. Stuart, et al.
28

protections provided by the U.S. and Nevada Constitutions for both parents and children;

e. Eliminating, banning and educating against the use and issuance by CPS of false and fraudulent alleged neglect and abuse reports to justify wrongful, deceitful and/or unconstitutional actions previously taken to remove children and violate parental/children's legal and constitutional rights;

f. Revising the appeals process for review of abuse reports to bring them in compliance with the procedural and substantive due process rights of the parents, custodians and children involved, including the requirement of due diligence in collecting and analysing evidence or the lack thereof;

g. Banning any further child removal in Nevada County by Defendant Georgina Stuart and/or CPS until constitutional, lawful and proper procedural due process, substantial due process and fair processes are put in place for the investigation of alleged child abuse and neglect, the removal of children, the use of armed police officers, the issuance of abuse and neglect reports, and the timely appeal and/or challenge thereof, including policies of making evidence available to the children's parent and guardian; and


h. Any other injunctive relief that the court deems necessary and proper, given especially the allegations that evidence has been fraudulently falsified, concealed and misrepresented by the CPS defendants herein.

5. Prejudgement interest as allowed by law;

6. Costs of suit herein;

7. Such other and further relief as the Court deems just and proper.

DATE: December 26, 2016



Stevie Eggleston,

Plaintiff

DISTRICT COURT CIVIL COVER SHEET

4iet<

County, Nevada

Case No.

(Assigned by Clerk's Office)

I. Party Information *(provide both home and mailing addresses if different)*

Plaintiff(s) (name/address/phone): 	Defendant(s) (name/address/phone): <i>6--cor ma Siiiiippi;</i>
Attorney (name/address/phone): <i>ii/___ P) Per-</i>	Atten <i>eiatElk-eagalawai*</i> <i>..Soo sh/e 1)4,</i> <i>(?/s) 605-06Q5</i>

vath
N/5 5

II. Nature of Controversy *(please select the one most applicable filing type below)*

Civil Case Filing Types

Real Property	Negligence	Torts
Landlord/Tenant Unlawful Detainer Other Landlord/Tenant Title to Property Judicial Foreclosure Other Title to Property Other Real Property Condemnation/Eminent Domain Other Real Property	Auto <input type="checkbox"/> Premises Liability Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting Other Malpractice	Other Torts Product Liability Intentional Misconduct Employment Tort Insurance Tort Other Tort
Probate	Construction Defect & Contract	Judicial Review/Appeal
Probate <i>(select cave type and estate value)</i> Summary Administration General Administration Special Administration Set Aside Trust/Conservatorship Other Probate Estate Value Over \$200,000 Between \$100,000 and \$200,000 Under \$100,000 or Unknown Under \$2,500	Construction Defect Chapter 40 111Other Construction Defect Contract Case Uniform Commercial Code Building and Construction Insurance Carrier Commercial Instrument Collection of Accounts <input type="checkbox"/> Employment Contract Other Contract	Judicial Review Foreclosure Mediation Case Petition to Seal Records Mental Competency Nevada State Agency Appeal Department of Motor Vehicle Worker's Compensation Other Nevada State Agency Appeal Other Appeal from Lower Court Other Judicial Review/Appeal
Civil Writ		Other Civil Filing
Civil Writ Writ of Habeas Corpus Writ of Mandamus Writ of Quo Warrant Writ of Prohibition Other Civil Writ		Other Civil Filing Compromise of Minor's Claim Forel gment O er C it Matrr,s1

Business Court filings should be filed using the Business Co rt ci c et.,

1/4

signature of initiating BrCl 4-/ or representative

See other side for family-related case filings.



1 **MSJ**
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3 Nevada Bar No. 007341
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9 fgalati@ocgas.com
10 Attorneys for Defendants
11 CLARK COUNTY and GEORGINA STUART

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

11 STEVE EGGLESTON,

12
13 Plaintiff,

14 v.

15 GEORGINA STUART; CLARK COUNTY,
16 NEVADA; LISA CALLAHAN; BRIAN
17 CALLAHAN; AND DOES I TH.E.OUGH 100,
18 INCLUSIVE,

19 Defendants.

CASE NO. A-16-748919-C
DEPT. NO. 22

HEARING REQUESTED

19 **DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S MOTION**
20 **FOR SUMMARY JUDGMENT**

21 COME NOW Defendants CLARK COUNTY and GEORGINA STUART
22 ("Defendants"), by and through their attorney FELICIA GALATI, ESQ. of the law firm
23 OLSON CANNON GORMLEY & STOBERSKI, and hereby submit their Motion For
24 Summary Judgment pursuant to NRCP 56 and for final judgment pursuant to NRCP 54(b),
25 made and based upon all papers, pleadings and records on file, the following Memorandum of
26 Points and Authorities, the attached Exhibits, and such oral argument, testimony and evidence
27 as the Court may entertain.
28

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant Clark County's Department of Family Services (DFS), through its Child Protective Services Division (CPS), had an open child/abuse neglect case for Plaintiff's family from 12/22/14 to 1/7/15. Defendant Georgina Stuart (Stuart) (now Anderson) was the assigned CPS investigator. Plaintiff signed/gave Temporary Guardianships of his children to the maternal aunt on 1/7/15 and, thereafter, DFS had no involvement with the family and closed their case. Plaintiff cannot establish all elements of his claims and/or they are barred by various immunities. Therefore, Defendants are entitled to summary judgment on all claims.

II. PROCEDURAL AND FACTUAL BACKGROUND

Plaintiff's First Amended Complaint (FAC) alleges the following claims against Defendants: (1) 42 U.S.C. § 1983 (substantive and procedural due process violations); (2) Intentional Infliction of Emotional Distress (IIED); and (3) Defamation, Libel, Slander.¹ Steve Eggleston (Plaintiff) is the father of Minor Son 1 (R.E.) and Minor Son 2 (H.E.) (Eggleston Boys). Laura Battistella/Rodriguez (Laura) is their mother. Defendant Lisa Callahan (Lisa) is their maternal aunt, Laura's sister. Default Judgments were entered against Lisa and Brian Callahan on 2/9/2022.

III. STATEMENT OF UNDISPUTED MATERIAL FACTS

A. DFS Child Protective Services (CPS) Reports

In 2014, Plaintiff resided with Laura. They were not married. In addition to their two sons (the Eggleston Boys), two of Laura's older children (K.R. and J.R., ages 11 and 8) also resided in the home. Laura also has two older daughters, Alexis and Selena Rodriguez who, in 2014, resided in Illinois, as did their maternal aunt, Lisa Callahan. In 2013, Laura gave Guardianship of Selena to Lisa, after Selena refused to buy drugs for Laura.² Prior to the

¹ See FAC, pp. 13-18 and 21-24. Plaintiff's Second Cause alleging conspiracy was dismissed. *Eggleston v. Stuart*, 137 Nev. 506, 515, 495 P.3d 482, 492 (2021).

² See CPS Referral Summary #1643346 at CC 27A (Exh. E); Marion Biron Affidavit (Exh. B).

1 12/22/14 CPS Report, Police were called several times to the Eggleston home due to domestic
2 violence between Plaintiff and Laura.³

3 Within an 8-month period in 2014, DFS/CPS received three Hotline calls, generating
4 CPS Referral Summaries (Reports), indicating concerns about the four minor children in the
5 Eggleston home – K.R., J.R. and the Eggleston Boys. First, on 4/7/14, CPS received a Hotline
6 call indicating H.E. fell in the pool and nearly drowned while Laura was watching him and
7 Plaintiff was in his office working. H.E. was hospitalized from 4/7 to 4/8/14.⁴ The Report was
8 classified as “Information Only” and no investigation was required.⁵ On 12/22/14, CPS received
9 a second Hotline call indicating Laura was abusing drugs and alcohol, placing the children at
10 risk. At that time, Alexis (20) and Selena (18) were in the home visiting for the holidays. The
11 call prompted an Investigation.⁶ On 12/29/14, CPS received a third Hotline call while under
12 investigation for the above 12/22/14 Report. This third call indicated Laura expressed suicidal
13 thoughts “last week” and was put on a Legal 2000.⁷

14
15 **B. DFS Child Protective Services (CPS) Investigation**

16 Defendant CPS Investigator Georgina Stuart was assigned to investigate the 12/22/14
17 CPS Report. On 12/23/14, she went to the family home to make contact with the family. The
18 children were in the care of Alexis’ boyfriend and his brother who would not allow Stuart to
19 enter the home. She was told Plaintiff was “at work.” Stuart observed the children from the
20 front door and completed a Present Danger Assessment (PDA) finding the children were
21 safe.⁸

22 Alexis provided information in the 12/22/14 CPS Report and Stuart spoke with
23 Alexis and learned that on multiple occasions and with increasing frequency, to be safe from
24

25
26 ³ Id. at CC 28.

27 ⁴ See CPS Referral Summary #1618945 (Exh. A); St. Rose Hospital Record (Exh. C).

28 ⁵ Id.; L. McKay Depo., p. 25 (Exh. D).

⁶ See CPS Referral Summary #1643346 (Exh. E).

⁷ See CPS Referral Summary #1643759 (Exh. H).

⁸ See UNITY Note at CC 1A (Exh. G); PDA at CC 1156-1158 (Exh. K).

1 Laura who was abusing alcohol and drugs, Alexis and/or the children locked themselves in the
2 bathroom until Laura passed out. Laura was violent, hit the children and was out of control.
3 Laura had been relying on K.R. (aged 11) to take care of the younger children. Alexis and
4 Selena Rodriguez described Laura drinking and doing drugs on a daily and escalating basis. In
5 the preceding months, K.R. had called Alexis several times after locking herself and the children
6 in the bathroom when Laura was out of control, which was reported to be happening weekly.⁹
7 During the Report times Plaintiff was reported to be in the home working in his office and
8 unaware of what was going on with Laura or the children.¹⁰
9

10 Investigation further revealed Laura was involuntarily admitted to Montevista Hospital
11 between 12/22/14 and 12/25/14 on a Legal Hold.¹¹ On 12/23/14, Stuart called Montevista and
12 spoke with the Hospital therapist and with Laura, advising her of the allegations. Laura told
13 Stuart she was stressed out on 12/22/14 because Plaintiff told her there would not be any
14 presents for the children under the tree because of bills and no money.¹² Later that same day,
15 Stuart delivered Christmas gifts to the home for the children.¹³

16 On 12/24/14, Stuart went back to the family home while the children were present
17 and had face-to-face contact with Plaintiff. She advised Plaintiff of the Report allegations
18 and gave him a CPS Brochure advising him of his rights.¹⁴ A Present Danger Plan (PDP) was
19 agreed to and signed by Plaintiff, Alexis and Selena – with all providing 24-hour supervision
20 of the children when in the mother's presence. Based on the PDP, Stuart completed a Present
21 Danger Assessment finding the children were safe.¹⁵ On 12/26/14, Laura left Stuart a
22
23

24
25 ⁹ Id. at CC 8A and 11A; CPS Referral Summary #1643346 (Exh. E).

26 ¹⁰ See CPS Referral Summary #1643346 at CC 027A (Exh. E); CPS Referral Summary
#1643759 at CC 35A (Exh. H); CPS Referral Summary #1618945 (Exh. A) at CC 22A.

27 ¹¹ See Montevista Hospital Record (Exh. F).

28 ¹² See UNITY Note at CC 2A-03A (Exh. G).

¹³ Id. at CC 1A-2A; G. Anderson Depo., p. 61 (Exh. L).

¹⁴ Id. at CC 5A; CPS Brochure (Exh. M).

¹⁵ See PDP (Exh. N); PDA at CC 1131A-1136A (Exh. K).

1 message that she was released from Montevista on 12/25/15, was at home and abiding by the
2 safety plan.¹⁶

3 Two days after her discharge from Montevista Hospital, Alexis confronted Laura
4 about Vodka in her purse, and Laura was irate and screaming, St. Rose Sienna Hospital
5 nurses came in and removed Laura, and, on 12/27/14, Laura checked herself into St. Rose
6 Sienna Hospital. She remained there between 12/27/14 until 12/29/14.¹⁷ At that time, H.E.
7 was hospitalized for appendicitis.¹⁸ Upon questioning, Laura admitted using alcohol.¹⁹
8 Alexis and Selena were providing supervision of the children. Again, during these times,
9 Plaintiff was reported to be, and admitted to being, in the home working in his office and
10 unaware of that was going on with the children. Laura reported Plaintiff worked 16 hours a
11 day, 7 days a week.²⁰

12 On 12/29/14, Stuart faxed a referral to Boys Town for in home services for the
13 family.²¹ Stuart also obtained Mojave Mental Health services for Laura.²² On 12/30/14,
14 Stuart spoke with Alexis and/or Selena who advised Laura had gone to the store, bought a
15 bottle of Vodka, and drank it. They reported they had the receipt from her purse and the
16 bottle.²³ Thereafter, they found 15-20 empty Vodka bottles stashed in Laura and Plaintiff's
17 master bedroom closet.²⁴

18 On 12/30/14, Stuart staffed the case with Boys Town, and later spoke to Laura's
19 sister, Lisa (who lived and worked in Illinois and Indiana) and indicated she was coming to
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24 ¹⁶ See UNITY Case Note at CC 6A (Exh. G).

25 ¹⁷ Id. at CC 08A; A. Rodriguez Depo., pp. 127-28 and 137-38 (Exh. O).

26 ¹⁸ See CPS Referral Summary #1643759 at CC 35A (Exh. H).

27 ¹⁹ Id.

28 ²⁰ Id.

²¹ See UNITY Note at CC 7A (Exh. G); Boys Town Referral (Exh. P).

²² Id. at CC 011A; Emails at CC 1865 (Exh. LL).

²³ Id. at CC 8A.

²⁴ See A. Rodriguez Depo., p. 189 (Exh. O);

1 Las Vegas on 12/31/14 to assist Laura and the children.²⁵ On 1/5/15, Stuart spoke with
2 Alexis and Selena who advised Laura was not truthful, recently went to the ER and got some
3 Xanax, and all pills were gone by 1/4/15. Laura was MIA for hours and no one knew her
4 whereabouts. On 12/31/14, Laura got a Tylenol with Codeine prescription filled and the
5 bottle was empty as well. They advised that they and Lisa would be returning to Illinois on
6 1/7/15, and were very concerned about Laura's continuing drug and alcohol use and about
7 Plaintiff's reluctance to intervene to protect the children. H.E. was still at Sunrise Hospital
8 due to his appendicitis surgery with an unknown discharge date. Alexis, Selena and Lisa, not
9 Plaintiff or Laura, primarily were with H.E. at Hospital and caring for and supervising the
10 children at home.²⁶ Alexis slept at the Hospital with H.E., and Doctors, Hospital staff, nurses
11 and social worker asked her a lot of questions – where the parents were and why she, H.E.'s
12 sibling, was at the Hospital. The Hospital contacted CPS on 12/29/15 and reported their
13 concerns in CPS Report #1643759.²⁷ H.E. was at Sunrise Hospital from 12/28/14 to 1/9/15.²⁸

14
15 During the investigation, Stuart had substantial contact with Plaintiff. On 12/23/14,
16 Stuart attempted to make contact with Plaintiff, but he was "at work" and she left him a message
17 to contact her.²⁹ On 12/24/15, Stuart made face-to-face contact with Plaintiff, advised him of the
18 reported allegations, and provided him with an agency brochure indicating his rights on removal,
19 visitation, etc.³⁰ Plaintiff understood the threat created by Laura feeling overwhelmed, her
20 substance abuse and her untreated mental health issues. Plaintiff was well aware of Laura's
21 substance abuse issues beginning in 2010 before he moved in with her when Laura's father, Ken
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25 ²⁵ See UNITY Note at CC 9A (Exh. G); L. Callahan Depo., pp. 18-19, 22-24, 129 and 165-6
(Exh. Q).

26 ²⁶ Id. at CC 11A.

27 ²⁷ See A. Rodriguez Depo., p. 41-43 (Exh. O); CPS Referral Summary #1643759 (Exh. H);
Sunrise Hospital record at EGGLESTON_03575 (Exh. I).

28 ²⁸ See Sunrise Hospital record at EGGLESTON_02770 (Exh. I).

29 ²⁹ See UNITY Note at CC 1A and CC 4A (Exh. G).

30 ³⁰ See CPS Brochure, p. 5 (Exh. M).

1 Battistella told him about them.³¹ Accordingly, on 12/24/14 Plaintiff, Selena and Alexis
2 accepted, agreed to, and signed the PDP requiring their 24-hour supervision of the children
3 while in Laura's care.³² On that same date, Stuart requested that Plaintiff and Laura take a drug
4 test, which they untimely completed on 1/2/15.³³

5 On 12/29/14, another CPS Report issued indicating Laura was suicidal and had been
6 hospitalized, further confirming the threats. See pp. 3 and 5-6, supra. Plaintiff thereafter
7 participated in various meetings and corresponded with Stuart discussing the case, family
8 supervision issues, responses, safety measures that needed to be in place for the children, and
9 Stuart provided information and documents concerning resources, as evidenced by the
10 following: (1) 1/2/15 email to Stuart advising/providing Laura's AA information, H.E.
11 struggling at the hospital, the status of the baseline drug testing, the requested rent
12 assistance/check and indicating "[y]our involvement and the new program are a Godsend.
13 **Thank you**"; (2) two emails to Stuart on 1/5/15 providing his and Laura's financial information
14 and documents and Stuart's email seeking Bank statements, pay stub, deposit and management
15 contracts; (3) Plaintiff attended a 1/5/14 CFT with Boys Town and Mohave Mental Health
16 Services Safety Services in the home and agreed to services; and (4) Plaintiff's 1/6/15 email to
17 Stuart regarding the address for rent check delivery – which confirms he understood the threats
18 and need for safety measures and requested assistance to address them.³⁴ Thus, Plaintiff was
19 fully aware and on notice of safety concerns, responding verbally and in writing, attending
20 meeting(s) and providing documents to address the Report issues. Stuart was working with him
21 on getting services and funds to meet the family's needs. On January 5 and 6, 2015, Stuart
22 provided the above emails and Plaintiff's financial information to and sought and obtained
23 information from Supervisor Mary Atteberry (Atteberry), Manager Lisa McKay and Arsineh
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26 ³¹ See Plaintiff Depo., pp. 68-69 (Exh. U); Steve Eggleston Timeline at EGGLESTON_0683
27 (Exh. HH).

28 ³² See UNITY Note at CC 5A (Exh. G); PDP (Exh. N); G. Anderson Depo., p. 68 and 71 (Exh. L).

³³ Id. at CC 5A; G. Anderson Depo., p. 71 (Exh. L).

³⁴ See Emails at CC 1806-1825 (Exh. Y).

1 Mardian (DFS Fiscal Unit) regarding rental and daycare assistance and limits to support the
2 family's needs and requested in home services.³⁵

3 On 1/5/15, a DFS Child and Family Team (CFT) Meeting was held in the family
4 home with Stuart, Plaintiff, Laura, Boys Town, Mojave Mental Health Services and the
5 children (except H.E. who was still in the Hospital). The family agreed to services in the
6 home.³⁶ On 1/6/15, Stuart faxed a referral to Southern Nevada Health District for after
7 discharge services for H.E. and the family.³⁷

8 Stuart worked from 12/23/14 to 1/6/15 to obtain in home services and support for the
9 family. On 1/6/15, at about 8 a.m., Stuart staffed the case with Supervisor Atteberry as to
10 Mohave Mental Health services with an in home plan.³⁸ On that same date, Stuart also staffed
11 the case with Assistant Manager Lisa McKay.³⁹ At about 8:30 a.m., McKay requested an in
12 home specialist be assigned "asap" to meet with Mohave and do what was needed to facilitate
13 the in home services, and Jazmin Laker-Ojok was assigned.⁴⁰

14
15 **C. DFS Staffing Regarding Protection of the Children**

16 On 1/6/15, at 2 p.m., Stuart participated in a staffing with the DFS In Home
17 Specialist (Laker-Ojok), Mohave Mental Health, DFS Supervisor Atteberry, DFS Assistant
18 Manager Sharon Savage, and Clint Holder (Consultant from Action for Child Protection).
19 Stuart's Supervisor and DFS Managers determined in home services were no longer an
20 option in primary part because the Aunt (Lisa) and older sisters were returning to Illinois
21 (Selena was already gone⁴¹), and both Plaintiff and Laura had demonstrated they alone could
22 not keep the children safe.⁴² The staffing Supervisor and Managers determined the only
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24 ³⁵ Id. at CC 1826-1880.

25 ³⁶ See UNITY Note at CC 11A (Exh. G).

26 ³⁷ See UNITY Note at CC 7A (Exh. G); Boys Town Referral (Exh. P); SNHD Referral Exh. KK).

27 ³⁸ See Atteberry Calendar and Note (Exh. R); M. Atteberry Depo., pp. 50-53 and 55 (Exh. T).

28 ³⁹ See Stuart and McKay Calendars (Exh. R); G. Anderson Depo., pp. 112 and 242-43 (Exh. L).

⁴⁰ See Emails at CC 6439 (Exh. LL).

⁴¹ See L. Callahan Depo., p. 68 (Exh. Q).

⁴² See UNITY Note at 14A (Exh. G); M. Atteberry Depo., pp. 76-77 and 92 (Exh. T); G. Anderson Depo., p. 89, 90, 94, 115-17, 119 and 199 (Exh. L); NIA at CC 42B (Exh. S).

1 options for the family were removal of the four children for out-of-home placement or, as
2 Laura had previously done for Selena, entering a temporary guardianship with a relative
3 responsible for supervision of the children.⁴³ Removal of the children requires DFS
4 Supervisor/Manager approval and was not a decision Stuart could unilaterally make in this
5 case.⁴⁴ DFS Supervisor Atteberry recommended that police accompany Stuart to the
6 Eggleston home to advise Plaintiff of the decision and it is protocol to ensure a smooth
7 transition.⁴⁵

8
9 **D. Temporary Guardianships**

10 On 1/7/15, Stuart attended the home with police to deliver the message to the family
11 that Management decided they had the above two options as she was told to do.⁴⁶ Present
12 were Plaintiff, Laura, Lisa (at Laura's invitation), Alexis, Cousin Kyle, and Marianne
13 Lanuti, Esq. (Alexis' boyfriend's mother).⁴⁷ H.E. was in the Hospital and R.E. was not
14 present.⁴⁸ Stuart advised, per Supervisor/Management direction, that the case was staffed
15 with her Supervisor and upper management, safety services in the home were not approved
16 because the Illinois family was leaving and, thus, the only person left on the PDP was
17 Plaintiff, who was not an option because he failed to demonstrate protective capacity on his
18 own. Therefore, out of home placement/foster care was recommended. In the alternative, the
19 parents could sign temporary guardianships for the children to Lisa Callahan, as Laura had
20 done with Selena in 2013.⁴⁹

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24 ⁴³ See G. Anderson Depo., pp.112-13 and 199 (Exh. L);McFarling Depo.,pp. 20 and 27 (Exh. V).

25 ⁴⁴ See Investigations Policy (Exh. MM).

26 ⁴⁵ See E. McFarling 1/7/15 Notes (Exh. JJ); Stuart Depo., pp. 121 (Exh. L).

27 ⁴⁶ See G. Anderson Depo., p.113 (Exh. L);

28 ⁴⁷ See UNITY Note at CC 14A-15A (Exh. G); Stuart Depo., p. 199 and 233 (Exh. L); L.
Callahan Depo. P. 82 (Exh. Q).

⁴⁸ See p. 6, *supra*; Plaintiff Depo., p. 131 (Exh. U).

⁴⁹ See G Anderson Depo., pp. 117, 127-128 and199;E. McFarling Depo.,p. 31 (Exh. L);*see* p. 3,
supra.

1 Before making a decision, Plaintiff called his attorney, Emily McFarling, Esq., and
2 spoke to her about what was going on.⁵⁰ Plaintiff requested Stuart speak with his attorney,
3 Stuart agreed, Plaintiff gave his cell phone to Stuart and McFarling spoke to Stuart. Stuart
4 told McFarling, in Plaintiff's presence, that if Plaintiff did not sign the guardianship
5 paperwork, DFS would take the children. Stuart relayed that she had worked on a plan to put
6 the family in an in-home services program, but Stuart's Supervisor had overridden, vetoed
7 or nixed it. Stuart confirmed that if Plaintiff signed guardianship papers, DFS would not need
8 to file an abuse and neglect petition against the parents because the children were no longer be
9 in their care, and the DFS case would be closed.⁵¹ Stuart explained Plaintiff was in the home not
10 protecting the children, which was also why she arrived with police. Stuart advised they
11 "[c]an't leave four kids with mom and dad [not] willing to recognize what's going on." Stuart
12 had "[b]een working with him for two weeks, [and there was] more concern [about] him
13 working" really hard all the time and starting a business. McFarling never raised any
14 substantive and/or procedural due process issues during the call with Stuart.⁵²

15
16 McFarling has testified she had been communicating with Plaintiff to help him put
17 together a plan to make sure things were in place when the Illinois family left, e.g., Plaintiff
18 needed childcare so he could continue working the amount that he had been working.
19 McFarling was aware Stuart's Supervisor Atteberry overruled the in-home services program
20 and made the judgment call to direct removal and have police accompany Stuart to the home
21 to inform Plaintiff. McFarling understood that H.E.'s 4/7/14 drowning incident also was a basis
22 for the change of plans.⁵³ McFarling had multiple prior experiences with DFS and guardianships
23 "...where one reason to have a guardianship...was to get DFS out of a family's life so that a
24 petition doesn't get filed and [she believed] you d[id]n't get a substantiation..."⁵⁴

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26 ⁵⁰ See FAC, ¶26(g); E. McFarling Depo., p. 14 (Exh. V).

27 ⁵¹ See FAC, ¶26(d); E. McFarling Depo., pp. 20-21 and 222-23 (Exh. V).

28 ⁵² See E. McFarling Depo., pp. 22-23 (Exh. V).

⁵³ *Id.* at 28 and 203.

⁵⁴ *Id.* at 39.

1 After speaking with Stuart, McFarling advised Plaintiff to sign the guardianships⁵⁵,
2 Plaintiff accepted his attorney's advice and signed the guardianships of the Eggleston Boys to
3 Lisa, including because they were "temporary" and expired in 6 months.⁵⁶ Plaintiff and Laura
4 knew Lisa was returning to Illinois with the children, it was clear she was doing that even while
5 offering to be the Eggleston Boys' guardian. Plaintiff never told Lisa not to take the Boys out of
6 State.⁵⁷

7
8 Thereafter, Plaintiff, Laura and Lisa left the home and drove to a UPS Store.⁵⁸ There,
9 Plaintiff and Laura signed the Temporary Guardianships (obtained and completed/filled in
10 by Lisa) giving the Callahans guardianship of the Eggleston Boys. Laura also signed
11 Temporary Guardianships for K.R. and J.R. to the Callahans. The Temporary Guardianships
12 were notarized at the UPS Store.⁵⁹ Upon their return to the family home, CPS/Stuart were
13 given copies of the signed Guardianships.⁶⁰ Within the hour, Lisa left the home with Laura
14 and the children.⁶¹ After H.E.'s release from Hospital on 1/9/15, Lisa, Alexis, Cousin Kyle,
15 the Eggleston Boys, K.R. and J.R. drove from Las Vegas to Illinois.⁶² On 1/13/15, Lisa sent
16 Stuart an email indicating they were in Chicago.⁶³

17 On 1/21/15, McFarling contacted Stuart while Plaintiff was present for the call.
18 Stuart advised she was working on closing the case so there would be no DFS/CPS
19 involvement with the family. McFarling did not raise any substantive and/or procedural due
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23 ⁵⁵ Id. at 31.

24 ⁵⁶ See Guardianships (Exh. W); Plaintiff Depo., pp. 128-29 (Exh. U).

25 ⁵⁷ See L. Callahan Depo., pp. 192-93 (Exh. Q); A. Depo. p. 176 (Exh. O).

26 ⁵⁸ See Plaintiff Depo., pp. 125-26 (Exh. U); L. Callahan Depo., p., 85 (Exh. Q).

27 ⁵⁹ Id.; FAC, ¶26(i).

28 ⁶⁰ See L. Callahan Depo., pp. 86, 123 and 125 (Exh. Q); Guardianships (Exh. W); Plaintiff
Depo., pp. 125-126 (Exh. U); G. Anderson Depo., p. 83-84 and 158 (Exh. L).

⁶¹ See FAC ¶26(j); Plaintiff Depo., p. 130 (Exh. U).

⁶² See L. Callahan Depo., pp. 37-38 and 62 (Exh. Q); Sunrise Hospital Record at EGGLESTON
02770 (Exh. I).

⁶³ See 1/13/15 L. Callahan Email (Exh. X).

1 process issues with Stuart and did not ask Stuart if she was going to substantiate any
2 allegations.⁶⁴

3 **E. Substantiation**

4 Stuart had various staffings with Supervisor Atteberry, and Manager Lisa McKay
5 (McKay) who, along with Supervisor Lisa Gibson, approved Stuart's work, conclusions and
6 findings between 12/23/14 and 2/2/15, as stated in the three PDAs, the PDP, the Risk
7 Assessment and the Nevada Initial Assessment (NIA), which is the tool DFS uses to gather
8 information around six assessment areas and assess for caregiver protective capacities, adult
9 functioning and parenting, and ultimately make a safety determination for a pending danger.⁶⁵
10 Because an investigation of a reported abuse/neglect had been opened, NRS 432B.300
11 requires DFS to make a finding of whether the report was substantiated or not. As removal
12 was recommended, the abuse/neglect report was substantiated as "Physical Injury Neglect,
13 14N Physical Injury Risk" as to the 12/22/14 CPS Report, and as required by State law, was
14 reported to the Central Registry by DFS on 2/2/15. NRS 432B.300 and NRS 432B.310.

15 **IV. LEGAL STANDARD**

16 Summary judgment is appropriate when there is no genuine issue of material fact and the
17 moving party is entitled to judgment as a matter of law and supported by the pleadings and
18 evidence on file. Wood v. Safeway, Inc., 121 Nev. 724, 729, 731, 121 P.3d 1026, 1029, 1031
19 (2005). If no genuine issue of fact exists, or is shown to exist, it is the duty of the Court to grant
20 summary judgment. Id. Any party opposing the motion may not merely rest on the allegations
21 of the pleadings or conclusory statements, but must set forth supported facts showing a genuine
22 issue of fact. N.R.C.P. 56(e); Id. at 731-32, 1030-31. "While the pleadings and other proof must
23 be construed in a light most favorable to the nonmoving party, that party bears the burden to "do
24 more than simply show that there is some metaphysical doubt" as to the operative facts in order
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27 ⁶⁴ See McFarling Depo, p. 43 (Exh. V).

28 ⁶⁵ See PDP (Exh. N); PDAs (Exh. K); Risk Assessment (Exh. II); NIA (Exh. S); G. Anderson
Depo., p. 32 (Exh. L); C. Holder Depo., p. 27 (Exh. GG).

1 to avoid summary judgment being entered in the moving party's favor." Id. at 732, 1031, citing
2 Matsushita Electric Industrial Co. v. Zenith Radio, 475 U.S. 574, 586, 106 S.Ct. 1348 (1986).

3 The material facts of Defendants involvement with the Eggleston family are not in
4 dispute. Those facts do not support Plaintiff's claims of either a substantive and/or procedural
5 due process violation, for IIED, or for Defamation, Libel, Slander. Pursuant to NRCP 56,
6 Defendants are entitled to summary judgment.

7 **V. LEGAL ARGUMENT**

8 **A. Legal Argument As To Plaintiffs' Federal Claim**

9 **1. Plaintiff's § 1983 Claim Fails**

10 To state a § 1983 claim, a plaintiff must allege that (1) the conduct complained of was
11 committed by a person acting under color of state law; and (2) the conduct deprived the plaintiff
12 of a federal constitutional or statutory right. Momox-Caselis v. Juarez-Paez, 2018 WL 6795556,
13 at *2 (D. Nev. 2018), aff'd sub nom. Momox-Caselis v. Donohue, 987 F.3d 835 (9th Cir. 2021)
14 citing Patel v. Kent Sch. Dist., 648 F.3d 965, 971 (9th Cir. 2011) cert. denied, 142 S. Ct. 402
15 (2021). The FAC fails to allege any specific constitutional Amendment or statutory right.
16 Therefore, summary judgment should summarily be granted on this claim. However, even if
17 this Court considers this claim, it fails because there is no evidence of a constitutional violation.
18 DFS did not remove or take custody of the children in the Eggleston home.

19 **a. Substantive Due Process**

20 "The Fourteenth Amendment guarantees that parents will not be separated from their
21 children without due process of law except in emergencies." Momox-Caselis, supra, 987 F.3d
22 843–44 citing Mabe v. San Bernardino Cnty. Dep't. of Public Soc. Servs., 237 F.3d 1101, 1107
23 (9th Cir. 2001). "[T]he state may not remove children from their parents' custody without a
24 court order unless there is specific, articulable evidence that provides reasonable cause to believe
25 that a child is in imminent danger of abuse." Wallis v. Spencer, 202 F.3d 1126, 1138 (9th Cir.
26 2000).

1 The United States Supreme Court has held that parents have a fundamental liberty
2 interest in the care, custody, and management of their children. [citation omitted]
3 **However, the United States Supreme Court has also held that, although these**
4 **rights are fundamental, they are not absolute.** [citing Prince v. Massachusetts,
5 321 U.S. 158, 166–67 (1944)] **The state also has an interest in the welfare of**
6 **children and may limit parental authority.** [citing Hodgson v. Minnesota, 497
7 U.S. 417, 423 (1990)] **The Supreme Court has even held, where justified, that**
8 **parents can be totally deprived of their children forever.** [citing Santosky v.
9 Kramer, 455 U.S. at 768–69 (1982)] **If the state can completely eliminate all**
10 **parental rights, it can certainly limit some parental rights when the competing**
11 **rights of the child are implicated.**

12 Kirkpatrick v. Dist. Ct., 119 Nev. 66, 71, 64 P.3d 1056, 1059 (2003) (emphasis added).

13 Plaintiff refers to substantive due process and a liberty interest, parenthood and custody
14 of his Boys.⁶⁶ Assuming Plaintiff is alleging a Fourteenth Amendment right, it fails. Defendants
15 did not remove the children from the home, take them into protective custody and/or terminate
16 Plaintiff's parental rights. See pp. 2-12, supra. Instead, Plaintiff, on the advice of his counsel,
17 chose to sign Temporary Guardianships to Lisa and Brian Callahan. Once Plaintiff signed the
18 Temporary Guardianships on 1/7/15, DFS/CPS was no longer involved with the Eggleston
19 family and processed closing the case as required by State law.

20 After voluntarily signing the Temporary Guardianships, Plaintiff alleges “LISA
21 CALLAHAN abducted and removed the Eggleston Boys from the county and state” and took
22 them to Illinois.⁶⁷ Defendants did not remove the children from the State nor was Lisa Callahan
23 acting as Defendants' agent in any regard. Defendants have not located any § 1983 case law
24 establishing a substantive due process claim based on a parent's assignment of Guardianship
25 following and abuse/neglect investigation, where the temporary guardian thereafter takes the
26 children from the State. Thus, there is no law establishing Defendants violated any of Plaintiff's
27 rights and/or caused Plaintiff any deprivation thereof by agreeing to forego removal if the
28 children were placed under the Temporary Guardianship of a family member. Nor is there any
case law supporting an allegation that DFS/CPS somehow thereby became responsible for the
conduct of that guardian. Therefore, Defendants are entitled to summary judgment on this claim.

⁶⁶ See FAC, p. 20:27 and 21:10.

⁶⁷ See FAC, ¶26(1) (emphasis added); L. Callahan Depo., p. 39 (Exh. Q).

1 **b. Procedural Due Process**

2 Plaintiff vaguely alleges Defendants failed to provide him with notice of the allegations
3 or reports of abuse, neglect, or failure to report, and did not provide an opportunity to respond
4 thereto, thereby depriving him of procedural due process.⁶⁸ The evidence is to the contrary.

5 Plaintiff was a licensed California attorney for 24 years between 1982 and 7/14/2006,
6 when he was suspended.⁶⁹ Plaintiff's testimony, his attorney Ms. McFarling's testimony, and the
7 DFS records establish Plaintiff received both notice and an opportunity to respond. See pp. 9-12,
8 supra.

9 The investigation of the 12/22/14 CPS Report identified issues regarding Laura's alcohol
10 and drug abuse, her physical abuse of the children, and both parents' neglect of the children. See
11 pp. 2-13, supra. As detailed in the forgoing Statement of Undisputed Material Facts, Plaintiff
12 had substantial interaction with Stuart concerning safety of the children after CPS opened
13 investigation of the 12/22/14 Report. There was face to face contact on 12/24/14, substantial
14 email communication thereafter and meetings, all of which addressed the need to provide
15 supervision of the four children in light of Laura's substance abuse, Laura's untreated mental
16 health issues, and Plaintiff's own previous failure to demonstrate protective capacity.

17 Plaintiff was engaged in response to the Report, even to the point of contacting his
18 attorney Ms. McFarling while police were in the home on 1/7/15 when Stuart advised her
19 supervisors had not approved in-home services and recommended removal. Ms. McFarling
20 testified that Plaintiff and Stuart had been working together for 2 weeks, which is confirmed by
21 the emails.⁷⁰ Thus, Plaintiff was fully aware and had notice of the allegations, reports, and
22 threats, and he actively participated in and was working with Stuart to address them.

23 Throughout the investigation Plaintiff observed Laura's struggle with substance abuse
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28 ⁶⁸ See FAC, p. 14, ¶(c).

⁶⁹ See Plaintiff Depo., p. 24-25; Suspension Order (Exh. J).

⁷⁰ Id.; McFarling Depo., pp. 23 and 25 (Exh. V).

1 first hand and failed to address the associated threat to his children, which resulted in three CPS
2 Reports. The threat to the children required DFS to step in, investigate and protect the children.
3 Plaintiff had notice of the investigation, involved in the response, allowed to make decisions in
4 that regard after opportunities to consult with and obtain the advice of his attorney. He was not
5 deprived of any right to process, and by his voluntary execution of the Temporary Guardianships
6 to the Callahans, he terminated DFS' involvement with his family. Plaintiff's further
7 interaction, or failure to interact with the Callahans, including his failure to immediately revoke
8 the Temporary Guardianships and Lisa taking the children to Illinois, was with continued
9 involvement of his personal attorney but was not under the control or supervision of, or any
10 involvement by DFS or Stuart. The County Defendants are not liable under federal law for the
11 conduct of non-County actors.
12

13 **c. Defendants Are Entitled To Qualified Immunity**

14 Plaintiff's 1983 claims fail because Defendants are entitled to qualified immunity.
15 Government officials performing discretionary functions may be entitled to qualified
16 immunity for § 1983 claims. Anderson v. Creighton, 483 U.S. 635, 638 (1987). Qualified
17 immunity protects "all but the plainly incompetent or those who knowingly violate the
18 law." Malley v. Briggs, 475 U.S. 335, 341 (1986). In ruling on a qualified immunity defense, the
19 Court considers whether the evidence viewed in the light most favorable to the plaintiff shows
20 the defendants' conduct violated a constitutional right. Sorrels v. McKee, 290 F.3d 965, 969 (9th
21 Cir. 2002). If so, then it determines whether the defendants' conduct violated clearly established
22 law. Id. This two-step inquiry may be done in any order. Pearson v. Callahan, 555 U.S. 223, 236
23 (2009). "A Government official's conduct violates clearly established law when, at the time of
24 the challenged conduct, [t]he contours of [a] right [are] sufficiently clear that every reasonable
25 official would have understood that what he is doing violates that right." Ashcroft v. al-Kidd,
26 563 U.S. 731, 741 (2011). The plaintiff must identify a case where "existing precedent must
27 have placed the statutory or constitutional question beyond debate." Id. The second inquiry is
28 made "in light of the specific context of the case, not as a broad general proposition." Saucier v.

1 Katz, 533 U.S. 194, 201 (2001). A defendant is entitled to qualified immunity even if he was
2 mistaken in his belief that his conduct was lawful, so long as that belief was reasonable. Wilkins
3 v. City of Oakland, 350 F.3d 949, 955 (9th Cir. 2003). The plaintiff bears the burden of showing
4 the rights at issue were clearly established at the time of the defendants' actions. Robinson v.
5 York, 566 F.3d 817, 826 (9th Cir. 2009). Momox-Caselis, 2018 WL 6795556, at *3-4.

6 The question before this Court is, therefore, whether the County Defendants' conduct
7 violated a constitutional right that was clearly established on the date of the alleged violation.
8 The answer is no, and Defendants are entitled to qualified immunity.

9 Plaintiff's federal claim turns on whether he can establish that a constitutional right was
10 violated when Stuart communicated that DFS/CPS Supervisor(s) determined that in home
11 services for the family were not sufficient in light of the fact the adult sisters and maternal aunt
12 were not planning to remain in the home. Therefore, removal of the children would be required
13 because Plaintiff had not demonstrated protective capacity. As an alternative, Plaintiff and
14 Laura were given the opportunity to give Temporary Guardianship of all four children to Lisa
15 Callahan, who had previously accepted guardianship of at least one of Laura's older daughters.
16 On the advice of his counsel, Plaintiff elected to sign the Temporary Guardianships for the
17 Eggleston Boys to the Callahans.

18 There is no clearly established precedent that would place any reasonable official on
19 notice that either the recommended removal, or foregoing removal when the parents signed the
20 Temporary Guardianships, would violate a Constitutional right – because it did not. Where DFS
21 determines a child needs protection, it may remove the child from the home, including where a
22 child has been or might be subjected to neglect by a person responsible for the welfare of the
23 child. See, e.g., NRS 432B.340 and 432B.330. Here, CPS had substantial information from the
24 family – including Plaintiff who acknowledged he was working and unaware of Laura's actions
25 around the children, regarding the safety risks and/or threats posed by Laura's various and
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1 ongoing substance abuses and untreated mental health issues.⁷¹ Laura's conduct combined with
2 Plaintiff's failure or inability to protect the children culminated in three CPS Reports in 8
3 months. Plaintiff and Laura had not been able to adequately care for the four children in their
4 home without family, and the protective family members were leaving. The ongoing substance
5 and mental health issues presented by Laura, Plaintiff's demonstrated inability to act in a
6 protective capacity, and the fundamental failure to even have daycare in place (which Plaintiff
7 did not get until 5/27/15), all reasonably caused DFS to believe threat(s) existed justifying
8 removal.⁷² Wallis, supra. 1140.

9
10 Taking into consideration the nature of the allegations, the time expended on
11 investigating, and the avenues of investigation pursued, Stuart made a thorough investigation,
12 attempted to set up in home services, staffed the case with her supervisors and Managers, and
13 ultimately the County Defendants exercised reasonable judgment under the circumstances. As
14 such, Defendants are entitled to qualified immunity under both prongs of the qualified immunity
15 test. There was and is no evidence showing Defendants violated Plaintiff's constitutional right(s)
16 and/or that the specific conduct at issue violated clearly established law. Even if Stuart and/or
17 her Supervisor(s)/Mangers were mistaken in their belief that the conduct was lawful, they are
18 entitled to qualified immunity because the belief was reasonable.

19 The children were not removed by the County Defendants who never took custody of
20 any of the four children. Decisions of the guardian selected by Plaintiff are not the constitutional
21 responsibility of the County Defendants. The County Defendants focused on the risks of the
22 children remaining with family and/or empowering the parents through alternate placement
23 options – other than foster care – which prevented further and escalated involvement of
24 DFS/CPS with the family, which was exactly what Plaintiff and his attorney were seeking.

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28 ⁷¹ See pp. 2-13.

⁷² See CPS Referral Summary #1643346 at CC 27A (Exh. E); Plaintiff's Supplement (Exh. OO).

1 **B. Legal Argument As To Plaintiff's State Law Claims**

2 **1. Plaintiff's IIED Claim Fails**

3 Plaintiff alleges a vague IIED claim against all Defendants. To prevail on this claim,
4 Plaintiff must prove: (1) extreme and outrageous conduct on defendant's part; (2) intent to cause
5 emotional distress or reckless disregard for causing emotional distress; (3) that plaintiff actually
6 suffered extreme or severe emotional distress; and (4) causation. Franchise Tax Bd. of State of
7 Cal. v. Hyatt, 407 P.3d 717, 741 (2017), petition for cert. filed, 138 S.Ct. 2710 (2018); Maduiké
8 v. Agency Rent-A-Car, 114 Nev. 1, 4, 953 P.2d 24, 26 (1998) (Conduct is extreme and
9 outrageous if it is "outside all possible bounds of decency and is regarded as 'utterly intolerable
10 in a civilized community.'") "The less extreme the outrage, the more appropriate it is to require
11 evidence of physical injury or illness from the emotional distress."⁸⁶ Gomez v. Las Vegas Metro.
12 Police Dep't, 2018 WL 1336727, at *8.... (D. Nev.) citing Chowdhury v. NLVH, Inc., 851 P.2d
13 859, 483 (Nev. 1993) Id. at *3. Where there is no physical impact, proof of serious emotional
14 distress causing physical injury or illness must be present. Olivero v. Lowe, 116 Nev. 395, 995
15 P.2d 1023 (1981). "[P]ersons must necessarily be expected and required to be hardened ... to
16 occasional acts that are definitely inconsiderate and unkind." Kahn v. Morse & Mowbray, 121
17 Nev. 464, 478-79, 117 P.3d 227, 237 (2005). Plaintiff cannot establish any of the above
18 elements of this claim.
19

20 **a. County Defendants' Conduct**

21 First, looking to the County Defendants conduct, a CPS Report of abuse and neglect was
22 made. The County Defendants investigated, as they are statutorily required to do. They actively
23 interacted with Plaintiff and Laura's family in that regard. Plaintiff acknowledged his prior
24 failure to act in a protective capacity and his need for additional services and support in that
25 regard. Stuart actively attempted to arrange in home services until it became clear that in the
26 absence of the supporting Illinois family member's presence, those services were not sufficient
27 to protect the children, and removal by DFS, or assignment of temporary guardianships by
28 Plaintiff and Laura, were required to protect the children. See p. 2-12, supra.

1 Giving Plaintiff an option rather than just taking his children, which DFS had discretion
2 to do, is not extreme or outrageous, or conduct “outside all possible bounds of decency”,
3 regarded as “utterly intolerable in a civilized community Anderson v. Kajioka, 2019 WL
4 7373391, at *2 (Nev. App. Dec. 22, 2019). Instead, the decision allowed Plaintiff to exercise
5 parental discretion. The County Defendants have a statutory obligation to focus on child
6 protection. They were placed in the position of intervening to protect Plaintiff’s children by
7 Plaintiff’s and Laura’s conduct. The County Defendants’ response was measured in response to
8 circumstances beyond their control, gave the parents a choice, and allowed for protection of the
9 children. It was neither extreme nor outrageous, but rather necessarily in the best interests of the
10 children, even if distressing to Plaintiff. This element fails.

11
12 **b. Plaintiff’s Claimed Injury**

13 Second, the Court must look to Plaintiff’s failure to prove causally related physical
14 injury. Plaintiff’s physical injury – heart attack and/or stroke – did not occur until 2/12/2022 –
15 over 7 years after Plaintiff signed the Guardianships, which is remote. Further, Plaintiff has not
16 disclosed an expert and/or produced any evidence to establish Defendants’ actions – as
17 opposed to Lisa taking the children to Illinois, etc. – caused the claimed injury.⁷³ Plaintiff was
18 65 years of age, had a background of hypertension, had been on blood pressure medication,
19 had a family history of cardiovascular disease⁷⁴ (his father aged 56 died at the side of the road
20 from unexplained circumstances), was overweight, had gout in early May 2023, and made no
21 effort whatsoever to seek any medical treatment at any time between 2009 until his 2/11/2022
22 heart attack in England, including annual checkups or blood work to ensure his health.⁷⁵ There
23 is no evidence that the claimed injury is causally related to Defendants’ conduct, and thus this
24 element fails.

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27 ⁷³ See Plaintiff Depo., p. 184 (Exh. U).

28 ⁷⁴ Id. at p. 11; Musgrove Park Hospital Records at EGGLESTON_01497-98 (Exh. PP).

⁷⁵ See Dr. Kimel Report, pp. 2 and 5 (Exh. RR); Dr. Paglini Report, p. 6 (Exh. SS); Plaintiff’s Attorney’s Email and Defendants’ Correspondence (Exh. QQ).

1 **c. County Defendants Have Discretionary Act Immunity**

2 Third, Defendants are entitled to statutory discretionary act immunity on all state law
3 claims under NRS 41.032(2), which immunizes municipal agencies and their employees
4 against actions:

5 [b]ased upon the exercise or performance or the failure to exercise or perform a
6 discretionary function or duty on the part of the State or any of its agencies or
7 political subdivisions or of any officer, employee or immune contractor of any of
these, whether or not the discretion involved is abused.

8 Henry A. v. Willden, 2014 WL 1809634, at *12 (D. Nev.). To fall within the scope of
9 discretionary-act immunity, a decision must: (1) involve an element of individual judgment or
10 choice; and (2) be based on considerations of social, economic, or political policy. Id. citing
11 Martinez v. Marascas, 123 Nev. 433, 168 P.3d 720, 722 (Nev. 2007). Decisions at all levels of
12 government, including frequent or routine decisions, may be protected by discretionary-act
13 immunity if the decisions require analysis of government policy concerns. Id. Under this
14 standard, a court does not ask whether the official abused his or her discretion, but only whether
15 the acts concerned a matter in which the official had discretion. Id. Once it is determined that
16 the acts at issue were within the breadth of the statute, i.e., that they involved judgment or choice
17 on social, economic, or political policy considerations, the immunity then applies even to abuses
18 of discretion. Id. It encompasses acts that are completely outside the authority of an official.

19 By law, DFS is vested with broad discretion in carrying out its duties to protect children.
20 When it receives a report of possible abuse/neglect, it must determine within three days whether
21 an investigation is warranted. NRS 432B.260(3). If an investigation is required, DFS must make
22 certain determinations, including who makes up the household, whether there is reasonable
23 cause to believe there is abuse or neglect, the risk to the child, treatment and services that are
24 necessary, and whether the report of abuse is substantiated. NRS 432B.300. The results of an
25 investigation must be reported to the Central Registry. NRS 432B.310. Decisions regarding
26 removal from a home and the placement of wards of the state into foster homes clearly involve
27 personal deliberation and judgment, and Defendants' choices are grounded on public policy
28

1 concerns as expressed in the Nevada Revised Statutes. Henry A., 2014 WL 1809634 at *12-14;
2 Henry A. v. Willden, 2013 WL 759479, at *15 (D. Nev.); Nelson v Willden, 2015 WL 4937939,
3 at *6 (D. Nev.) An investigation into alleged child abuse “involves ‘personal deliberation,
4 decision and judgment’ and cannot be construed as ministerial.” Johnson v. Clayton, 2009 WL
5 10693589, at *4 (D.Nev.) The same is true as to any supervisory acts or a failure to act. Nelson,
6 supra citing Neal-Lomax v. Las Vegas Metropolitan Police Dept., 574 F.Supp.2d 1170, 1192 (D.
7 Nev. 2008). Therefore, Plaintiff’s state law claims fail on discretionary act immunity, including
8 Intentional Infliction of Emotional Distress.

9
10 **d. Lisa Callahan’s Conduct is a Superseding Intervening Cause**

11 Finally, if this Court finds that Lisa Callahan committed a tort or crime in “abducting the
12 children” as Plaintiff alleges or improperly denied him access/contact/visitation, that is a
13 superseding intervening cause of Plaintiff’s alleged injuries and, therefore, Defendants have no
14 liability therefor. Momox-Caselis, 987 F.3d at 847–48 citing Celotex Corp. v. Caretta, 477 U.S.
15 317, 323, 106 S.C. 2548 (1986). When a third party commits an intentional tort or crime, that
16 act is a superseding cause, even when the negligent party created a situation affording the third
17 party an opportunity to commit the tort or crime. Bower v. Harrah's Laughlin, Inc.,
18 125 Nev. 470, 491–92, 215 P.3d 709 (Nev. 2009). Consequently, even if the Defendants had
19 been negligent in creating the situation by suggesting temporary guardianships as an alternative
20 to the removal of the Eggleston Boys from the home, this claim fails. Id.

21 First, Plaintiff cannot present evidence of foreseeability. Id. (observing that the
22 originally negligent party is only liable for a third party's intentional tort or crime if it was
23 foreseeable); Momox-Caselis, supra. It was not foreseeable that Lisa would “abduct,” or
24 wrongfully deny Plaintiff contact/visitation with the Boys. Lisa had Guardianship of Selena and
25 there is no evidence of any such issues. There is no evidence that Lisa has a criminal record,
26 and she initially allowed Plaintiff to speak to the Boys for the first year from the date they left
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1 Las Vegas on 1/9/15.⁷⁶ The Temporary Guardianships did not require Lisa to stay in Nevada
2 and there was no legal bar to her taking the Boys to Illinois. Plaintiff voluntarily signed the
3 Guardianships after consultation with his own lawyer. Plaintiff did not revoke R.E.'s
4 Guardianships until 2/18/15, long after Lisa and the Boys had left Nevada.⁷⁷ **Defendant has not**
5 **located a Revocation for H.E.** Plaintiff's conduct created the situation that allowed Lisa to
6 leave the State with the Boys. Therefore, Defendants are entitled to summary judgment. Id.
7 citing Celotex Corp., supra.
8

9 Finally, the Court must look to Plaintiff's own participation in the outcome. Even if this
10 Court assumes Plaintiff did not know Lisa was taking the Boys to Illinois where she worked and
11 lived with Laura's two adult children, and assumes or finds that Lisa abducted his children
12 and/or committed a crime, on or after 1/11/15, when Plaintiff confirmed the Boys were out of
13 State⁷⁸, Plaintiff failed to act toward reunification with the Boys. He could have contacted
14 Illinois Police and/or Illinois DFS/CPS. He did not. Nor did he immediately revoke the
15 Temporary Guardianships, go to Illinois to get the Boys, or work with his attorney to pursue
16 legal action for their return. Instead, he chose to pursue this civil action seeking \$70 million in
17 damages. Emotional distress experienced by Plaintiff, if any was caused by his own choices, not
18 by the County Defendants' conduct in offering him a choice to designate a temporary alternate
19 caregiver and avoid having the boys taken into DFS custody. Thus, Plaintiff and/or others, not
20 the County Defendants, caused the claimed distress.

21 **2. Plaintiff's Defamation, Libel and Slander Claims Fail**

22 Plaintiff's defamation, libel and slander claim alleges Defendants:

23 ...within the last two years, made verbal and written statements of and concerning
24 Plaintiff: (a) That he was an unfit parent; (b) That he had neglected the Eggleston
25 boys and other children;(3) That he had abused the Eggleston boys and other
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28 ⁷⁶ See L. Callahan Depo., p. 103 (Exh. Q).

⁷⁷ See Revocation (Exh. Z).

⁷⁸ See Plaintiff's 1/11/15 Email (Exh. AA).

1 children; and (d) That he had failed to protect the Eggleston boys from the actions
2 of others, including, specifically, their mother⁷⁹; [and the statements were:]...
3 false and known to be false by each of the charged defendants, were published to third
4 parties who understood them to be of and concerning Plaintiff and who understood
5 them to be derogatory of his character...[and] were not privileged as to all Defendants
6 in that they were made with malice.⁸⁰

7 The claims fail because Plaintiff cannot establish Defendants made false and defamatory
8 statements in an unprivileged publication and/or establish Defendants caused any damages.

9 **a. Defamation**

10 An action for defamation requires the plaintiff to prove: “(1) a false and defamatory
11 statement ...; (2) an unprivileged publication to a third person; (3) fault, amounting to at least
12 negligence; and (4) actual or presumed damages.” Clark Cnty. Sch. Dist. v. Virtual Educ.
13 Software, Inc., 125 Nev. 374, 385, 213 P.3d 496, 503–04 (2009) citing Pope v. Motel 6, 121
14 Nev. 307, 315, 114 P.3d 277, 282; Lubin v. Kunin, 117 Nev. 107, 111, 17 P.3d 422, 425 (2001).
15 The Court must determine for both libel and slander as a matter of law if a statement is capable
16 of a defamatory construction. Branda v. Sanford, 97 Nev. 643, 646, 637 P.2d 1223, 1225–26
17 (1981) citing Thompson v. Powning, 15 Nev. 195 (1880); R. Sack, Libel, Slander and Related
18 Problems, 72 (P.L.I.1980).

19 First, while Plaintiff’s Complaint is vague as to any specific recitation of events by the
20 County Defendants that was false, there is no evidence that the DFS record of the above-detailed
21 events, including Plaintiff’s lack of protective capacity, was false. Proof of the first element
22 fails.

23 Second, looking to the element of unprivileged publication, Plaintiff’s claim is again
24 somewhat vague as to when, or of what statements alleged defamatory publication was made.⁸¹
25 To the extent Plaintiff relies on the 2/2/15 Substantiation of Physical Injury Physical Risk made
26 by DFS/CPS relating to the 12/22/14 CPS Report, DFS statutorily was required to determine if

27 ⁷⁹ See FAC, ¶43.

28 ⁸⁰ Id. at ¶¶45-46.

⁸¹ See p. 25, supra.

1 the report was substantiated, NRS 432B.300, and if so, to report that finding to the State Central
2 Registry. NRS 432B.310. The report is not “unprivileged” but is instead, statutorily required.

3 As to the DFS documents themselves, they are confidential by law with specific
4 exceptions, and there is no evidence that Defendants improperly published those documents or
5 the information contained therein. NRS 432B.280, 432.290, etc. The DFS record was requested
6 and/or released only as follows:

7 Lisa Callahan: On 6/26/13 Lisa requested CPS documents and her request was denied.⁸²

8 The Courts: On 2/2/15, Plaintiff filed a Paternity Action in the Family Division of the
9 Eighth Judicial District Court, seeking to establish his paternity of R.E. Judge William Potter
10 presided over that case. On 5/28/15, Judge Potter had a UCCJEA⁸³ conference with Illinois
11 Judge Allen presiding over the Illinois Guardianship Action filed by Lisa on 3/30/15.⁸⁴
12 Thereafter, on 6/3/15, Judge Potter requested the DFS records, and, on 6/4/15, DFS provided
13 Judge Potter with records – three CPS Referral Summaries, the Nevada Initial Assessment
14 Summaries, and UNITY Case Notes with redactions – as required by NRS 432B.290(3), and
15 advised of their confidentiality.⁸⁵ Judge Potter emailed the DFS records to Judge Allen in
16 Illinois.⁸⁶ On 6/8/15, along with an Illinois Guardian Ad Litem’s (GAL) Report, the DFS records
17 were Impounded (filed under seal) in the Illinois Case.⁸⁷ None of the DFS documents say
18 Plaintiff was “unfit,” or “abused,” the children. Instead, the documents detailed the CPS
19 investigation and evidence that Plaintiff failed to protect the Eggleston Boys from the actions
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25 ⁸² See Affidavit and District Attorney-DFS’ Screen Shot of 6/26/15 Log Entry (Exh. BB).

26 ⁸³ Uniform Child Custody Judicial Enforcement Act.

27 ⁸⁴ See Illinois Docket (Exh. CC).

28 ⁸⁵ See Part of Confidential Left Side of Paternity Action File, CC 6461- 6533 (Exh. DD); F. Galati Affidavit (Exh. NN).

⁸⁶ Id. at 6533.

⁸⁷ See Illinois Docket, p. 11 (Exh. CC).

1 of Laura Rodriguez.⁸⁸ The failure to protect resulted in a Substantiation of findings against
2 Plaintiff for neglect.⁸⁹

3 Central Registry: To the extent Plaintiff relies on evidence of the DFS Substantiation
4 finding (which is confidential pursuant to NRS 432B.280) reported to the Central Registry, this
5 report cannot be considered because it is not alleged in the FAC. However, even if the Court
6 considers the Central Registry Report, that Report is not an unprivileged publication. “The
7 Central Registry is a database maintained by the State of Nevada, Division of Child and Family
8 Services of substantiated reports of child abuse or neglect.” DeHesa v. Clark Cnty. Dep’t of
9 Fam. Servs., 524 P.3d 83, n. 4 (Nev. App. 2023). DFS/CPS, upon completing an investigation
10 of a report of abuse or neglect of a child “shall,” report certain information to the Central
11 Registry, including information regarding the child alleged to be abused or neglected, the parents
12 of the child, the facts of the allegation, and if the report was substantiated. NRS 432B.310. That
13 information is confidential and can only be shared with an employer under certain circumstances
14 and may only be accessed by the Nevada Department of Health and Human Services (DHHS),
15 Division of Child and Family Services, an agency which provides child welfare services or an
16 employee of the Division of Public and Behavioral Health who is obtaining information in
17 accordance with NRS 432A.170. See also NRS 432.0999 and 432.100. DFS placement of
18 information in the Central Registry is mandated by law. Further, the Central Registry record of
19 the Substantiation as to Plaintiff was never accessed by anyone other than Plaintiff. Nevada
20 maintains the database and maintains record of when and by whom the record is accessed.
21 DHHS confirmed that only Plaintiff accessed the Central Registry information, accessing it on
22 6/23/2020, 3.5 years after this Action was filed.⁹⁰

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27 ⁸⁸ See Part of Confidential Left Side of Paternity Action File, CC 6461-6533 (Exh. DD); FAC,
28 ¶43.

⁸⁹ See Substantiation (Exh. EE).

⁹⁰ See DHHS Affidavit and Letter (Exh. FF).

1 Thus, there is no evidence of an unprivileged publication by Defendants, e.g., one not
2 authorized or required by statute, and the second and third elements of the defamation claim,
3 therefore, fail.

4 Finally, as to the element of damage, Plaintiff has presented no evidence over the course
5 of 7 years of discovery, of damage related to any alleged false or unprivileged communication.
6 The fourth element of this claim fails.

7 **b. Slander and Libel**

8 Slander is defamation expressed through speech. Black's Law Dictionary 1392 (7th ed.
9 1999). "A libel is a malicious defamation, expressed by printing, writing, signs,...tending to...
10 impeach the honesty, integrity, virtue, or reputation, or to publish the natural defects of a living
11 person or persons, or community of persons, or association of persons, and thereby to expose
12 them to public hatred, contempt or ridicule." NRS 200.510(1). "Publication" means "[a]ny
13 method by which matter charged as libelous may be communicated to another shall be deemed
14 a publication thereof." NRS 200.520. Ordinary slander requires the plaintiff to prove special
15 damages. K-Mart Corp. v. Washington, 109 Nev. 1180, 1192, 866 P.2d 274,282 (1993); Branda,
16 supra. Special damages [in a defamation action] consist of monetary damages that "flow directly
17 from the injury to reputation caused by the defamation [such as a loss of business]; not from the
18 effects of the defamation." K-Mart, 109 Nev. at 1194 and 283-4; Sack, supra, at 345.

19 Both Libel and Slander require Plaintiff to prove defamation. Therefore, this claim fails
20 for the same reasons Plaintiff's defamation claim fails. See pp. 23-27, supra. Plaintiff cannot
21 prove defamation.

22 Additionally, although Plaintiff broadly alleges he suffered unspecified financial
23 damages and incurred substantial financial losses (FAC at ¶48), after close of discovery he has
24 produced no evidence of special damages, i.e., that he incurred financial losses as a result of any
25 action by the County Defendants or any evidence of his income for any years. Recall Plaintiff
26 was seeking Stuart's assistance to get funds for rent coverage in December 2014. Subsequently,
27 his income increased. Furthermore, Plaintiff's alleged financial damages, related to Lisa's
28

guardianship of the Eggleston Boys, time lost with the Boys and/or any emotional distress associated therewith, are not proven.

Finally, Defendants are entitled to discretionary act immunity on this claim. See pp. 21-22, supra. All actions were required by Nevada Statute, as detailed above, relative to the mandatory CPS investigation, Substantiation, and Central Registry Report. See, e.g., pp. 2-28, supra.

c. Plaintiff Is Not Entitled To Punitive Damages Against Georgina Stuart

Plaintiff seeks punitive damages against Stuart. (FAC, p. 24, ¶3) The FAC alleges only an official capacity claim against Stuart:

2. At all relevant times, unless otherwise alleged, Defendant **GEORGINA STUART was an individual employed by Defendant CLARK COUNTY, NEVADA, serving as a Senior Family Services Specialist with the CLARK COUNTY DEPARTMENT OF FAMILY SERVICES, CHILD SUPPORT SERVICES DIVISION...**

28. On information and belief, at all times relevant to this Cause of Action, Defendant CLARK COUNTY exercised power possessed by virtue of state law and Defendant GEORGINA STUART, as an employee of Defendant CLARK COUNTY, acted under color of state law.

29 ...at all times relevant to this Cause of Action, **the conduct alleged herein by Defendant CLARK COUNTY and Defendant GEORGINA STUART resulted from actions taken on the part of a government entity that implemented or executed a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers, or the result of the entity's custom, the custom and policy being a moving force behind the deprivation of Plaintiffs rights, damages and request for relief alleged herein...**

Id. at ¶¶2, 28 ad 29 (emphasis added).

Plaintiff has made no allegation that Stuart's actions relevant hereto were in an individual capacity, and has produced no evidence that Stuart acted outside the course and scope of her employment, our outside of her official duties. Therefore, Plaintiff's claim for punitive damages must be considered in Stuart's official capacity.

"A suit against a governmental officer in his official capacity is equivalent to a suit against the governmental entity itself." Larez v. City of Los Angeles, 946 F.2d 630, 646 (9th Cir. 1991) citing McRorie v. Shimoda, 795 F.2d 780, 783 (9th Cir.1986). Punitive damages cannot

1 be imposed against Clark County since it is well-settled that a municipality is immune from
2 punitive damages. City of Newport v. Fact Concerts, Inc., 453 U.S. 247, 267, 101 S. Ct. 2748
3 (1981). Clark County also is immune from punitive damages with respect to the Plaintiff's
4 state law claims. NRS 41.035(1). Because a suit against Stuart in her official capacity is
5 essentially a suit against Clark County itself, Stuart, as sued in her official capacity, is immune
6 from an award of punitive damages. Larez, supra; Aguilar v. Kuloloia, 2007 WL 2891503, at
7 *16 (D. Nev.), both citing Mitchell v. Dupnik, 75 F.3d 517, 527 (9th Cir. 1996).

8 The undisputed evidence establishes Stuart worked the investigation trying to get in
9 home services for the Eggleston family. However, because the supportive Illinois family was
10 leaving to return to Illinois, Supervisor(s)/Managers decided in home services were not an
11 option and the Eggleston family had two options – removal of the children or temporary
12 guardianships. DFS had discretion to make that determination. Thus, Stuart went to the home
13 and communicated what DFS management decided and approved. See pp. 8-10, supra. As such,
14 Stuart was acting in an official capacity when carrying out the instruction of DFS
15 Supervisor/Managers.

16 Even if this Court deems the FAC sufficient to state an individual capacity claim, it fails.
17 Punitive damages may not be awarded absent proof, by clear and convincing evidence, of
18 oppression, fraud, or malice.

19 “[P]unitive damages may be awarded when the plaintiff proves by clear and
20 convincing evidence that the defendant is “guilty of oppression,...fraud or malice,
21 express or implied.” “ ‘Oppression’ means despicable conduct that subjects a
22 person to cruel and unjust hardship with conscious disregard of the rights of the
23 person.” “ ‘Fraud’ means an intentional misrepresentation, deception or
24 concealment of a material fact known to the person with the intent to deprive
25 another person of his rights or property or to otherwise injure another person.”
“ ‘[E]xpress malice’ is ‘conduct which is intended to injure a person’; ‘implied
malice’ is ‘despicable conduct which is engaged in with a conscious disregard of
the rights ... of others.’ ”

26 Bongiovi v. Sullivan, 122 Nev. 556, 581–82, 138 P.3d 433, 450–51 (2006). Based on the
27 foregoing definitions, the undisputed facts provide no evidence to support a finding of clear and
28 convincing evidence of oppression, fraud, or malice. Accordingly, no punitive damages are

1 available to Plaintiff in this case. Eggleston, 137 Nev. at 514, 495 P.3d at 491; see pp. 2-30,
2 supra.

3 This Court can determine whether the defendant's conduct merits punitive damages as a
4 matter of law, and such a determination will not be overturned if an award of punitive damages
5 is supported by substantial evidence of oppression, fraud, or malice. "Substantial evidence is
6 evidence that a reasonable mind might accept as adequate to support a conclusion." Bongiovi,
7 supra, at 581 and 451. Here, there is no evidence, much less substantial evidence of oppression,
8 fraud or malice by Stuart, and Plaintiff's punitive damages claim fails.

9
10 **VI. CONCLUSION**

11 IN ACCORDANCE WITH THE FOREGOING, Defendants respectfully request this
12 Court enter an order granting Defendants Clark County and Georgina Stuart summary judgment
13 on all Plaintiff' claims, pursuant to NRCP 56, and certify said Judgment as final under NRCP
14 54(b) because there is no just reason to delay the entry of Final Judgment for Defendants.

15 DATED this 29th day of September, 2023.

16 OLSON CANNON GORMLEY & STOBERSKI

17 

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CERTIFICATE OF SERVICE

On the 29th day of September, 2023 the undersigned, an employee of Olson, Cannon, Gormley & Stoberski, hereby served a true copy of **DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S MOTION FOR SUMMARY JUDGMENT** to the parties listed below via ☒ Odyssey Electronic Filing and Service pursuant to NEFR 9 ☐ hand delivery ☐ overnight delivery ☐ fax ☐ fax and mail ☐ mailing by depositing with the U.S. mail in Las Vegas, Nevada, enclosed in a sealed envelope with first class postage prepaid, addressed as follows:

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/s/ Lisa Rico
An employee of Olson Cannon Gormley & Stoberski

REGISTER OF ACTIONS

CASE NO. A-16-748919-C

Steve Eggleston, Plaintiff(s) vs. Georgina Stuart, Defendant(s)

ဘာသာစကား

Case Type: **Other Tort**

Date Filed: 12/30/2016

Location: **Department 22**

Cross-Reference Case Number: **A748919**

Supreme Court No.: 77168

80838

PARTY INFORMATION

Lead Attorneys

Defendant Callahan, Brian

Zachary P. Takos Esq

Retained

702-658-1900(W)

Defendant Callahan, Lisa

Zachary P. Takos Esq

Retained

702-658-1900(W)

Defendant **Clark County Nevada**

Felicia Galati

Retained

7023844012(W)

Defendant **Stuart, Georgina**

Felicia Galati

Retained

7023844012(W)

Other	Our Nevada Judges
-------	-------------------

Luke A. Busby

Retained

702-453-0112(W)

Plaintiff	Eggleston, Steve
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Paola M. Armeni

Retained

702-862-8300(W)

EVENTS & ORDERS OF THE COURT

DISPOSITIONS

07/31/2017	Order of Dismissal (Judicial Officer: Smith, Douglas E.) Debtors: Georgina Stuart (Defendant), Clark County Department of Family Services (Defendant), Brian Callahan (Defendant), Lisa Callahan (Defendant), Clark County Nevada (Defendant) Creditors: Steve Eggleston (Plaintiff), Gregory Miles, ESQ. (Arbitrator) Judgment: 07/31/2017, Docketed: 07/31/2017
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09/07/2018	Order of Dismissal Without Prejudice (Judicial Officer: Smith, Douglas E.) Debtors: Steve Eggleston (Plaintiff), Gregory Miles, ESQ. (Arbitrator) Creditors: Georgina Stuart (Defendant), Lisa Callahan (Defendant), Clark County Nevada (Defendant) Judgment: 09/07/2018, Docketed: 09/10/2018
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02/23/2019	Clerk's Certificate (Judicial Officer: Smith, Douglas E.) Debtors: Steve Eggleston (Plaintiff) Creditors: Georgina Stuart (Defendant), Brian Callahan (Defendant), Lisa Callahan (Defendant), Clark County Nevada (Defendant) Judgment: 02/23/2019, Docketed: 03/02/2019 Comment: Supreme Court No. 77168 *Appeal Dismissed*
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10/20/2021 **Clerk's Certificate** (Judicial Officer: Lilly-Spells, Jasmin)
Debtors: Steve Eggleston (Plaintiff)

MTS 0055

Creditors: Georgina Stuart (Defendant)
 Judgment: 10/20/2021, Docketed: 10/21/2021
 Comment: Supreme Court No. A748919; Affirmed in Part

OTHER EVENTS AND HEARINGS

12/30/2016 **Complaint Doc ID# 1**
 [1] Complaint for Civil Rights Violations, Child Abduction, Conspiracy, Defamation

04/26/2017 **Consent to Service By Electronic Means Doc ID# 2**
 [2] Consent to Service by Electronic Means Through E-Filing Program

05/03/2017 **Affidavit of Service Doc ID# 3**
 [3] Affidavit of Service - Lisa Callahan

05/03/2017 **Affidavit of Service Doc ID# 4**
 [4] Brian Callahan

05/05/2017 **Affidavit of Service Doc ID# 5**
 [5] Clark County -NV

05/05/2017 **Affidavit of Service Doc ID# 6**
 [6] - Georgia Stuart

06/09/2017 **Motion to Dismiss Doc ID# 7**
 [7] Defendants Clark County and Stuart's Motion to Dismiss

06/13/2017 **Notice of Hearing Doc ID# 8**
 [8] Notice of Hearing on Defendants Clark County and Stuart's Motion to Dismiss

06/19/2017 **Opposition to Motion to Dismiss Doc ID# 9**
 [9] Plaintiff's Opposition to Motion to Dismiss of Defendants Clark County and Georgina Stuart Request for Telephonic Appearance at Hearing By Plaintiff

06/30/2017 **Reply to Opposition Doc ID# 10**
 [10] Reply to Plaintiff's Opposition to Defendants Clark County and Stuart's Motion to Dismiss

07/11/2017 **Motion to Dismiss (8:00 AM) (Judicial Officer Smith, Douglas E.)**
 Defendants Clark County and Stuart's Motion to Dismiss
Parties Present
Minutes
 Result: Deferred Ruling

07/31/2017 **Findings of Fact, Conclusions of Law and Order Doc ID# 11**
 [11] Findings of Fact, Conclusions of Law and Order Granting Clark County and Georgina Stuart's Motion to Dismiss

07/31/2017 **Decision (8:00 AM) (Judicial Officer Smith, Douglas E.)**
 Decision: Defendants Clark County and Stuart's Motion to Dismiss
Minutes
 Result: Decision Made

08/01/2017 **Notice of Entry of Findings of Fact, Conclusions of Law Doc ID# 12**
 [12] Notice of Entry of Findings of Fact, Conclusions of Law and Order Granting Clark County and Georgina Stuart's Motion to Dismiss

08/10/2017 **First Amended Complaint Doc ID# 13**
 [13] First Amended Complaint for Civil Rights Violations, Child Abduction, Conspiracy, Defamation

08/24/2017 **Answer to Amended Complaint Doc ID# 14**
 [14] Answer to First Amended Complaint

09/29/2017 **Stipulation and Order Doc ID# 15**
 [15] Proposed Stipulation and Order to Continue NRCP 16.1 Stipulation and Order to Extend the Early Case Conference

11/02/2017 **Consent to Service by Facsimile Doc ID# 16**
 [16] Consent to Service by Facsimile and/or Electronic Means Through E-Filing Program

11/29/2017 **Commissioners Decision on Request for Exemption - Granted Doc ID# 17**
 [17] Commissioner's Decision on Request for Exemption

12/15/2017 **Application Doc ID# 18**
 [18] Rule 16.1 Application for Waiver of In-Person Meet-and-Confer Requirement and/or for Continuance of In-Person Meet-and-Confer Requirement

01/13/2018 **Arbitration File Doc ID# 19**
 [19]

03/05/2018 **Summons Electronically Issued - Service Pending Doc ID# 20**
 [20] Summons (Electronically Issued)

04/04/2018 **Affidavit of Service Doc ID# 21**
 [21] Affidavit of Service - Brian Callahan

04/04/2018 **Affidavit of Service Doc ID# 22**
 [22] Affidavit of Service - Lisa Callahan

04/12/2018 **Joint Case Conference Report Doc ID# 23**
 [23] Joint Case Conference Report

04/12/2018 **Demand for Jury Trial Doc ID# 24**
 [24] Plaintiff's Jury Trial Demand

05/14/2018 **Scheduling Order Doc ID# 25**
 [25] Scheduling Order (Discovery/Dispositive Motions/Motions to Amend or Add Parties)

05/17/2018 **Order Setting Civil Jury Trial Doc ID# 26**
 [26]

06/21/2018 **Substitution of Attorney Doc ID# 27**
 [27]

07/24/2018 **Motion to Dismiss Doc ID# 28**
 [28] Defendants Clark County and Georgina Stuart's Motion to Dismiss

07/25/2018 **Certificate of Service Doc ID# 29**
 [29] Certificate of Service of Notice of Motion to Dismiss

08/07/2018 **Opposition to Motion Doc ID# 30**
 [30] Plaintiff's Opposition to Motion to Dismiss of Defendants Clark County and Georgina Stuart; NRCP Request for Time to Conduct Discovery

08/21/2018 **Reply to Opposition Doc ID# 31**
 [31] Defendants Clark County and Georgina Stuart's Reply to Plaintiff's Opposition Motion to Dismiss; and Plaintiff's "NRCP Request for Time to Conduct Discovery"

08/28/2018 **Motion to Dismiss (8:00 AM) (Judicial Officer Smith, Douglas E.)**
 Defendants Clark County and Georgina Stuart's Motion to Dismiss

MTS 0056

Parties PresentMinutes

Result: Deferred Ruling

09/07/2018 **Order Doc ID# 32**
 [32] Order on Clark County and Georgina Stuart's Motion to Dismiss

09/07/2018 **Decision (8:00 AM)** (Judicial Officer Smith, Douglas E.)
 Decision: Defendants Clark County and Georgina Stuart's Motion to Dismiss

Minutes

Result: Decision Made

09/10/2018 **Notice of Entry of Order Doc ID# 33**
 [33]

09/10/2018 **Certificate of Service Doc ID# 34**
 [34] Certificate of Service of Order on Clark County and Georgina Stuart's Motion to Dismiss

09/20/2018 **Motion to Reconsider Doc ID# 35**
 [35] Motion to Reconsider Defendant's Motion to Dismiss and 9/7/18 Order of Dismissal Without Prejudice Based Failure to Exhaust Administrative Remedies Request for Telephonic Appearance at Hearing by Plaintiff

10/08/2018 **Opposition to Motion Doc ID# 36**
 [36] Defendants Clark County and Georgina Stuart's Opposition to Plaintiff's Motion to Reconsider Defendants' Motion to Dismiss and 9/7/18 Order of Dismissal

10/09/2018 **Notice of Appeal Doc ID# 37**
 [37]

10/09/2018 **Case Appeal Statement Doc ID# 38**
 [38]

10/11/2018 **Case Appeal Statement Doc ID# 40**
 [40]

10/15/2018 **Reply to Motion Doc ID# 41**
 [41] Request for Telephonic Appearance at Hearing by Plaintiff Request for Court Reporter at Chambers Hearing Plaintiff's Reply Re: Motion to Reconsider Defendants' Motion to Dismiss/Convert to Summary Judgment and 9/7/18 Order

10/18/2018 **Motion to Strike Doc ID# 42**
 [42] Defendants Clark County and Georgina Stuart's Motion to Strike Plaintiff's Reply to Defendants' Opposition to Motion to Reconsider Defendants' Motion to Dismiss and 9/7/18 Order of Dismissal

10/19/2018 **Affidavit of Service Doc ID# 43**
 [43]

10/19/2018 **Affidavit of Service Doc ID# 44**
 [44]

10/19/2018 **Affidavit of Service Doc ID# 45**
 [45]

10/19/2018 **Affidavit of Service Doc ID# 46**
 [46]

10/22/2018 **Motion to Reconsider (3:00 AM)** (Judicial Officer Smith, Douglas E.)
 Plaintiff's Motion to Reconsider Defendant's Motion to Dismiss and 9/7/18 Order of Dismissal, Without Prejudice, Based on Failure to Exhaust Administrative Remedies

Minutes

Result: Matter Continued

10/31/2018 **Request Doc ID# 47**
 [47] Request for Transcript of District Court Hearing for Appeal

11/20/2018 **Recorders Transcript of Hearing Doc ID# 48**
 [48] Transcript of Hearing Held on August 28, 2018

12/13/2018 **Affidavit of Service Doc ID# 49**
 [49]

12/13/2018 **Affidavit of Service Doc ID# 50**
 [50]

12/13/2018 **Affidavit of Service Doc ID# 51**
 [51]

12/13/2018 **Amended Notice of Appeal Doc ID# 52**
 [52]

02/23/2019 **NV Supreme Court Clerks Certificate/Judgment - Dismissed Doc ID# 53**
 [53] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Dismissed

04/29/2019 **Case Reassigned to Department 9**
 Judicial Reassignment to Department 9 - Judge Cristina Silva

06/18/2019 **CANCELED Calendar Call (8:00 AM)** (Judicial Officer Smith, Douglas E.)
 Vacated - per Order

07/01/2019 **CANCELED Jury Trial (9:30 AM)** (Judicial Officer Smith, Douglas E.)
 Vacated - per Order

08/07/2019 **Supplemental Doc ID# 54**
 [54] Plaintiff's Supplemental Reply Re Motion to Reconsider Defendants' Motion to Dismiss and 9/7/18 Order: Notice of New Address and Phone Numbers; Request for Issuance of Formal Ruling on Motion to Dismiss; Motion to Disqualify Defense Counsel from the Current Proceedings Request for Telephonic Appearance at Hearing by Plaintiff

08/07/2019 **Supplemental Doc ID# 55**
 [55] Plaintiff's 2nd 16.1(a)(1) Supplemental Initial Disclosure dated August 5, 2019 (Unsigned)

08/21/2019 **Motion to Strike Doc ID# 56**
 [56] Defendants Clark County and Georgina Stuart's Motion to Strike: (1) Plaintiff's Supplemental Reply Re Motion to Reconsider Defendants' Motion to Dismiss and 9/7/18 Order; (2) Plaintiff's "2nd 16.1 (a)(1) Supplemental Initial Disclosure"; and (3) Plaintiff's Motion to Disqualify Defense Counsel from the Current Proceedings; and/or, in the Alternative, Opposition to Plaintiff's Motion to Disqualify Defense Counsel from the Current Proceedings

08/22/2019 **Motion to Disqualify Attorney Doc ID# 57**
 [57] Motion to Disqualify Defense Counsel from Current Proceedings Request for Telephonic Appearance at Hearing by Plaintiff Hearing Requested

08/22/2019 **Clerk's Notice of Hearing Doc ID# 58**
 [58] Notice of Hearing

09/03/2019 **Opposition to Motion Doc ID# 59**

MTS 0057

[59] Plaintiff's Opposition to Defendant Clark County and Georgina Stuart's Motion to Strike Request for Telephonic Appearance at Hearing by Plaintiff

09/17/2019 **Reply to Opposition Doc ID# 60**
[60] Defendants Clark County and Georgina Stuart's Reply to Plaintiff's Opposition to Defendants' "Motion to Strike" Plaintiff's Supplemental Reply Re Motion to Reconsider Defendants' Motion to Dismiss and 9/7/18 Order; and Replies in Support of Motion to Strike Plaintiff's "2nd 16.1(a)(1) Supplemental Initial Disclosure"; and Motion to Strike Plaintiff's Motion to Disqualify Defense Counsel from the Current Proceedings

09/24/2019 **Motion to Disqualify Attorney (8:30 AM)** (Judicial Officer Silva, Cristina D.)
09/24/2019, 10/29/2019, 12/10/2019
Plaintiff's Motion to Disqualify Defense Counsel from Current Proceedings
Parties Present
Minutes
Result: Matter Continued

10/29/2019 **Status Check (8:30 AM)** (Judicial Officer Silva, Cristina D.)
Status Check: Decision on Motion for Reconsideration
Result: Hearing Set

10/29/2019 **All Pending Motions (8:30 AM)** (Judicial Officer Silva, Cristina D.)
Plaintiff's Motion to Disqualify Defense Counsel from Current Proceedings . . . Status Check: Decision on Motion for Reconsideration
Parties Present
Minutes
Result: Matter Heard

11/01/2019 **Recorders Transcript of Hearing Doc ID# 61**
[61] Transcript of Hearing Held on October 29, 2019

12/10/2019 **Argument (8:30 AM)** (Judicial Officer Silva, Cristina D.)
Plaintiff's Motion for Reconsideration (10/22/18)
Result: Deferred Ruling

12/10/2019 **All Pending Motions (8:30 AM)** (Judicial Officer Silva, Cristina D.)
Plaintiff's Motion for Reconsideration (10/22/18) . . . Plaintiff's Motion to Disqualify Defense Counsel from Current Proceedings
Parties Present
Minutes
Result: Matter Heard

12/30/2019 **Decision (3:00 AM)** (Judicial Officer Silva, Cristina D.)
Decision: Plaintiff's Motion for Reconsideration . . . Plaintiff's Motion to Disqualify Defense Counsel from Current Proceedings
Minutes
Result: Minute Order - No Hearing Held

01/02/2020 **Notice of Change of Firm Name Doc ID# 62**
[62]

02/26/2020 **Order Denying Motion Doc ID# 63**
[63] Order Denying Plaintiff's Motion for Reconsideration

02/26/2020 **Notice of Entry of Order Doc ID# 64**
[64]

02/26/2020 **Order Denying Motion Doc ID# 65**
[65] Order Denying Plaintiff's Motion for Reconsideration

02/26/2020 **Notice of Entry of Order Doc ID# 66**
[66]

03/16/2020 **Notice of Appeal Doc ID# 67**
[67]

03/16/2020 **Case Appeal Statement Doc ID# 68**
[68]

03/18/2020 **Case Appeal Statement Doc ID# 69**
[69]

05/06/2020 **Recorders Transcript of Hearing Doc ID# 70**
[70] Recorder's Transcript of Hearing: Defendants Clark County and Stuart's Motion to Dismiss. Heard On July 11, 2017

05/06/2020 **Recorders Transcript of Hearing Doc ID# 71**
[71] Recorder's Transcript of Hearing: Plaintiff's Motion to Disqualify Defense Counsel from Current Proceedings. Heard On September 24, 2019

05/06/2020 **Recorders Transcript of Hearing Doc ID# 72**
[72] Recorder's Transcript of Hearing: Plaintiff's Motion for Reconsideration (10/22/18). Plaintiff's Motion to Disqualify Defense Counsel from Current Proceedings. Heard on December 10, 2019

09/25/2020 **Certificate Doc ID# 73**
[73] Certificate of No Transcript is Being Requested

01/04/2021 **Case Reassigned to Department 23**
Judicial Reassignment to Judge Jasmin Lilly-Spells

10/04/2021 **Notice of Hearing Doc ID# 74**
[74] Status Check: Remand

10/12/2021 **Status Check (9:30 AM)** (Judicial Officer Lilly-Spells, Jasmin)
10/12/2021, 11/16/2021
Status Check: Confirmation of Counsel
Parties Present
Minutes
11/23/2021 Reset by Court to 11/16/2021
Result: Matter Continued

10/20/2021 **NV Supreme Court Clerks Certificate/Judgment - Affd/Rev Part Doc ID# 75**
[75] Nevada Supreme Court Clerk's Certificate/Remittitur Judgment - Affirmed in Part, Reversed in Part and Remand

10/21/2021 **Minute Order (3:00 AM)** (Judicial Officer Lilly-Spells, Jasmin)
Minutes
Result: Minute Order - No Hearing Held

11/23/2021 **CANCELED Status Check (9:30 AM)** (Judicial Officer Lilly-Spells, Jasmin)
Vacated - Set in Error

11/29/2021 **Notice of Appearance Doc ID# 76**

MTS 0058

11/29/2021 [76] Notice of Appearance
Joint Case Conference Report Doc ID# 77
 [77] Amended Joint Case Conference Report

12/11/2021 **Stipulated Protective Order Doc ID# 78**
 [78] Stipulation and Protective Order

12/13/2021 **Notice of Entry of Stipulation and Order Doc ID# 79**
 [79] Notice of Entry of Stipulation and Protective Order

02/02/2022 **Notice of Hearing Doc ID# 80**
 [80] Mandatory Rule 16 Conference

02/03/2022 **Default Doc ID# 81**
 [81] Default of Brian Callahan (Not Issued - incorrect service date on default)

02/09/2022 **Default Doc ID# 82**
 [82] Default of Lisa Callahan

02/09/2022 **Default Doc ID# 83**
 [83] Default of Brian Callahan

02/15/2022 **Mandatory Rule 16 Conference (10:30 AM) (Judicial Officer Lilly-Spells, Jasmin)**
Parties Present
Minutes
 Result: Trial Date Set

02/17/2022 **Media Request and Order Doc ID# 84**
 [84] Media Request and Order

02/23/2022 **Motion to Reconsider Doc ID# 85**
 [85] Motion to Reconsider and/or Revoke Order Granting Media Request Allowing Camera Access to Court Proceedings

02/23/2022 **Clerk's Notice of Hearing Doc ID# 86**
 [86] Notice of Hearing

02/23/2022 **Opposition to Motion Doc ID# 87**
 [87] Opposition to Motion for Reconsideration of Order Allowing Camera Access to Court Proceedings

03/11/2022 **Motion to Stay Doc ID# 88**
 [88] Defendants' Motion to Stay Plaintiff's State Law Tort Claims

03/11/2022 **Motion for Leave to File Doc ID# 89**
 [89] Defendants' Clark County and Georgina Stuart's Motion for Leave to File Exhibits Under Seal In Support of Motion to Stay Plaintiff's State Law Tort Claims

03/11/2022 **Clerk's Notice of Hearing Doc ID# 90**
 [90] Notice of Hearing

03/14/2022 **Filed Under Seal Doc ID# 91**
 [91] SEALED PER ORDER 7/20/22 [91] Defendants' Sealed Exhibits to Motion to Stay filed 03/11/22 at 3:21

03/14/2022 **Filed Under Seal Doc ID# 92**
 [92] SEALED PER ORDER 7/20/22 [92] Sealed Exhibits to Defendants' Motion for Leave to File Exhibits Under Seal in Support of Motion to Stay Plaintiff's State Law Torts

03/14/2022 **Exhibits Doc ID# 131**
 [131] UNSEALED Exhibits per Order 7/20/22

03/20/2022 **Scheduling and Trial Order Doc ID# 93**
 [93] Scheduling Order and Order Setting Civil Jury Trial, calendar Call and Status Check

03/21/2022 **Clerk's Notice of Nonconforming Document Doc ID# 94**
 [94] Clerk's Notice of Nonconforming Document

03/25/2022 **Opposition to Motion Doc ID# 95**
 [95] Plaintiff's Opposition to Defendants' Motion for Leave to File Exhibits Under Seal in Support of Motion to Stay Plaintiff's State Law Tort Claims

03/25/2022 **Opposition to Motion Doc ID# 96**
 [96] Plaintiff's Response in Opposition to Defendants' Motion to Stay Plaintiff's State Law Tort Claims

03/29/2022 **Clerk's Notice of Nonconforming Document and Curative Action Doc ID# 97**
 [97] Clerk's Notice of Curative Action

03/29/2022 **Clerk's Notice of Hearing Doc ID# 98**
 [98] Notice of Hearing

04/11/2022 **Reply to Opposition Doc ID# 99**
 [99] Reply to Opposition to Motion to Reconsider and/or Revoke Order Granting Media Request Allowing Camera Access to Court Proceeding

04/11/2022 **Reply to Opposition Doc ID# 100**
 [100] Defendants Clark County and Georgina Stuart's Reply to Plaintiff's Opposition to Motion for Leave to File Exhibits Under Seal in Support of Motion to Stay Plaintiff's State Law Tort Claims

04/15/2022 **Notice of Rescheduling of Hearing Doc ID# 101**
 [101] Motion to Reconsider, Motion to Stay and Motion for Leave

04/24/2022 **Amended Scheduling Order Doc ID# 102**
 [102] Amended Scheduling order and Order Setting Civil Jury Trial, Calendar Call and Status Check

05/03/2022 **Reply to Opposition Doc ID# 103**
 [103] Defendants' Reply to Plaintiff's Opposition to Motion to Stay Plaintiff's State Law Tort Claims

05/10/2022 **Motion to Reconsider (9:30 AM) (Judicial Officer Lilly-Spells, Jasmin)**
 Defendants' Motion to Reconsider and/or Revoke Order Granting Media Request Allowing Camera Access to Court Proceedings
 Result: Granted in Part

05/10/2022 **CANCELED Motion to Stay (9:30 AM) (Judicial Officer Lilly-Spells, Jasmin)**
 Vacated
 Defendants' Motion to Stay Plaintiff's State Law Tort Claims

05/10/2022 **Motion for Leave (9:30 AM) (Judicial Officer Lilly-Spells, Jasmin)**
 Defendants' Clark County and Georgina Stuart's Motion for Leave to File Exhibits Under Seal In Support of Motion to Stay Plaintiff's State Law Tort Claims
 04/19/2022 Reset by Court to 05/10/2022

05/10/2022 **CANCELED All Pending Motions (11:00 AM) (Judicial Officer Lilly-Spells, Jasmin)**
 Vacated

05/10/2022 **All Pending Motions (9:30 AM) (Judicial Officer Lilly-Spells, Jasmin)**
Parties Present
Minutes
 Result: Matter Heard

05/17/2022 **Motion Doc ID# 104**

MTS 0059

05/17/2022 [104] Defendant Clark County's Motion for Leave to File Motion to Disqualify the Honorable Judge Jasmin Lilly-Spells
Filed Under Seal Doc ID# 105

05/17/2022 [105] SEALED PER ORDER 7/12/22 [105] Defendant Clark County's Motion to Disqualify the Honorable Judge Jasmin Lilly-Spells
Clerk's Notice of Hearing Doc ID# 106

05/19/2022 [106] Notice of Hearing
Clerk's Notice of Hearing Doc ID# 107

05/23/2022 [107] Notice of Hearing
Minute Order (3:00 AM) (Judicial Officer Lilly-Spells, Jasmin)
Recusal
Minutes
Result: Recused

05/24/2022 **Supplemental Brief Doc ID# 108**
[108] Plaintiff's Supplemental Brief in Support of Response in Opposition to Motion to Stay State Tort Claims

05/25/2022 **Minute Order (3:00 AM) (Judicial Officer Bell, Linda Marie)**
Minutes
Result: Minute Order - No Hearing Held

05/25/2022 **Notice of Department Reassignment Doc ID# 109**
[109] Notice of Department Reassignment

05/25/2022 **Supplement Doc ID# 110**
[110] Defendants' Supplement to Motion to Stay Plaintiff's State Law Tort Claims

05/26/2022 **Supplemental Doc ID# 111**
[111] Defendants' Supplement to Motion to Stay Plaintiff's State Law Tort Claims

05/31/2022 **Response Doc ID# 112**
[112] Plaintiff's Response to Defendants' Supplemental Briefing Regarding Defendants' Motion to Stay Plaintiff's State Law Tort Claims

06/07/2022 **Motion to Rehear Doc ID# 113**
[113] Defendant Clark County's Motion for Rehearing

06/07/2022 **Clerk's Notice of Hearing Doc ID# 114**
[114] Notice of Hearing

06/09/2022 **Order Doc ID# 115**
[115] Order Granting in Part and Denying in Part Defendant's Motion for Reconsideration of Order Allowing Camera Access to Court Proceedings

06/10/2022 **Notice of Entry of Order Doc ID# 116**
[116] Notice of Entry of Order

06/14/2022 **Opposition to Motion Doc ID# 117**
[117] Opposition to Clark County's Motion for Rehearing

06/21/2022 **CANCELED Motion for Leave (9:30 AM) (Judicial Officer Lilly-Spells, Jasmin)**
Vacated
Defendant Clark County's Motion for Leave to File Motion to Disqualify the Honorable Judge Jasmin Lilly-Spells

06/21/2022 **Response Doc ID# 118**
[118] Plaintiff's Response to Defendants Clark County and Georgina Stuart's Motion for Rehearing

06/24/2022 **Reply to Opposition Doc ID# 119**
[119] Defendant Clark County's Reply to Plaintiff's and Our Nevada Judges' Opposition to Motion for Rehearing

06/27/2022 **Notice of Hearing Doc ID# 120**
[120] Instructions for Department 22 Hearing Appearances

06/30/2022 **CANCELED Motion (10:30 AM) (Judicial Officer Bell, Linda Marie)**
Vacated
Defendant Clark County's Motion to Disqualify the Honorable Judge Jasmin Lilly-Spells

06/30/2022 **Motion to Stay (9:00 AM) (Judicial Officer Johnson, Susan)**
Defendant's Motion to Stay Plaintiff's State Law Tort Claims
Result: Denied

06/30/2022 **Motion for Leave (9:00 AM) (Judicial Officer Johnson, Susan)**
Defendants' Clark County and Georgina Stuart's Motion for Leave to File Exhibits Under Seal in Support of Motion to Stay Plaintiff's State Law Tort Claims
Result: Granted in Part

06/30/2022 **All Pending Motions (9:00 AM) (Judicial Officer Johnson, Susan)**
Parties Present
Minutes
Result: Matter Heard

06/30/2022 **Minute Order (3:00 AM) (Judicial Officer Johnson, Susan)**
Minutes
Result: Minute Order - No Hearing Held

07/12/2022 **CANCELED Motion to Rehear (8:30 AM) (Judicial Officer Johnson, Susan)**
Vacated - Moot
Defendant Clark County's Motion for Rehearing

07/12/2022 **Order to Seal Doc ID# 121**
[121] Order to Seal Certain Exhibits to Defendant Clark County's Motion to Disqualify the Honorable Judge Jasmin Lilly-Spells

07/15/2022 **Stipulation and Order to Extend Discovery Deadlines Doc ID# 122**
[122] Stipulation and Order to Extend Discovery Deadlines (First Request)

07/15/2022 **Amended Order Setting Jury Trial Doc ID# 123**
[123] Amended Order Setting Civil Jury Trial

07/15/2022 **Order Denying Motion Doc ID# 124**
[124] Order Denying Defendants' Motion to Stay Plaintiff's State Law Tort Claims Without Prejudice

07/15/2022 **Notice of Entry of Stipulation and Order Doc ID# 125**
[125] Notice of Entry of Stipulation and Order

07/15/2022 **Notice of Entry of Order Doc ID# 126**
[126] Notice of Entry of Order (Order Denying Defendants' Motion to Stay Plaintiff's State Law Tort Claims Without Prejudice)

07/20/2022 **Notice of Entry of Order Doc ID# 127**
[127] Notice of Entry of Order to Seal Certain Exhibits to Defendant Clark County's Motion to Disqualify

07/20/2022 **Order to Seal Doc ID# 128**
[128] Order to Seal Certain Exhibits to Defendants' Motion to Stay Plaintiff's State Law Tort Claims

07/21/2022 **Notice of Entry of Order Doc ID# 129**
[129] Notice of Entry of Order to Seal Certain Exhibits to Defendants' Motion to Stay Plaintiff's State Law Tort Claims

MTS 0060

07/21/2022 **Filed Under Seal Doc ID# 130**
 [130] SEALED PER ORDER 7/20/22 [130] Defendants' Clark County and Georgina Stuart's Unredacted Exhibit "C" Filed Under Seal Pursuant to an Order to Seal Certain Exhibits to Defendants' Motion to Stay Plaintiff's State Law Tort Claims Filed on July 20, 2022

07/26/2022 **CANCELED Status Check (8:30 AM) (Judicial Officer Johnson, Susan)**
 Vacated - Case Reassigned
 07/26/2022 Reset by Court to 07/26/2022

09/28/2022 **Order Shortening Time Doc ID# 132**
 [132] Joint Motion to Extend Discovery Deadlines and Reset Trial Date on an Order Shortening Time (Second Request)

09/29/2022 **Notice Doc ID# 133**
 [133] Notice of Department 22 Courtesy Copy & Appearance Instructions

10/06/2022 **Motion (9:00 AM) (Judicial Officer Johnson, Susan)**
 Joint Motion to Extend Discovery Deadlines and Reset Trial Date on an Order Shortening Time (Second Request)
Parties Present
Minutes
 Result: Granted

10/06/2022 **Amended Order Setting Jury Trial Doc ID# 134**
 [134] Amended Order Setting Civil Jury Trial

10/10/2022 **Order Granting Doc ID# 135**
 [135] Order Granting Joint Motion to Extend Discovery Deadlines and Reset Trial Date

11/30/2022 **CANCELED Status Check: Trial Readiness (8:30 AM) (Judicial Officer Johnson, Susan)**
 Vacated - Superseding Order
 08/02/2022 Reset by Court to 11/30/2022
 08/02/2022 Reset by Court to 08/02/2022

12/14/2022 **Motion for Discovery Doc ID# 136**
 [136] Joint Motion to Extend Discovery and Continue Trial (Third Request)

12/15/2022 **Clerk's Notice of Hearing Doc ID# 137**
 [137] Notice of Hearing

12/21/2022 **Stipulation and Order Doc ID# 138**
 [138] Stipulation and Order Regarding NRCP 35 Mental/Psychological/Neuropsychological Examination of Plaintiff

12/21/2022 **Stipulation and Order Doc ID# 139**
 [139] Stipulation and Order Regarding N.R.C.P. 35 Mental/Psychological/Neuropsychological Examination of Plaintiff

12/21/2022 **Motion for Sanctions Doc ID# 140**
 [140] Motion for Sanctions Against Defendants Lisa Callahan and Brian Callahan and to Compel the Callahans' Depositions

12/22/2022 **Clerk's Notice of Hearing Doc ID# 141**
 [141] Clerk's Notice of Hearing

01/10/2023 **Instructions for Bluejeans Conference Doc ID# 142**
 [142] Instructions for BlueJeans Conference

01/10/2023 **Application for Issuance of Commission to Take Deposition Doc ID# 143**
 [143] Application for Issuance of Commission to take the Videotaped Deposition via Video Conference of Alexis M. Rodriguez outside the state of Nevada

01/10/2023 **Application for Issuance of Commission to Take Deposition Doc ID# 144**
 [144] Application for Issuance of Commission to take the Videotaped Deposition via Video Conference of Selena M. Rodriguez outside the State of Nevada

01/10/2023 **Commission Issued Doc ID# 147**
 [147] Commission to Take the Out of State Video Taped Deposition of Alexis M. Rodriguez Via Video Conference

01/10/2023 **Commission Issued Doc ID# 148**
 [148] Commission to Take the Out of State Video Taped Deposition of Selena M. Rodriguez Via Video Conference

01/17/2023 **Motion to Continue Trial (8:30 AM) (Judicial Officer Johnson, Susan)**
 Joint Motion to Extend Discovery and Continue Trial (Third Request)
Parties Present
Minutes
 Result: Granted

01/17/2023 **Instructions for Bluejeans Conference Doc ID# 145**
 [145] Instructions for BlueJeans Conference

01/17/2023 **Amended Order Setting Jury Trial Doc ID# 146**
 [146] Third Amended Order Setting Civil Jury Trial

01/24/2023 **Motion for Sanctions (8:30 AM) (Judicial Officer Johnson, Susan)**
 Motion for Sanctions Against Defendants Lisa Callahan and Brian Callahan and to Compel the Callahans' Depositions
Parties Present
Minutes
 Result: Granted

01/25/2023 **CANCELED Pretrial/Calendar Call (8:30 AM) (Judicial Officer Johnson, Susan)**
 Vacated - Superseding Order
 01/17/2023 Reset by Court to 01/25/2023
 01/17/2023 Reset by Court to 01/17/2023

01/25/2023 **CANCELED Status Check: Trial Readiness (8:30 AM) (Judicial Officer Johnson, Susan)**
 Vacated - per Judge

01/27/2023 **Order Granting Motion Doc ID# 149**
 [149] Order Granting Motion for Sanctions Against Defendants Lisa Callahan and Brian Callahan and to Compel the Callahans' Depositions

02/01/2023 **Notice of Entry Doc ID# 150**
 [150] Notice of Entry of Order Granting Motion for Sanctions against Defendants Lisa Callahan and Brian Callahan and to Compel the Callahans' Depositions

02/06/2023 **CANCELED Jury Trial (8:30 AM) (Judicial Officer Johnson, Susan)**
 Vacated - Superseding Order
 02/06/2023 Reset by Court to 02/06/2023

02/06/2023 **Order Granting Motion Doc ID# 151**
 [151] Order Extending Joint Motion to Extend Discovery Deadlines and Continue Trial Date (Third Request)

02/08/2023 **Application for Issuance of Commission to Take Deposition Doc ID# 152**

MTS 0061

[152] APPLICATION FOR ISSUANCE OF COMMISSION TO TAKE THE VIDEOTAPED DEPOSITION VIA VIDEO CONFERENCE OF BRIAN CALLAHAN OUTSIDE THE STATE OF NEVADA

02/08/2023 **Application for Issuance of Commission to Take Deposition Doc ID# 153**
[153] APPLICATION FOR ISSUANCE OF COMMISSION TO TAKE THE VIDEOTAPED DEPOSITION VIA VIDEO CONFERENCE OF LISA CALLAHAN OUTSIDE THE STATE OF NEVADA

02/08/2023 **Commission Issued Doc ID# 156**
[156] Commission to The the Out of State Videotaped Deposition of Brian Callahan via Video Conference

02/08/2023 **Commission Issued Doc ID# 157**
[157] Commission to Take the Out of State Video Taped Deposition of Lisa Callahan via Video Conference

02/13/2023 **Notice of Entry of Order Doc ID# 154**
[154] Notice of Entry of Stipulation and Order Regarding NRCP 35 Mental/Psychological/Neuropsychological Examination of Plaintiff

02/14/2023 **Notice of Change of Address Doc ID# 155**
[155] NOTICE OF CHANGE OF ADDRESS

03/29/2023 **Application for Issuance of Commission to Take Deposition Doc ID# 158**
[158] EX PARTE APPLICATION FOR OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION

03/29/2023 **Application for Issuance of Commission to Take Deposition Doc ID# 159**
[159] EX PARTE APPLICATION FOR OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION

03/29/2023 **Application for Issuance of Commission to Take Deposition Doc ID# 160**
[160] EX PARTE APPLICATION FOR OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION

03/29/2023 **Commission Issued Doc ID# 161**
[161] OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION TO JENNIFER M. LYNCH, ESQ.

03/29/2023 **Commission Issued Doc ID# 162**
[162] OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION TO KATHERINE L. MALONEY, ESQ. & KATHLEEN ROCK, ESQ. OF RATHBUN, CSERVENYAK & KOZOL, LLC

03/29/2023 **Commission Issued Doc ID# 163**
[163] OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION TO SHERESE SHABAZZ, ESQ.

04/05/2023 **CANCELED Pretrial/Calendar Call (8:30 AM) (Judicial Officer Johnson, Susan)**
Vacated - per Judge

04/17/2023 **CANCELED Jury Trial (8:30 AM) (Judicial Officer Johnson, Susan)**
Vacated - per Judge

05/03/2023 **CANCELED Status Check: Trial Readiness (8:30 AM) (Judicial Officer Johnson, Susan)**
Vacated

05/10/2023 **Stipulation and Order Doc ID# 164**
[164] STIPULATION AND ORDER REGARDING NRCP 35 PHYSICAL EXAMINATION OF PLAINTIFF STEVE EGGLESTON

05/10/2023 **Stipulation and Order Doc ID# 165**
[165] Stipulation and Order Regarding NRCP 35 Physical Examination of Plaintiff Steve Eggleston

06/01/2023 **Motion to Amend Complaint Doc ID# 166**
[166] Motion to Amend First Amended Complaint - Hearing Requested

06/02/2023 **Notice of Withdrawal of Motion Doc ID# 167**
[167] Notice of Withdrawal of Motion to Amend First Amended Complaint

06/02/2023 **Filed Under Seal Doc ID# 168**
[168] Motion to Amend First Amended Complaint

06/05/2023 **Clerk's Notice of Hearing Doc ID# 169**
[169] Notice of Hearing

06/05/2023 **Motion Doc ID# 170**
[170] Plaintiff's Motion to File Plaintiff's Motion to Amend First Amended Complaint Under Seal

06/05/2023 **Clerk's Notice of Hearing Doc ID# 171**
[171] Notice of Hearing

06/15/2023 **Motion to Set Aside Doc ID# 172**
[172] Lisa and Brian Callahan's Motion to Set Aside Default

06/15/2023 **Opposition Doc ID# 173**
[173] Defendants Clark County and Georgina Stuart's Opposition to Plaintiff's Motion to Amend Amend First Complaint

06/15/2023 **Appendix Doc ID# 174**
[174] Appendix of Exhibits for Defendants Clark County and Georgina Stuart's Opposition to Plaintiff's Motion to Amend First Amended Complaint

06/15/2023 **Motion for Leave to File Doc ID# 175**
[175] Defendant Clark County's Motion for Leave to File Exhibit to Opposition to Plaintiff's Motion to Amend First Amended Complaint Under Seal

06/15/2023 **Temporary Seal Pending Court Approval Doc ID# 176**
[176] Exhibit B Filed Under Seal for Defendant Clark County's Motion for Leave to File Exhibit to Opposition to Plaintiff's Motion to Amend First Amended Complaint Under Seal and Defendant Clark County and Georgina Stuart's Opposition to Plaintiff's Motion to Amend First Amended Complaint

06/16/2023 **Clerk's Notice of Hearing Doc ID# 177**
[177] Notice of Hearing

06/19/2023 **Errata Doc ID# 178**
[178] Errata to Lisa and Brian Callahan's Motion to Set Aside Default

06/20/2023 **Stipulation and Order Doc ID# 179**
[179] Stipulation and Order Regarding Hearing Defendant Clark County's Motion for Leave to File Exhibit to Opposition to Plaintiff's Motion to Amend First Amended Complaint Under Seal on July 6, 2023

06/20/2023 **Minute Order (3:00 AM) (Judicial Officer Johnson, Susan)**
Minutes
Result: Minute Order - No Hearing Held

06/22/2023 **Order Granting Motion Doc ID# 180**
[180] Order Granting Plaintiff's Motion to File Plaintiff's Motion to Amend First Amended Complaint Under Seal

06/22/2023 **Notice of Entry Doc ID# 181**
[181] Notice of Entry of Order Granting Plaintiff's Motion to File Plaintiff's Motion to Amend First Amended Complaint Under Seal

06/26/2023 **Notice of Hearing Doc ID# 182**
[182] Notice of Hearing on Motion to Set Aside Default

06/29/2023 **Opposition to Motion Doc ID# 183**
[183] Plaintiff Steve Eggleston's Opposition to Lisa and Brian Callahan's Motion to Set Aside Default

MTS 0062

06/29/2023 **Temporary Seal Pending Court Approval Doc ID# 184**
 [184] Reply in Support of Motion to Amend First Amended Complaint (Filed Under Seal)

06/29/2023 **Motion to Seal/Redact Records Doc ID# 185**
 [185] Plaintiff's Motion to File Reply to Defendants' Opposition to Plaintiff's Motion to Amend First Amended Complaint Under Seal

06/30/2023 **Clerk's Notice of Hearing Doc ID# 186**
 [186] Notice of Hearing

06/30/2023 **Application for Issuance of Commission to Take Deposition Doc ID# 187**
 [187] EX PARTE APPLICATION FOR OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION [SHERESE SHABAZZ, ESQ.]

06/30/2023 **Application for Issuance of Commission to Take Deposition Doc ID# 188**
 [188] EX PARTE APPLICATION FOR OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION [Lutheran Child and Family Services of Illinois]

06/30/2023 **Notice of Entry of Order Doc ID# 189**
 [189] Notice of Entry of Stipulation and Order Regarding Hearing Defendant Clark County's Motion for Leave to File Exhibit to Opposition to Plaintiff's Motion to Amend First Amended Complaint under Seal on July 6, 2023

06/30/2023 **Commission Issued Doc ID# 191**
 [191] OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION TO SHERESE SHABAZZ, ESQ.

06/30/2023 **Commission Issued Doc ID# 192**
 [192] OUT OF STATE COMMISSION FOR THE PRODUCTION OF BUSINESS RECORDS IN LIEU OF APPEARANCE AT DEPOSITION TO LUTHERAN CHILD AND FAMILY SERVICES OF ILLINOIS

07/03/2023 **Minute Order (3:00 AM) (Judicial Officer Johnson, Susan)**
Minutes
 Result: Minute Order - No Hearing Held

07/03/2023 **Instructions for Bluejeans Conference Doc ID# 190**
 [190] Instructions for BlueJeans Conference

07/06/2023 **CANCELED Motion to Amend Complaint (9:00 AM) (Judicial Officer Johnson, Susan)**
 Vacated
 Plaintiff's Motion to Amend First Amended Complaint

07/06/2023 **Motion to Amend Complaint (9:00 AM) (Judicial Officer Johnson, Susan)**
 Plaintiff's Motion to Amend First Amended Complaint
Parties Present
Minutes
 Result: Denied

07/06/2023 **CANCELED Motion to Seal/Redact Records (9:00 AM) (Judicial Officer Johnson, Susan)**
 Vacated
 Plaintiff's Motion to File Plaintiff's Motion to Amend First Amended Complaint Under Seal

07/06/2023 **CANCELED Motion for Leave (9:00 AM) (Judicial Officer Johnson, Susan)**
 Vacated - Duplicate Entry
 Defendant Clark County's Motion for Leave to File Exhibit to Opposition to Plaintiff's Motion to Amend First Amended Complaint Under Seal
 07/18/2023 Reset by Court to 07/06/2023

07/06/2023 **CANCELED Motion for Leave (9:00 AM) (Judicial Officer Johnson, Susan)**
 Vacated
 Defendant Clark County's Motion for Leave to File Exhibit to Opposition to Plaintiff's Motion to Amend First Amended Complaint Under Seal

07/07/2023 **Request Doc ID# 193**
 [193] Request for Hearing on Motion to Set Aside Defaults Entered Against Lisa and Brian Callahan

07/12/2023 **Order Doc ID# 194**
 [194] Order Denying Plaintiff's Motion to Amend First Amended Complaint; and Granting Defendants' Motion for Leave to File Exhibit to Opposition to Plaintiff's Motion to Amend First Amended Complaint Under Seal

07/13/2023 **Minute Order (3:00 AM) (Judicial Officer Johnson, Susan)**
Minutes
 Result: Minute Order - No Hearing Held

07/13/2023 **Notice of Entry of Order Doc ID# 195**
 [195] Notice of Entry of Order Denying Plaintiff's Motion to Amend First Amended Complaint; and Granting Defendants' Motion for Leave to File Exhibit to Opposition to Plaintiff's Motion to Amend First Amended Complaint under Seal

07/13/2023 **Clerk's Notice of Hearing Doc ID# 196**
 [196] Notice of Hearing

07/14/2023 **Clerk's Notice of Nonconforming Document Doc ID# 197**
 [197] Clerk's Notice of Nonconforming Document

07/14/2023 **Order Granting Motion Doc ID# 198**
 [198] Order Granting Plaintiff's Motion To File Reply To Defendants' Opposition To Plaintiff's Motion To Amend First Amended Complaint Under Seal

07/17/2023 **Notice of Entry of Order Doc ID# 199**
 [199] NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFFS MOTION TO FILE REPLY TO DEFENDANTS OPPOSITION TO PLAINTIFFS MOTION TO AMEND FIRST AMENDED COMPLAINT UNDER SEAL

08/01/2023 **CANCELED Motion (8:30 AM) (Judicial Officer Johnson, Susan)**
 Vacated
 Plaintiff's Motion to File Reply to Defendants' Opposition to Plaintiff's Motion to Amend First Amended Complaint Under Seal

08/07/2023 **Minute Order (4:37 PM) (Judicial Officer Ganz, Adam)**
Minutes
 Result: Minute Order - No Hearing Held

08/10/2023 **Instructions for Bluejeans Conference Doc ID# 200**
 [200] Instructions for BlueJeans Conference

08/10/2023 **Reply Doc ID# 201**
 [201] Reply in Support of Brian and Lisa Callahan's Motion to Set Aside Defaults

08/14/2023 **Discovery Commissioners Report and Recommendations Doc ID# 202**
 [202] Discovery Commissioners Report and Recommendations -Originals

08/17/2023 **Motion to Set Aside (9:00 AM) (Judicial Officer Johnson, Susan)**
 Lisa and Brian Callahan's Motion to Set Aside Default
Parties Present

MTS 0063

	<u>Minutes</u>
	Result: Denied
08/17/2023	Minute Order (3:00 AM) (Judicial Officer Johnson, Susan)
	<u>Minutes</u>
	Result: Minute Order - No Hearing Held
08/23/2023	CANCELED Pretrial/Calendar Call (8:30 AM) (Judicial Officer Johnson, Susan)
	<i>Vacated</i>
08/23/2023	Status Report Doc ID# 203
	<i>[203] Joint Status Report</i>
08/25/2023	CANCELED Status Check: Compliance (9:15 AM) (Judicial Officer Ganz, Adam)
	<i>Vacated</i>
	<i>Status Check: Compliance: telephonic hearing 08/07/2023</i>
08/29/2023	Order Doc ID# 204
	<i>[204] Order Re: Discovery Commissioner's Report and Recommendations</i>
08/29/2023	Instructions for Bluejeans Conference Doc ID# 205
	<i>[205] Instructions for BlueJeans Conference</i>
08/29/2023	Notice of Entry of Order Doc ID# 206
	<i>[206] Notice of Entry of Order Re: Discovery Commissioner's Report and Recommendations Regarding August 7, 2023 Hearing</i>
09/01/2023	Order Denying Motion Doc ID# 207
	<i>[207] Order Denying Lisa and Brian Callahan's Motion to Set Aside Default</i>
09/05/2023	CANCELED Jury Trial (1:00 PM) (Judicial Officer Johnson, Susan)
	<i>Vacated</i>
09/05/2023	Notice of Entry Doc ID# 208
	<i>[208] Notice of Entry of Order Denying Lisa and Brian Callahan's Motion to Set aside Default</i>
09/06/2023	Status Check: Trial Readiness (8:30 AM) (Judicial Officer Johnson, Susan)
	<u>Parties Present</u>
	<u>Minutes</u>
	Result: Matter Heard
09/29/2023	Motion for Summary Judgment Doc ID# 209
	<i>[209] Defendants Clark County and Georgina Stuart's Motion for Summary Judgment</i>
09/29/2023	Appendix Doc ID# 210
	<i>[210] Appendix to Defendants Clark County and Georgina Stuarts Motion for Summary Judgment</i>
09/29/2023	Motion for Leave to File Doc ID# 211
	<i>[211] Defendant Clark County and Georgina Stuart's Motion for Leave to File Exhibits to Motion for Summary Judgment under Seal</i>
09/29/2023	Filed Under Seal Doc ID# 212
	<i>[212] (Sealed per Minute Order 10/17/2023) Appendix for Sealed Exhibits to Defendants Clark County and Georgina Stuarts Motion for Summary Judgment</i>
10/02/2023	Clerk's Notice of Hearing Doc ID# 213
	<i>[213] Notice of Hearing</i>
10/17/2023	Opposition Doc ID# 214
	<i>[214] OPPOSITION TO DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S MOTION FOR SUMMARY JUDGMENT</i>
10/17/2023	Temporary Seal Pending Court Approval Doc ID# 215
	<i>[215] APPENDIX TO OPPOSITION TO DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S MOTION FOR SUMMARY JUDGMENT</i>
10/17/2023	Motion for Leave to File Doc ID# 216
	<i>[216] Motion for Leave to File Exhibits to Opposition to Defendants Clark County and Georgina Stuart's Motion for Summary Judgment Under Seal</i>
10/17/2023	Clerk's Notice of Hearing Doc ID# 217
	<i>[217] Clerk's Notice of Hearing</i>
10/17/2023	Minute Order (3:00 AM) (Judicial Officer Johnson, Susan)
	<u>Minutes</u>
	Result: Minute Order - No Hearing Held
10/18/2023	Order Granting Motion Doc ID# 218
	<i>[218] Order Granting Defendant Clark County and Georgina Stuart's Motion for Leave to File Exhibits to Motion for Summary Judgment under Seal</i>
10/18/2023	Notice of Entry of Order Doc ID# 219
	<i>[219] Notice of Entry of Order Granting Defendant Clark County and Georgina Stuart's Motion for Leave to File Exhibits to Motion for Summary Judgment Under Seal</i>
10/31/2023	Instructions for Bluejeans Conference Doc ID# 220
	<i>[220] Instructions for BlueJeans Conference</i>
10/31/2023	Reply to Opposition Doc ID# 221
	<i>[221] Defendants Clark County and Georgina Stuart's Reply to Plaintiff's Opposition to Motion for Summary Judgment</i>
11/07/2023	Motion for Summary Judgment (8:30 AM) (Judicial Officer Johnson, Susan)
	<i>Defendants Clark County and Georgina Stuart's Motion for Summary Judgment</i>
	<u>Parties Present</u>
	<u>Minutes</u>
	Result: Granted in Part
11/07/2023	CANCELED Motion for Leave (8:30 AM) (Judicial Officer Johnson, Susan)
	<i>Vacated</i>
	<i>Defendant Clark County and Georgina Stuart's Motion for Leave to File Exhibits to Motion for Summary Judgment under Seal</i>
11/07/2023	Motion in Limine Doc ID# 222
	<i>[222] Plaintiff Steve Eggleston's Motion in Limine RE: H.E.'s Hospital Records</i>
11/07/2023	Motion in Limine Doc ID# 223
	<i>[223] Plaintiff Steve Eggleston's Motion in Limine RE: Plaintiff's Disciplinary Proceedings and Bankruptcy Filings</i>
11/07/2023	Motion in Limine Doc ID# 224
	<i>[224] Plaintiff Steve Eggleston's Motion in Limine RE: Toby Lester, MSW's Expert Opinion</i>
11/07/2023	Motion Doc ID# 225
	<i>[225] Motion for Leave to File Exhibits to Plaintiff's Motions in Limine Under Seal</i>
11/07/2023	Filed Under Seal Doc ID# 226
	<i>[226] SEALED PER MINUTE ORDER 12/08/23 [226] Appendix for Sealed Exhibits to Plaintiff's Motions in Limine RE: H.E.'s Hospital Records (EX 1)</i>
11/07/2023	Filed Under Seal Doc ID# 227

MTS 0064

	[227] SEALED PER MINUTE ORDER 12/08/23 [227] Appendix for Sealed Exhibits to Plaintiff's Motions in Limine RE: H.E.'s Hospital Records (EX 2 Vol I)	
11/07/2023	Filed Under Seal Doc ID# 228 [228] SEALED PER MINUTE ORDER 12/08/23 [228] Appendix for Sealed Exhibits to Plaintiff's Motions in Limine RE: H.E.'s Hospital Records (EX 2, Vol II)	
11/07/2023	Filed Under Seal Doc ID# 229 [229] SEALED PER MINUTE ORDER 12/08/23 [229] Appendix for Sealed Exhibits to Plaintiff's Motions in Limine RE: H.E.'s Hospital Records (EX 2, Vol III)	
11/07/2023	Filed Under Seal Doc ID# 230 [230] SEALED PER MINUTE ORDER 12/08/23 [230] Appendix for Sealed Exhibits to Plaintiff's Motions in Limine RE: H.E.'s Hospital Records (EX 3-7)	
11/07/2023	Filed Under Seal Doc ID# 231 [231] SEALED PER MINUTE ORDER 12/08/23 [231] Appendix for Sealed Exhibits to Plaintiff's Motions in Limine RE: Plaintiff's Disciplinary Proceedings and Bankruptcy Filings	
11/07/2023	Motion in Limine Doc ID# 232 [232] Defendants' Clark County and Georgina Stuart's Motion in Limine to Preclude Evidence Regarding Reunification	
11/07/2023	Motion in Limine Doc ID# 233 [233] Defendants Clark County and Georgina Stuart's Motion in Limine Seeking to Exclude Photographs and Videos of Plaintiff and His Minor Sons	
11/07/2023	Motion to Strike Doc ID# 234 [234] Defendants Clark County's and Georgina Stuart's Motion to Strike Plaintiff's Rebuttal Expert Designation of Psychologist John Paglini	
11/07/2023	Motion in Limine Doc ID# 235 [235] Defendants' Clark County and Georgina Stuart's Motion in Limine Re: Gerald Stuart Affidavit	
11/07/2023	Motion in Limine Doc ID# 236 [236] Defendants Georgina Stuart's and Clark County's Motion in Limine Seeking to Exclude Plaintiff's Proffered Medical Evidence, Lay Opinions, and Unqualified Expert Opinion of Causation as to Plaintiff's Claimed Physical Injury	
11/07/2023	Motion in Limine Doc ID# 237 [237] Defendants' Clark County and Georgina Stuart's Motion in Limine to Exclude Testimony and Opinions of Plaintiff's Expert Javonni Henderson	
11/07/2023	Motion for Leave to File Doc ID# 238 [238] Defendant Clark County's Motion for Leave to File Exhibits to Various Motions Under Seal	
11/07/2023	Filed Under Seal Doc ID# 239 [239] SEALED PER ORDER 12/11/23 [239] Appendix for Sealed Exhibits Regarding Clark Countys Motion for Leave to File Exhibits to Various Motions under Seal to Motions in Limine	
11/07/2023	Motion in Limine Doc ID# 240 [240] Defendants' Clark County and Georgina Stuart's Motion in Limine Regarding Social Worker Discipline	
11/07/2023	Motion in Limine Doc ID# 241 [241] Defendants Georgina Stuart's and Clark County's Motion in Limine Seeking to Exclude Plaintiff's Claims for Loss of Income and Loss of Earning Capacity	
11/08/2023	Clerk's Notice of Hearing Doc ID# 242 [242] Notice of Hearing	
11/08/2023	Clerk's Notice of Hearing Doc ID# 243 [243] Notice of Hearing	
11/08/2023	Clerk's Notice of Hearing Doc ID# 244 [244] Notice of Hearing	
11/08/2023	Clerk's Notice of Hearing Doc ID# 245 [245] Notice of Hearing	
11/08/2023	Clerk's Notice of Hearing Doc ID# 246 [246] Notice of Hearing	
11/08/2023	Notice of Withdrawal of Motion Doc ID# 247 [247] Notice of Withdrawal of Defendants' Clark County and Georgina Stuart's Motion in Limine re Gerald Stuart Affidavit	
11/21/2023	CANCELED Motion for Leave (8:30 AM) (Judicial Officer Johnson, Susan) Vacated - Previously Decided Motion for Leave to File Exhibits to Opposition to Defendants Clark County and Georgina Stuart's Motion for Summary Judgment Under Seal	
11/21/2023	Opposition to Motion Doc ID# 248 [248] PLAINTIFF STEVE EGGLESTONS OPPOSITION TO DEFENDANTS CLARK COUNTYS AND GEORGINA STUARTS MOTION TO STRIKE PLAINTIFF'S REBUTTAL EXPERT DESIGNATION OF PSYCHOLOGIST JOHN PAGLINI	
11/21/2023	Opposition to Motion in Limine Doc ID# 249 [249] OPPOSITION TO DEFENDANTS CLARK COUNTY AND GEORGINA STUARTS MOTION IN LIMINE TO EXCLUDE TESTIMONY AND OPINIONS OF PLAINTIFFS EXPERT JAVONNI HENDERSON	
11/21/2023	Opposition to Motion in Limine Doc ID# 250 [250] OPPOSITION TO DEFENDANTS CLARK COUNTY AND GEORGINA STUARTS MOTION IN LIMINE REGARDING SOCIAL WORKER DISCIPLINE	
11/21/2023	Opposition to Motion in Limine Doc ID# 251 [251] OPPOSITION TO DEFENDANTS GEORGINA STUARTS AND CLARK COUNTYS MOTION IN LIMINE SEEKING TO EXCLUDE PLAINTIFFS PROFFERED MEDICAL EVIDENCE, LAY OPINIONS, AND UNQUALIFIED EXPERT OPINION OF CAUSATION AS TO PLAINTIFFS CLAIMED PHYSICAL INJURY	
11/21/2023	Opposition to Motion in Limine Doc ID# 252 [252] OPPOSITION TO DEFENDANTS GEORGINA STUARTS AND CLARK COUNTYS MOTION IN LIMINE SEEKING TO EXCLUDE PLAINTIFFS CLAIMS FOR LOSS OF INCOME AND LOSS OF EARNING CAPACITY	
11/21/2023	Opposition to Motion in Limine Doc ID# 253 [253] OPPOSITION TO DEFENDANTS CLARK COUNTY AND GEORGINA STUARTS MOTION IN LIMINE SEEKING TO EXCLUDE PHOTOGRAPHS AND VIDEOS OF PLAINTIFF AND HIS MINOR SONS	
11/21/2023	Opposition to Motion in Limine Doc ID# 254 [254] OPPOSITION TO DEFENDANTS CLARK COUNTY AND GEORGINA STUARTS MOTION IN LIMINE TO PRECLUDE EVIDENCE REGARDING REUNIFICATION	
11/21/2023	Motion for Leave to File Doc ID# 255 [255] Motion for Leave to File Exhibits to Plaintiff's Oppositions Under Seal	
11/21/2023	Filed Under Seal Doc ID# 256 [256] (SEALED PER MINUTE ORDER 12/18/2023) Appendix To Sealed Exhibits For Plaintiffs Oppositions To Defendants Motions In Limine	
11/21/2023	Opposition to Motion in Limine Doc ID# 257 [257] Defendants Clark County and Georgina Stuart's Opposition to Plaintiff's Motion in Limine Re: Toby Lester, MSW's Expert Opinion	
11/21/2023	Clerk's Notice of Hearing Doc ID# 258 [258] Clerk's Notice of Hearing	

MTS 0065

11/21/2023 **Opposition to Motion in Limine Doc ID# 259**
[259] Defendants Clark County's and Georgina Stuart's Opposition to Plaintiff's Motion in Limine Re: Plaintiff's Disciplinary Proceedings and Bankruptcy Filings

11/21/2023 **Opposition to Motion in Limine Doc ID# 260**
[260] Defendants Clark County's and Georgina Stuart's Opposition to Plaintiff's Motion in Limine Re: H.E.'s Hospital Records

11/21/2023 **Motion for Leave to File Doc ID# 261**
[261] Defendant Clark County's Motion for Leave to File Exhibits to Various Oppositions to Plaintiff's Motions in Limine under Seal

11/21/2023 **Filed Under Seal Doc ID# 262**
[262] (SEALED PER MINUTE ORDER 12/18/2023) Appendix for Sealed Exhibits Regarding Clark County's Motion for Leave to File Exhibits to Various Oppositions to Plaintiff's Motions in Limine under Seal

11/27/2023 **Clerk's Notice of Hearing Doc ID# 263**
[263] Notice of Hearing

12/04/2023 **Pre-Trial Disclosure Doc ID# 264**
[264] Plaintiff Steve Eggleston's Pre-Trial Disclosures

12/04/2023 **Mandatory Pretrial Disclosure Doc ID# 265**
[265] Defendant Clark County and Stuart's 16.1(a)(3) Pretrial Disclosure

12/05/2023 **Pre-Trial Disclosure Doc ID# 266**
[266] PLAINTIFF STEVE EGGLESTON'S FIRST SUPPLEMENT TO PRE-TRIAL DISCLOSURES

12/05/2023 **Supplement Doc ID# 267**
[267] Defendants Clark County and Georgina Stuart's First Supplement to NRCP 16.1(a)(3) Pretrial Disclosure

12/08/2023 **Pre-Trial Disclosure Doc ID# 268**
[268] PLAINTIFF STEVE EGGLESTON'S SECOND SUPPLEMENT TO PRE-TRIAL DISCLOSURES

12/08/2023 **Minute Order (3:00 AM) (Judicial Officer Johnson, Susan)**
Minutes
Result: Minute Order - No Hearing Held

12/08/2023 **Minute Order (3:00 AM) (Judicial Officer Johnson, Susan)**
Minutes
Result: Minute Order - No Hearing Held

12/11/2023 **Order Granting Motion Doc ID# 269**
[269] Order Granting Motion for Leave to File Exhibits to Plaintiff's Motions in Limine Under Seal

12/11/2023 **Supplement Doc ID# 270**
[270] Defendants Clark County and Georgina Stuart's Second Supplement to NRCP 16.1(a)(3) Pretrial Disclosure

12/12/2023 **Notice of Entry Doc ID# 271**
[271] Notice of Entry of Order on Motion For Leave to File Exhibits to Plaintiff's Motions in Limine Under Seal

12/12/2023 **Reply in Support Doc ID# 272**
[272] Reply in Support of Plaintiff Steve Eggleston's Motion in Limine RE: Plaintiff's Disciplinary Proceedings and Bankruptcy Filings

12/12/2023 **Reply in Support Doc ID# 273**
[273] Reply in Support of Plaintiff Steve Eggleston's Motion in Limine RE: H.E.'s Hospital Records

12/12/2023 **Reply in Support Doc ID# 274**
[274] Reply in Support of Plaintiff Steve Eggleston's Motion in Limine RE: Toby Lester, MSW's Expert Opinion

12/12/2023 **Reply to Opposition Doc ID# 275**
[275] Defendants Clark County and Georgina Stuart's Reply to Plaintiff's Opposition to Motion in Limine Regarding Social Worker Discipline

12/12/2023 **Reply to Opposition Doc ID# 276**
[276] Defendants' Clark County and Georgina Stuart's Reply to Plaintiff's Opposition to Motion in Limine to Preclude Evidence Regarding Reunification

12/12/2023 **Reply to Opposition Doc ID# 277**
[277] Defendants Georgina Stuart's and Clark County's Reply to Plaintiff's Opposition to Defendants' Motion in Limine Seeking to Exclude Plaintiff's Proffered Medical Evidence, Lay Opinions, and Unqualified Expert Opinion of Causation as to Plaintiff's Claimed Physical Injury

12/12/2023 **Reply to Opposition Doc ID# 278**
[278] Defendants Clark County's and Georgina Stuart's Reply to Plaintiff's Opposition to Defendants' Motion to Strike Plaintiff's Rebuttal Expert Designation of Psychologist John Paglini

12/12/2023 **Reply to Opposition Doc ID# 279**
[279] Defendants Georgina Stuart's and Clark County's Reply to Plaintiff's Opposition to Motion in Limine Seeking to Exclude Plaintiff's Claims for Loss of Income and Loss of Earning Capacity

12/12/2023 **Reply to Opposition Doc ID# 280**
[280] Defendants' Clark County and Georgina Stuart's Reply to Plaintiff's Opposition to Defendants' Motion in Limine to Exclude Testimony and Opinions of Plaintiff's Expert Javonni Henderson

12/12/2023 **Order Granting Motion Doc ID# 281**
[281] Order Granting Defendant Clark County's Motion for Leave to File Exhibits to Various Motions Under Seal

12/12/2023 **Reply to Opposition Doc ID# 282**
[282] Defendants Clark County and Georgina Stuart's Reply to Plaintiff's Opposition to Motion in Limine Seeking to Exclude Photographs and Videos of Plaintiff and His Minor Sons

12/12/2023 **Motion for Leave to File Doc ID# 283**
[283] Defendant Clark County's Motion for Leave to File Exhibits to Various Replies to Plaintiff's Oppositions to Plaintiff's Motions in Limine Under Seal

12/12/2023 **Filed Under Seal Doc ID# 284**
[284] SEALED PER MINUTE ORDER 12/28/23 [284] Appendix for Sealed Exhibits Regarding Clark County's Motion for Leave to File Exhibits to Various Replies to Defendant's Motions in Limine under Seal

12/13/2023 **Clerk's Notice of Hearing Doc ID# 285**
[285] Notice of Hearing

12/13/2023 **Instructions for Bluejeans Conference Doc ID# 286**
[286] Instructions for BlueJeans Conference

12/14/2023 **Instructions for Bluejeans Conference Doc ID# 287**
[287] Instructions for BlueJeans Conference

12/14/2023 **Instructions for Bluejeans Conference Doc ID# 288**
[288] Instructions for BlueJeans Conference

12/14/2023 **Stipulation and Order Doc ID# 289**
[289] Stipulation and Order to Extend Deadline to File Objections to Pre-Trial Disclosures and Depositions and Pre-Trial Memorandum

12/14/2023 **Notice of Entry of Stipulation and Order Doc ID# 290**
[290] Notice of Entry of Stipulation and Order to Extend Deadline to File Objections to Pre-Trial Disclosures and Depositions and Pre-Trial Memorandum

12/14/2023 **Notice of Entry of Order Doc ID# 291**
[291] Notice of Entry of Order Granting Defendant Clark County's Motion for Leave to File Exhibits to Various Motions Under Seal

MTS 0066

12/18/2023 **Minute Order** (3:00 AM) (Judicial Officer Johnson, Susan)

Minutes

Result: Minute Order - No Hearing Held

12/18/2023 **Minute Order** (3:00 AM) (Judicial Officer Johnson, Susan)

Minutes

Result: Minute Order - No Hearing Held

12/18/2023 **Order Granting Motion** **Doc ID# 292**

[292] Order Granting Motion for Leave to File Exhibits to Plaintiff's Oppositions Under Seal

12/18/2023 **Order Granting Motion** **Doc ID# 293**

[293] Order Granting Defendant Clark County's Motion for Leave to File Exhibits to Various Oppositions to Plaintiff's Motions in Limine Under Seal

12/18/2023 **Order** **Doc ID# 294**

[294] Order Re: Plaintiff's Motions in Limine

12/18/2023 **Order** **Doc ID# 295**

[295] Order Re: Defendants' Motions in Limine

12/18/2023 **Notice of Entry of Order** **Doc ID# 296**

[296] Notice of Entry of Order Granting Defendant Clark Countys Motion for Leave to File Exhibits to Various Oppositions to Plaintiffs Motions in Limine under Seal

12/18/2023 **Notice of Entry of Order** **Doc ID# 297**

[297] Notice of Entry of Order Re: Defendants' Motions in Limine

12/18/2023 **Notice of Entry** **Doc ID# 298**

[298] Notice of Entry of Order on Plaintiff's Motion For Leave to File Exhibits to Oppositions to Motions in Limine Under Seal

12/18/2023 **Notice of Entry** **Doc ID# 299**

[299] Notice of Entry of Order on Plaintiff's Motions in Limine

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Plaintiff Steve Eggleston's Motion in Limine RE: H.E.'s Hospital Records

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Plaintiff Steve Eggleston's Motion in Limine RE: Plaintiff's Disciplinary Proceedings and Bankruptcy Filings

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Plaintiff Steve Eggleston's Motion in Limine RE: Toby Lester, MSW's Expert Opinion

12/19/2023 **CANCELED Motion for Leave** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Motion for Leave to File Exhibits to Plaintiff's Motions in Limine Under Seal

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Defendants' Clark County and Georgina Stuart's Motion in Limine to Preclude Evidence Regarding Reunification

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Defendants Clark County and Georgina Stuart's Motion in Limine Seeking to Exclude Photographs and Videos of Plaintiff and His Minor Sons

12/19/2023 **CANCELED Motion to Strike** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Defendants Clark County's and Georgina Stuart's Motion to Strike Plaintiff's Rebuttal Expert Designation of Psychologist John Paglini

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Defendants' Clark County and Georgina Stuart's Motion in Limine Re: Gerald Stuart Affidavit

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Defendants Georgina Stuart's and Clark County's Motion in Limine Seeking to Exclude Plaintiff's Proffered Medical Evidence, Lay Opinions, and Unqualified Expert Opinion of Causation as to Plaintiff's Claimed Physical Injury

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Defendants' Clark County and Georgina Stuart's Motion in Limine to Exclude Testimony and Opinions of Plaintiff's Expert Javonni Henderson

12/19/2023 **CANCELED Motion for Leave** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Defendant Clark County's Motion for Leave to File Exhibits to Various Motions Under Seal

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Defendants' Clark County and Georgina Stuart's Motion in Limine Regarding Social Worker Discipline

12/19/2023 **CANCELED Motion in Limine** (8:30 AM) (Judicial Officer Johnson, Susan)

Vacated

Defendants Georgina Stuart's and Clark County's Motion in Limine Seeking to Exclude Plaintiff's Claims for Loss of Income and Loss of Earning Capacity

12/20/2023 **Pretrial/Calendar Call** (8:30 AM) (Judicial Officer Johnson, Susan)

Parties Present

Minutes

Result: Trial Date Set

2/21/2023 **CANCELED Motion for Leave** (9:00 AM) (Judicial Officer Johnson, Susan)

Vacated

Plaintiff Steve Eggleston's Motion for Leave to File Exhibits to Plaintiff's Oppositions Under Seal

2/28/2023 **Minute Order** (3:00 AM) (Judicial Officer Johnson, Susan)

Minutes

Result: Minute Order - No Hearing Held

2/28/2023 **Order Granting Motion** **Doc ID# 300**

[300] Order Granting Defendant Clark County's Motion for Leave to File Exhibits to Various Replies to Plaintiff's Oppositions to Motions in Limine Under Seal

2/28/2023 **Notice of Entry of Order** **Doc ID# 301**

[301] Notice of Entry of Order Granting Defendant Clark Countys Motion for Leave to File Exhibits to Various Replies to Plaintiffs Oppositions to Motions in Limine under Seal

2/02/2024 **CANCELED Motion for Leave** (8:30 AM) (Judicial Officer Johnson, Susan)

MTS 0067

	Vacated	
	Defendant Clark County's Motion for Leave to File Exhibits to Various Oppositions to Plaintiff's Motions in Limine under Seal	
01/05/2024	Stipulation and Order Doc ID# 302	
	[302] Stipulation and Order Regarding Trial	
01/05/2024	Notice of Entry of Stipulation and Order Doc ID# 303	
	[303] Notice of Entry of Stipulation and Order Regarding Trial	
01/05/2024	Stipulation and Order Doc ID# 304	
	[304] Stipulation and Order to Extend Deadline to File Objections to Pre-Trial Disclosures and Depositions and Pretrial Memorandum (2nd Request)	
01/08/2024	Notice of Entry of Stipulation and Order Doc ID# 305	
	[305] NOTICE OF ENTRY OF STIPULATION AND ORDER TO EXTEND DEADLINE TO FILE OBJECTIONS TO PRE-TRIAL DISCLOSURES AND DEPOSITIONS AND PRE-TRIAL MEMORANDUM	
01/09/2024	Objection Doc ID# 306	
	[306] Plaintiff Steve Eggleston's Objections to Defendants' Designation of Deposition Testimony	
01/12/2024	Objection Doc ID# 307	
	[307] Defendants Clark County and Georgina Stuart's Objections to Plaintiff's NRCP 16.1(a)(3) Pretrial Disclosures	
01/12/2024	Joint Pre-Trial Memorandum Doc ID# 308	
	[308] JOINT PRE-TRIAL MEMORANDUM	
01/15/2024	Findings of Fact, Conclusions of Law and Order Doc ID# 309	
	[309] Findings of Fact, Conclusions of Law and Order	
01/16/2024	CANCELED Motion for Leave (10:30 AM) (Judicial Officer Johnson, Susan)	
	Vacated	
	Defendant Clark County's Motion for Leave to File Exhibits to Various Replies to Plaintiff's Oppositions to Plaintiff's Motions in Limine Under Seal	
01/22/2024	Jury Trial (8:30 AM) (Judicial Officer Johnson, Susan)	
	01/02/2024 Reset by Court to 01/22/2024	

FINANCIAL INFORMATION

	Defendant Clark County Nevada		
	Total Financial Assessment		200.00
	Total Payments and Credits		200.00
	Balance Due as of 01/17/2024		0.00
09/29/2023	Transaction Assessment		200.00
09/29/2023	Efile Payment	Receipt # 2023-84212-CCCLK	Clark County Nevada (200.00)
	Defendant Stuart, Georgina		
	Total Financial Assessment		223.00
	Total Payments and Credits		223.00
	Balance Due as of 01/17/2024		0.00
08/24/2017	Transaction Assessment		223.00
08/24/2017	Fee Waiver		(223.00)
	Other Our Nevada Judges		
	Total Financial Assessment		2.00
	Total Payments and Credits		2.00
	Balance Due as of 01/17/2024		0.00
08/16/2022	Transaction Assessment		2.00
08/16/2022	Online Payment	Receipt # 2022-47181-CCCLK	Public Copy Request (2.00)
	Plaintiff Eggleston, Steve		
	Total Financial Assessment		323.00
	Total Payments and Credits		323.00
	Balance Due as of 01/17/2024		0.00
01/03/2017	Transaction Assessment		270.00
01/03/2017	Payment (Window)	Receipt # 2017-00101-CCCLK	Junes Legal Service, Inc (270.00)
10/09/2018	Transaction Assessment		24.00
10/09/2018	Payment (Window)	Receipt # 2018-67361-CCCLK	Junes Legal Service Inc (24.00)
03/16/2020	Transaction Assessment		24.00
03/16/2020	Payment (Window)	Receipt # 2020-15973-CCCLK	Junes Legal Service Inc (24.00)
02/13/2023	Transaction Assessment		5.00
02/13/2023	Payment (Window)	Receipt # 2023-09607-CCCLK	Paola Armeni (5.00)

REGISTER OF ACTIONS**CASE NO. A-16-748919-C****Steve Eggleston, Plaintiff(s) vs. Georgina Stuart, Defendant(s)**§
§
§
§
§
§
§
§

Case Type: **Other Tort**
 Date Filed: **12/30/2016**
 Location: **Department 22**
 Cross-Reference Case Number: **A748919**
 Supreme Court No.: **77168**
80838

PARTY INFORMATION**Lead Attorneys****Defendant Callahan, Brian**

Zachary P. Takos Esq
Retained
 702-658-1900(W)

Defendant Callahan, Lisa

Zachary P. Takos Esq
Retained
 702-658-1900(W)

Defendant Clark County Nevada

Felicia Galati
Retained
 7023844012(W)

Defendant Stuart, Georgina

Felicia Galati
Retained
 7023844012(W)

Other Our Nevada Judges

Luke A. Busby
Retained
 702-453-0112(W)

Plaintiff Eggleston, Steve

Paola M. Armeni
Retained
 702-862-8300(W)

EVENTS & ORDERS OF THE COURT**12/20/2023 Pretrial/Calendar Call (8:30 AM) (Judicial Officer Johnson, Susan)****Minutes**

12/20/2023 8:30 AM

- Court noted this case is first on the stack and it has been rescheduled four times. Court further noted it owes counsel a decision on the Motion for Summary Judgment. Upon Court's inquiry, Ms. Galati advised counsel have agreed to start trial on January 22, 2024 as Plaintiff needs to make travel arrangements. Ms. Galati estimated trial to last 7-10 days depending on which claims remain. Colloquy regarding the trial start date. Ms. Galati added she needs approval for travel regarding county funds, which requires 30 days notice. Counsel advised the pending rulings will impact the exhibits and they would like to wait for the rulings to come out before turning in exhibits. COURT ORDERED, matter SET for trial; Pre Trial Memoranda and exhibits DUE January 5, 2024. Court noted trial briefs can be filed up until the last day of trial. Court added counsel will each have four peremptorys

MTS 0069

on the regular jurors and one on the alternate. Counsel agreed on 2
alternates with seats 5 and 10 being the alternate seats. 1/22/24 8:30
AM JURY TRIAL

Parties Present

Return to Register of Actions

Stephanie Barker

From: Gray, Joshua <Dept22LC@clarkcountycourts.us>
Sent: Wednesday, January 17, 2024 10:58 AM
To: Lisa Rico
Cc: parmeni@clarkhill.com; wschuller@clarkhill.com; tbain@ClarkHill.com; creyes@clarkhill.com; Felicia Galati; Stephanie Barker
Subject: RE: Eggleston vs. Stuart and Clark County; MSTY; Case No. A-16-748919-C

Good morning,

The Court is declining to hear this matter on OST. The trial date is still set for Monday, January 22, 2024.

Thank you.

Joshua Gray

Law Clerk to the Honorable Susan Johnson
Eighth Judicial District Court – Dept. XXII
Clark County – Regional Justice Center
Tel: (702) 671-0551
Fax: (702) 671-0571

From: Lisa Rico <lrico@ocgas.com>
Sent: Tuesday, January 16, 2024 3:50 PM
To: DC22Inbox <DC22Inbox@clarkcountycourts.us>
Cc: parmeni@clarkhill.com; wschuller@clarkhill.com; tbain@ClarkHill.com; creyes@clarkhill.com; Felicia Galati <fgalati@ocgas.com>; Stephanie Barker <sbarker@ocgas.com>
Subject: Eggleston vs. Stuart and Clark County; MSTY; Case No. A-16-748919-C

[NOTICE: This message originated outside of Eighth Judicial District Court -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Attached is a Motion on Order Shortening Time for the Judge's review and signature. Thank you.

Lisa Rico
Paralegal & Legal Assistant to Felicia Galati, Esq.
and Legal Assistant to Alexander Adrian, Esq.
Olson, Cannon, Gormley & Stoberski
9950 W. Cheyenne Ave.
Las Vegas, NV 89129
(702) 384-4012
lrico@ocgas.com

FFCO

DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON,

Plaintiff,

Vs.

GEORGINA STUART; CLARK
COUNTY, NEVADA; LISA CALLAHAN;
BRIAN CALLAHAN; and DOES I
through 100, inclusive,

Defendants

Case No. A-16-748919-C
Dept. No. XXII

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter concerning the Motion for Summary Judgment filed September 29, 2023 by Defendants CLARK COUNTY and GEORGINA STUART came on for hearing on the 7th day of November 2023 at 8:30 a.m. before Department XXII of the Eighth Judicial District Court, in and for Clark County, Nevada, with JUDGE SUSAN JOHNSON presiding; Plaintiff STEVE EGGLESTON appeared by and through his attorneys, PAOLA M. ARMENI, ESQ. and WILLIAM D. SCHULLER, ESQ. of the law firm, CLARK HILL; and Defendants CLARK COUNTY and GEORGINA STUART appeared by and through their attorney, FELICIA GALATI, ESQ. of the law firm, OLSON CANNON GORMLEY & STOBERSKI. Having reviewed the papers and pleadings on file herein, heard oral arguments of the lawyers and taken this matter under advisement, this Court makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT AND PROCEDURAL HISTORY

1. As set forth within the First Amended Complaint filed August 10, 2017, Plaintiff STEVE EGGLESTON alleges, on or about January 6, 2015, Defendant GEORGINA STUART, an

1 employee of the Clark County Department of Family Services (also referred to as “DFS” herein),
2 and two armed police officers came to remove his two minor sons from Plaintiff’s home and forced
3 him to sign temporary guardianship papers in favor of Defendant LISA CALLAHAN (the children’s
4 maternal aunt) and her husband, Defendant BRIAN CALLAHAN,¹ under threat, if he did not do so,
5 the boys would be housed and cared for within the DFS foster care program and he would never see
6 the children again. Upon his signing, MS. CALLAHAN took the children to live in another state.
7 Further, approximately one month after MR. EGGLESTON and the boys’ mother, LAURA
8 RODRIGUEZ, signed the temporary guardianship papers before a Notary Public, DFS made a
9 finding of child maltreatment. In his defense, MR. EGGLESTON alleges in this lawsuit MS.
10 STUART issued a false report he had subjected the children to abuse or neglect by failing to protect
11 them from their mother who was suffering from drug and alcohol addiction and experiencing
12 suicidal thoughts. MR. EGGLESTON appealed the child maltreatment finding to the DFS Appeals
13 Unit and the decision was upheld. MR. EGGLESTON then requested a fair hearing to
14 administratively appeal that decision, a right provided in relevant state statutes. The instant civil
15 action was filed over a year after MR. EGGLESTON made the initial request for a fair hearing²
16 which was continued at least three times upon Plaintiff’s request and due to recusal of the original
17 hearing officer.³ On October 15, 2020, a final administrative hearing of the hearing officer upheld
18 DPS’s substantiation of physical injury and risk pursuant to NRS Chapter 432B and Nevada
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23 ¹MR. CALLAHAN remained in Illinois when his wife traveled to Las Vegas, Nevada, but gave his consent to
24 MRS. CALLAHAN placing his name as temporary co-guardian of the children in the guardianship papers. *See* Exhibit
25 5, Deposition of LISA CALLAHAN, pp. 179-180, Bates Nos. OPP000059-OPP000060, attached to Appendix to Motion
for Summary Judgment filed October 17, 2023.

26 ²The first hearing before the administrative hearing officer was scheduled August 1, 2017. *See Eggleston v.*
27 *Stuart*, 137 Nev. 506, 508, 495 P.3d 482, 487 (2021). Ultimately, the hearing officer’s decision upholding the
substantiation by DFS Appeals Unit was rendered October 15, 2020. An Amended Order Denying Petition for Judicial
28 Review was filed October 13, 2023. *See* Exhibit TT to Defendants’ Reply to Opposition to Motion for Summary
Judgment filed October 31, 2023.

³*See* Exhibit TT, Amended Order Denying Petition for Judicial Review, pp. 3-6, attached to Defendants’ Reply
to Opposition to Motion for Summary Judgment.

1 Administrative Code (NAC) 432B.⁴ In the meantime, MR. and MS. CALLAHAN sought and
2 obtained permanent guardianship of Plaintiff's two minor sons in their home state of Illinois. Within
3 his First Amended Complaint, MR. EGGLESTON asserted four causes of action: (1) violation of
4 his civil rights under Title 42 U.S.C. §1983 against Defendants CLARK COUNTY and MS.
5 STUART, (2) Conspiracy, Aiding and Abetting to violate civil rights against all Defendants,⁵ (3)
6 intentional infliction of emotional distress against all Defendants and (4) defamation, libel and
7 slander against all Defendants.
8

9 2. On September 29, 2023, Defendants STUART and CLARK COUNTY moved this
10 Court for summary judgment in their favor upon the following bases:

11 *First*, the First Amended Complaint does not allege any specific constitutional amendment or
12 statutory right that has been violated. *Second*, assuming MR. EGGLESTON is asserting a violation
13 of his Fourteenth Amendment rights, such claim fails as these Defendants did not remove the minor
14 children from the home, take them into protective custody and/or terminate Plaintiff's parental
15 rights. Instead, on advice of his counsel, MR. EGGLESTON chose to sign temporary guardianship
16 papers in favor of MR. and MRS. CALLAHAN. Once he and the children's mother did so on or
17 about January 7, 2015, "DFS/CPS was no longer involved with the EGGLESTON family and
18 processed closing the case as required by State law."⁶ *Third*, MR. EGGLESTON was not deprived
19 of procedural due process. He was told the findings of CPS' investigative report dated December
20 22, 2014 of MS. RODRIGUEZ'S alcohol and drug abuse, her physical abuse of all children living in
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24 ⁴As set forth *supra*, after Defendants CLARK COUNTY and STUART filed their Motion for Summary
25 Judgment, on October 13, 2023, the First Judicial District Court filed its Order denying MR. EGGLESTON'S Petition
26 for Judicial Review and affirming the substantiation of the allegation of Physical Injury (Abuse) – Physical Risk against
27 MR. EGGLESTON. See Exhibit TT attached to Defendants' Reply to Opposition to Motion for Summary Judgment.

28 ⁵Of note, as set forth in Eggleston, 137 Nev. at 509 fn. 4, 495 P.3d at 488 fn.4 (2021), the lower court's decision
was reversed in part, the dismissal of the conspiracy claim under Title 42 U.S.C. §1985 was affirmed on appeal,
whereby, as set forth *infra*, this Court's focus in deciding Defendants' Motion for Summary Judgment shall be MR.
EGGLESTON'S claim for violation of civil rights and state causes of action for intentional infliction of emotional
distress and defamation/libel/slander.

⁶See Defendants' Motion for Summary Judgment filed September 29, 2023, p. 14.

1 the home and both parents' neglect of the youngsters. After the DFS/CPS investigation was open,
2 there was substantial interaction for approximately two weeks between MR. EGGLESTON and MS.
3 STUART concerning the children's safety both in electronic mail communication and in a face-to-
4 face meeting held December 24, 2015. MR. EGGLESTON also had the opportunity to speak with
5 his attorney while MS. STUART and the police officers were in the home on or about January 7,
6 2015 at which time MS. STUART told him her supervisors had not approved in-home services and
7 recommended the children's removal. He signed the temporary guardianship papers upon advice of
8 his counsel and notice of the allegation reports and threats. Notwithstanding that point, MR.
9 EGGLESTON had first-hand knowledge of MS. RODRIGUEZ'S substance abuses and failed to
10 address the associated threats to his two minor sons. Furthermore, Defendants CLARK COUNTY
11 and STUART are not liable under federal law for the conduct of non-County actors. *Fourth*,
12 Plaintiff's First Cause of Action for violation of civil rights fails as moving Defendants are entitled
13 to qualified immunity. *Fifth*, Plaintiff has not demonstrated all the elements of his claim for
14 intentional infliction of emotional distress. Notwithstanding that premise, moving Defendants are
15 entitled to immunity for liability based upon the exercise or performance of their discretionary
16 functions. *Sixth*, MS. CALLAHAN'S conduct is a superseding intervening cause of MR.
17 EGGLESTON'S claimed damages and injuries. *Seventh*, with respect to the defamation claims,
18 MR. EGGLESTON cannot establish moving Defendants made libelous statements or that such
19 caused Plaintiff damage. *Eighth*, as MR. EGGLESTON has not sued MS. STUART in her
20 individual capacity, there can be no entitlement to punitive damages. *Lastly*, and as pointed out for
21 the first time within the Reply, it is moving Defendants' view, MR. EGGLESTON'S claims are
22 barred by the doctrine of *res judicata* given the October 13, 2023 decision from the First Judicial
23 District Court denying Plaintiff's Petition for Judicial Review.
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...

1 MR. EGGLESTON opposes, arguing there remain genuine issues of material fact whereby
2 summary judgment should not be granted. He first proposes there are discrepancies between what
3 was discovered during MS. STUART'S investigation as reported by her and that which actually
4 happened. For example, the December 22, 2014 CPS report indicated MS. RODRIGUEZ'S
5 daughter, ALEXIS RODRIGUEZ, and the children locked themselves in the bathroom "on multiple
6 occasions and with increasing frequency[]" to be safe from Laura [RODRIGUEZ] who was abusing
7 alcohol and drugs,"⁷ when, in actuality, ALEXIS had recently returned to Las Vegas for the 2014
8 winter school break and she testified in deposition the children locked themselves in the bathroom
9 on only one occasion.⁸ While MS. STUART reported MR. EGGLESTON admitted to working at
10 home in his office and was unaware of what was occurring, Plaintiff claims he never said he did not
11 know what was transpiring with the children. Further, although it was reported LAURA
12 RODRIGUEZ told Defendants Plaintiff "worked 16 hours a day, 7 days a week," the children's
13 mother could not have personal knowledge of what she stated as, after the Present Danger Plan was
14 put in place, she was in and out of the hospital and "MIA for hours."⁹ Further, while Defendants'
15 motion states: "On 12/24/15,"¹⁰ Stuart made face-to-face contact with Plaintiff, advised him of the
16 reported allegations, and provided him with an agency brochure indicating his rights on removal,
17 visitation, etc.," MR. EGGLESTON disputed that position within his First Amended Complaint,
18 paragraph 13 when he stated "[n]o suggestion of any kind was made that any of the children were in
19 any kind of danger, that there had been any abuse or neglect of any of the children, that
20 Plaintiff[was] being investigated as being abusive or neglectful, or that he had been or was unfit to
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25 ⁷See Opposition to Defendants CLARK COUNTY'S and STUART'S Motion for Summary Judgment filed
October 17, 2023, p. 4 *quoting* Defendants' Motion for Summary Judgment, pp. 3-4.

26 ⁸See Opposition to Defendants' Motion for Summary Judgment, p. 4; *also see* Exhibit 1, Deposition of ALEXIS
RODRIGUEZ, p. 165, Bates No. OPP000013, attached to Appendix to Plaintiff's Opposition to Motion for Summary
27 Judgment.

⁹See Opposition to Defendants' Motion for Summary Judgment, p. 4, *quoting* Defendants' Motion, p. 6.

28 ¹⁰Presumably, the reference to "12/24/15" is a typographical error contained within the motion as quoted by
Plaintiff in his Opposition, p. 5.

1 have custody over and raise his sons.”¹¹ MR. EGGLESTON also points out there were also
2 discrepancies between that reported in MS. STUART’S “UNITY notes” and what actually
3 transpired.¹² In short, in MR. EGGLESTON’S view, serious allegations were made but not
4 thoroughly investigated and corroborated to give rise to “a reasonable inference of imminent danger
5 sufficient to justify taking children into temporary custody.”¹³ Notwithstanding the aforementioned,
6 MS. STUART made misrepresentations to both MR. EGGLESTON and his attorney, EMILY
7 MCFARLING, ESQ., regarding what would happen if Plaintiff signed the temporary guardianship
8 papers. Specifically, according to Plaintiff, the representation was, if MR. EGGLESTON signed the
9 guardianship papers allowing time for the children’s mother to move to a resident treatment
10 program, “the Eggleston Boys would be returned to [MR. EGGLESTON] in several days.”¹⁴

11
12 MR. EGGLESTON further argues within his Opposition, while moving Defendants propose
13 his First Amended Complaint fails to allege any specific constitutional Amendment or statutory
14 right,¹⁵ the Nevada Supreme Court in Eggleston, 137 Nev. at 511-512, 495 P.3d at 489-490, found
15 Plaintiff’s complaint presented a substantive due process claim for violation of his fundamental right
16 to parent his children. Further, taking MR. EGGLESTON’S allegations as true, the high court stated
17 “the State’s actions ‘shock the conscience’ by removing the possibility of reunification and by
18 violating Eggleston’s fundamental right to raise his children. The constitutional violation was
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22 ¹¹See Opposition to Defendants’ Motion for Summary Judgment, p. 5. This Court notes MR. EGGLESTON
23 actually filed and signed the First Amended Complaint.

24 ¹²*Id.*, pp. 6-7.

25 ¹³*Id.*, pp. 13-14, *quoting Demaree v. Pederson*, 887 F.3d. 870, 879 (9th Cir. 2018).

26 ¹⁴*Id.*, p. 16, *quoting* First Amended Complaint, paragraph 26(g); *also see* Exhibit 16, Deposition of EMILY
27 MCFARLING, pp. 20-21, of Appendix to Plaintiff’s Opposition to Defendants’ Motion for Summary Judgment filed
28 October 17, 2023 (“I clarified with [MS. STUART] that, you know, what happens if he does sign these guardianship
papers? Number one, she confirmed to me that Lisa Callahan and Brian Callahan were not going to be taking the
children outside the state of Nevada, that they were just going to stay with them in Nevada. She confirmed that it was a
temporary, it was only a temporary guardianship, and it was only until Steve got his affairs in order. That it was very,
very temporary. Just get childcare sorted out, get everything under control, not things that take very long to do, and then
he would have the children. She also confirmed that if he signed the guardianship papers, that they would not file a
petition, an abuse and neglect petition, against Steve and Laura, and the DFS case would then just be closed out.”).

¹⁵See Defendants’ Motion for Summary Judgment, p. 13.

1 complete when the State forced Eggleston to sign the temporary guardianship papers, and thus this
2 claim is fundamentally a substantive due process one....”¹⁶

3 **CONCLUSIONS OF LAW**

4 1. Summary judgment is appropriate and “shall be rendered forthwith” when the
5 pleadings and other evidence on file demonstrates no “genuine issue as to any material fact
6 [remains] and that the moving party is entitled to a judgment as a matter of law.” *See* NRCP 56(c);
7 Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026 (2005). The substantive law controls
8 which factual disputes are material and will preclude summary judgment; other factual disputes are
9 irrelevant. *Id.*, 121 Nev. at 731. A factual dispute is genuine when the evidence is such that a
10 rational trier of fact could return a verdict for the non-moving party. *Id.*

11 2. While the pleadings and other proof must be construed in a light most favorable to
12 the non-moving party, that party bears the burden “to do more than simply show that there is some
13 metaphysical doubt” as to the operative facts in order to avoid summary judgment being entered in
14 the moving party’s favor. Matsushita Electric Industrial Co. v. Zenith Radio, 475, 574, 586 (1986),
15 cited by Wood, 121 Nev. at 732. The non-moving party “must, by affidavit or otherwise, set forth
16 specific facts demonstrating the evidence of a genuine issue for trial or have summary judgment
17 entered against him.” Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 110, 825 P.2d 588, 591 (1992),
18 cited by Wood, 121 Nev. at 732. The non-moving party “is not entitled to build a case on the
19 gossamer threads of whimsy, speculation, and conjecture.” Bulbman, 108 Nev. at 110, 825 P.2d
20 591, quoting Collins v. Union Fed. Savings & Loan, 99 Nev. 284, 302, 662 P.2d 610, 621 (1983).
21 As set forth *supra*, Defendants CLARK COUNTY and STUART move this Court for summary
22 judgment upon the bases, in their view, there remain no genuine issues of material fact, and they are
23 entitled to judgment as a matter of law.
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28 ¹⁶Eggleston, 137 Nev. at 512, 495 P.2d at 489-490.

1 3. Moving Defendants argue MR. EGGLESTON’S claims are barred by the doctrine of
2 *res judicata* within their Reply as the First Judicial District Court denied Plaintiff’s Petition for
3 Judicial Review by Amended Order filed October 13, 2023, and in doing so, affirmed the decision of
4 the hearing officer that substantiation of the allegation of Physical Injury (Abuse) – Physical Risk
5 against MR. EGGLESTON had been proven by a preponderance of the evidence.

6 4. As set forth in Five Star Capital Corporation v. Ruby, 124 Nev. 1048, 1051, 194 P.3d
7 709 (2008), “[t]he meaning of the term ‘res judicata’ has evolved over time in the judicial system
8 and confusion continues among courts as to what “res judicata” encompasses. In some jurisdictions
9 the term includes both claim and issue preclusion, while in other jurisdictions claim and issue
10 preclusion are separated, with ‘res judicata’ referring to claim preclusion and ‘collateral estoppel’
11 referring to issue preclusion.” To provide clarity, the high court in Five Star Capital Corporation,
12 124 Nev. 1048, 194 P.3d 709, separated the two legal doctrines and referred to them as claim and
13 issue preclusion.

14 5. The three-part test for determining whether claim preclusion should apply is (1) the
15 parties or their privies are the same, (2) the final judgment is valid and (3) the subsequent action is
16 based on the same claims or any part of them that were or could have been brought in the first
17 case.¹⁷ This test maintains the well-established principle claim preclusion applies to all grounds of
18 recovery that were or could have been brought in the first case. The application of issue preclusion
19 involves a fourth factor to those pertain to claim preclusion; the fourth factor requires the issue was
20 actually and necessarily litigated. That is, the factors necessary for the application of issue
21 preclusion are (1) the issue decided in the prior litigation must be identical to the issue presented in
22 the action, (2) the initial ruling must have been on the merits and have become final, (3) the party
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28 ¹⁷See University of Nevada v. Tarkanian, 110 Nev. 581, 600, 879 P.2d 1180, 1191 (1994); Executive
Management v. Tricor Title Insurance Company, 114 Nev. 823, 835, 963 P.2d 465, 473 (1998).

1 against whom the judgment is asserted must have been a party or in privity with a party to the prior
2 litigation and (4) the issue was actually and necessarily litigated. Five Star Capital Corporation, 124
3 Nev. at 1055.

4 6. Considering the factors of both claim and issue preclusion, this Court concludes issue
5 preclusion is applicable to two of MR. EGGLESTON'S remaining causes of action and both claim
6 and issue preclusion result in a barring of his count for defamation, slander and libel. In affirming
7 the hearing officer's decision, the First Judicial District Court held the substantiation of Physical
8 Injury (Abuse) – Physical Risk against MR. EGGLESTON was proven by a preponderance of the
9 evidence. The decision was final, and clearly, MR. EGGLESTON was a party to the prior litigation.
10 The issue was actually and necessarily litigated. However, the First Judicial District Court did not
11 decide all the issues within MR. EGGLESTON'S claims filed here. Issue preclusion applies
12 whereby there need be no re-litigation regarding the substantiation of the allegations of Physical
13 Injury (Abuse) – Physical Risk within this lawsuit.
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16 MR. EGGLESTON'S Title 42 U.S.C. §1983 Claim

17 7. Title 42 U.S.C. §1983 provides as follows:

18 Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any
19 State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen
20 of the United States or other person within the jurisdiction thereof to the deprivation of any
21 rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the
22 party injured in an action at law, suit in equity, or other proper proceeding for redress, except
23 that in any action brought against a judicial officer for an act or omission taken in such
24 officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree
was violated or declaratory relief was unavailable. For the purposes of this section, any Act
of Congress applicable exclusively to the District of Columbia shall be considered to be a
statute of the District of Columbia.

25 To prove a cause of action under Title 42 U.S.C. §1983, MR. EGGLESTON must prove (1)
26 Defendants acted under color of state law and (2) they deprived him of rights secured by the United
27 States Constitution or federal law. *See Ortega v. Reyna*, 114 Nev. 55, 58, 953 P.2d 18, 20-21
28

1 (1998), *citing Cummings v. Charter Hospital*, 111 Nev. 238, 245, 871 P.2d 320, 324 (1994). In this
2 case, the parties do not dispute Defendants were acting under color of state law at all times relevant
3 to this matter. The issue to be decided with respect to the Title 42 U.S.C. §1983 cause of action is
4 whether CLARK COUNTY and MS. STUART deprived MR. EGGLESTON of his constitutional
5 rights.

6 8. As set forth by the Nevada Supreme Court in *Eggleston*, 137 Nev. at 511, 485 P.3d at
7 489, MR. EGGLESTON'S Complaint presented a substantive due process claim for violation of the
8 fundamental right to parent children. "The fundamental right to 'bring up children' is encompassed
9 within the right to liberty, a core guarantee protected by the Due Process Clause of the Fourteenth
10 Amendment." *Id.*, *citing Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.Ct. 625, 67 L.Ed. 1042
11 (1923). "The liberty interest...of parents in the care, custody, and control of their children[] is
12 perhaps the oldest of the fundamental liberty interests recognized by this Court." *Troxel v.*
13 *Granville*, 530 U.S. 57, 65, 120 S.Ct. 2054, 147 L.Ed.2d 49 (2000).

14 9. Here, MR. EGGLESTON claims, *inter alia*, CLARK COUNTY and MS. STUART
15 "arbitrarily and capriciously interfered with his constitutional rights when, without cause, they
16 forced him under duress to sign temporary guardianship papers leading to the unwarranted removal
17 of his children from his care." *Id.*, 137 Nev. at 511-512, 485 P.2d at 489. These particular facts were
18 not reviewed by the First Judicial District Court, and thus, not barred in this case under the doctrines
19 of issue or claim preclusion. Given the evidence presented in support of the parties' papers—some
20 of which have been discussed *supra*--this Court concludes there remain questions of material fact for
21 the jury to answer with respect to whether CLARK COUNTY and MS. STUART violated MR.
22 EGGLESTON'S constitutional rights, and particularly his fundamental right to parent his children,
23 "a core guarantee protected by the Due Process Clause of the Fourteenth Amendment." *Meyer*, 262
24 U.S. at 399, 43 S.Ct. 625, 67 L.Ed. 1042.

1 10. Defendants propose, even if there remain genuine issues of material fact regarding
2 whether a deprivation of civil rights occurred, CLARK COUNTY and MS. STUART are entitled to
3 qualified immunity as a matter of law. Whether an official protected by qualified immunity may be
4 held personally liable for an allegedly unlawful official action generally turns on the “objective
5 reasonableness” of the action, assessed in light of the legal rules that were “clearly established” at
6 the time the action was taken. Anderson v. Creighton, 483 U.S. 635, 635, 107 S.Ct. 3034, 3036, 97
7 L.Ed.2d 523 (1987), *citing* Harlow v. Fitzgerald, 457 U.S. 800, 102 S.Ct. 2727, 73 L.Ed.2d 396
8 (1982). In order to conclude the right which the official allegedly violated is “clearly established,”
9 the contours of the right must be sufficiently clear a reasonable official would understand what he is
10 doing violates that right. *Id.*, 483 U.S. at 635, 107 S.Ct. at 3036-3037. In this Court’s view, the
11 conflicting facts presented do not support the conclusion MS. STUART is entitled to the protection
12 of qualified immunity as a matter of law. While it appreciates the positions taken by CLARK
13 COUNTY and MS. STUART, this Court cannot ignore the facts MR. EGGLESTON has presented
14 in opposition. MR. EGGLESTON presented evidence, *inter alia*, MS. STUART (1) concealed
15 material facts about her investigation and intentions from him, (2) misrepresented her authority to
16 offer rental assistance and in-home services and (3) coerced MR. EGGLESTON and MS.
17 RODRIGUEZ into executing the temporary guardianship papers under the guise he would see his
18 minor boys in several days when, at this juncture, he has not seen his children for years. If the jury
19 finds such actions were taken, such would not be objectively reasonable in light of the legal rules
20 that were clearly established at the time they occurred. For the aforementioned reasons, this Court
21 denies Defendants’ Motion for Summary Judgment as it pertains to the First Cause of Action.
22

23 MR. EGGLESTON’S Intentional Infliction of Emotional Distress Claim.

24 11. The elements of a *prima facie* case for intentional infliction of emotional distress are
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26 (1) extreme and outrageous conduct by the defendant, (2) intent to cause emotional distress or
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reckless disregard as to that probability, (3) severe emotional distress and (4) actual and proximate causation of the emotional distress. Branda v. Sanford, 97 Nev. 643, 648, 637 P.2d 1223, 1227 (1981), *citing* Star v. Rabello, 997 Nev. 124, 625 P.2d 90 (1981), *in turn, citing* Cervantes v. J.C. Penney, Inc., 24 Cal.3d 579, 156 Cal.Rptr. 198, 595 P.2d 975 (1979). Notably, a physical impact or injury, as opposed to an emotional one, has not necessarily been required to state a claim for intentional infliction of emotional distress. Sadler v. PacifiCare of Nevada, 130 Nev. 990, 997, 340 P.3d 1264, 1268 (2014), *citing* Nelson v. City of Las Vegas, 99 Nev. 548, 555, 665 P.2d 1141, 1145 (1983). With that said, a plaintiff must set forth “objectively verifiable indicia” to establish he “actually suffered extreme or severe emotional distress.” Franchise Tax Board of California v. Hyatt, 130 Nev. 662, 695, 335 P.3d 125 (2014), *vacated and remanded on other grounds*, Franchise Tax Board of California v. Hyatt, 578 U.S. 171, 136 S.Ct. 1277, 194 L.Ed.2d 431 (2016), *citing* Miller v. Jones, 114 Nev. 1291, 1299-1300, 970 P.2d 571, 577 (1998).

12. In Franchise Tax Board of California, 130 Nev. at 696-697, 335 P.3d 125, the Nevada Supreme Court specifically adopted the “sliding-scale approach” to proving a claim for intentional infliction of emotional distress, which is the increased severity of the conduct will require less in the way of proof that emotional distress was suffered. That is, under the sliding-scale approach, while medical evidence is one acceptable manner in establishing that severe emotional distress was suffered for purposes of an intentional infliction of emotional distress claim, other objectively verifiable evidence may suffice to establish the claim when the defendant’s conduct is more extreme, and thus, requires less evidence of the physical injury suffered. *Also see* Restatement (Second) of Torts §46, comments j and k (1977). “The intensity and the duration of the distress are factors to be considered in determining its severity. Severe distress must be proved, but in many cases the extreme and outrageous character of the defendant’s conduct is in itself important evidence that the distress has existed.” Restatement (Second) of Torts §46, comment j; *also see* comment k

1 (stating “if the enormity of the outrage carries conviction that there has in fact been severe emotional
2 distress, bodily harm is not required.”).

3 **13.** In this case, this Court concludes there remain genuine issues of material fact with
4 respect to MR. EGGLESTON’S intentional infliction of emotional distress claim. While CLARK
5 COUNTY and MS. STUART propose their actions were not extreme or outrageous, a jury could
6 find, *inter alia*, they did coerce MR. EGGLESTON into signing the temporary guardianship papers
7 by way of providing him misinformation and that removal of the children from the EGGLESTON
8 home fell outside the bounds of decency and violated MR. EGGLESTON’S right to parent his sons.
9 The jury could find such action to be so extreme and outrageous and that in itself is enough to show
10 these Defendants at the least acted in reckless disregard or intended Plaintiff to suffer severe
11 emotional distress. This Court also notes MR. EGGLESTON’S cause of action for intentional
12 infliction of emotional distress was not implicated by any administrative process, and further, the
13 issues raised in that claim were not decided on the merits in the October 13, 2023 decision rendered
14 by the First Judicial District Court. The intentional infliction of emotional distress cause of action is
15 not barred by the doctrine of claim or issue preclusion.

16 **14.** Moving Defendants propose they are entitled to immunity against MR.
17 EGGLESTON’S state law claims under NRS 41.032(2). NRS 41.032 states in salient part:

18 Except as provided in NRS 278.0233 no action may be brought under NRS 41.031 or against
19 an immune contractor or an officer or employee of the State or any of its agencies or political
20 subdivisions which is:

21 ...

22 2. Based upon the exercise or performance or the failure to exercise or perform a
23 discretionary function or duty on the part of the State or any of its agencies or political
24 subdivisions or of any officer, employee or immune contractor of any of these, whether or
25 not the discretion involved is abused.

26 **15.** In Martinez v. Maruszczak, 123 Nev. 433, 444-445, 168 P.3d 720, 728-729 (2007),
27 the Nevada Supreme Court noted NRS 41.032(2) mirrored the Federal Torts Claims Act (also
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1 referred to as “FTCA” herein) and reviewed federal precedence in analyzing claims of immunity
2 under state statute. The purpose of both the FTCA and Nevada’s waiver of sovereign immunity is
3 “to compensate victims of government negligence in circumstances like those in which victims of
4 private negligence would be compensated.” Martinez, 123 Nev. at 444, 168 P.3d at 727, *citing*
5 Harrigan v. City of Reno, 86 Nev. 678, 680, 475 P.2d 94, 95 (1970). Consistent with this purpose,
6 the United States Supreme Court has determined discretionary act immunity under the FTCA
7 necessarily protects only those decisions “grounded in social, economic, and political policy.”
8 Berkovitz v. United States, 486 U.S. 531, 537, 108 S.Ct. 1954, 100 L.Ed.2d 531 (1988), *quoting*
9 United States v. Varig Airlines, 467 U.S. 797, 814, 104 S.Ct. 2755, 81 L.Ed.2d 660 (1984). In
10 United States v. Gaubert, 499 U.S. 315, 325, 111 S.Ct. 1267, 113 L.Ed.2d 335 (1991), the nation’s
11 high court clarified the scope of federal discretionary-act immunity and set forth a two-part test.
12 Under this test, referred to as the *Berkovitz-Gaubert*, acts are entitled to discretionary-function
13 immunity if they meet two criteria: (1) the acts alleged to be negligent must be discretionary, in that
14 they involve an “element of judgment or choice.” Berkovitz, 486 U.S. at 536, 108 S.Ct. 1954, 100
15 L.Ed.2d 531.¹⁸ If the challenged conduct meets the first criterion because it involves an element of
16 judgment or choice, the court must consider the second criterion: “whether [the] judgment is of the
17 kind that the discretionary-function was designed to shield.” Gaubert, 499 U.S. at 322-323, 111
18 S.Ct. 1267, 113 L.Ed.2d 335, *quoting Berkovitz*, 486 U.S. at 536, 108 S.Ct. 1954, 100 L.Ed.2d 531.
19 The focus of the second criterion’s inquiry is not on the employee’s “subjective intent in exercising
20 the discretion conferred by statute or regulation, but on the nature of the actions taken and on
21 whether they are susceptible to policy analysis.” Gaubert, 499 U.S. at 325, 111 S.Ct. 1267, 113
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26 ¹⁸Under Nevada law, some acts that do not involve an element of judgment or choice may also be entitled to
27 immunity. See NRS 41.032(1) (proving no action may be brought “[b]ased upon an act or omission of [a state] officer,
28 employee or immune contractor, exercising that care, in the execution of a statute or regulation, whether or not such
statute or regulation is valid, if the statute or regulation has not been declared invalid by a court of competent
jurisdiction”).

1 L.Ed.2d 335. Thus, this Court need not determine if the government employee made a conscious
2 decision regarding policy considerations in order to satisfy the test's second criterion. Martinez,
3 123 Nev. at 446, 168 P.3d at 728.

4 **16.** Given the interplay between the criteria of the *Berkovitz-Gaubert* test discussed
5 *supra*, certain acts, although discretionary, do not fall within the discretionary-function exception's
6 ambit because they involve "negligence unrelated to any plausible policy objectives." Martinez, 123
7 Nev. at 446, 168 P.3d at 728, *quoting* Coulhurst v. United States, 214 F.3d 106, 111 (2nd Cir. 2000).
8 For example, a government employee who falls asleep while driving her car on official duty is not
9 protected by the exception because her negligent judgment in falling asleep "cannot be said to be
10 based on the purposes that the regulatory regime seeks to accomplish." Gaubert, 499 U.S. at 325
11 n.7, 111 S.Ct. 1267, 113 L.Ed.2d 335. Because the FTCA's discretionary-function exception is not
12 a bright-line rule,¹⁹ federal courts apply the *Berkovitz-Gaubert* test must assess cases on their facts,
13 keeping in mind Congress' purpose in enacting the exception: "to prevent judicial 'second-guessing'
14 of legislative and administrative decisions grounded in social, economic, and political policy through
15 the medium of an action in tort." Varig Airlines, 467 U.S. at 813, 104 S.Ct. 2755, 581 L.Ed.2d 660;
16 *also see* Caban v. United States, 671 F.2d 1230, 1233 (2nd Cir. 1982) (explaining the exception
17 "protects the principles embodied in the separation of powers doctrine by keeping the judiciary from
18 deciding questions consigned to the executive and legislative branches of the government"). Thus, if
19 the injury-producing conduct is an integral part of governmental policy-making or planning, if the
20 imposition of liability might jeopardize the quality of the governmental process, or if the legislative
21 or executive branch's power or responsibility would be usurped, immunity will likely attach under
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28 ¹⁹See Varig Airlines, 467 U.S. at 814, 104 S.Ct. 275, 581 L.Ed.2d 660 (noting it is "impossible...to define with
precision every contour of the discretionary function exception").

1 the second criterion. Martinez, 123 Nev. at 446, 168 P.3d at 729, *citing* Horta v. Sullivan, 4 F.3d, 2,
2 19 (1st Cir. 1993).

3 17. As set forth in Martinez, 123 Nev. at 446-447, 168 P.3d at 729, the Nevada Supreme
4 Court adopted the *Berkovitz-Gaubert* approach and clarified, to fall within the scope of
5 discretionary-act immunity, a decision must (1) involve an element of individual judgment or choice
6 and (2) be based on considerations of social, economic or political policy.
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8 18. Notably, the discretionary-act immunity does not apply to a government official's
9 intentional torts. Further, if the jury finds MS. STUART did, indeed, coerce MR. EGGLESTON
10 and the children's mother to sign the temporary guardianship papers under the guise Plaintiff would
11 see his children again in several days, such act would not fall within the considerations of social,
12 economic or political policy or meet the second criterion of the *Berkovitz-Gaubert* test. For these
13 reasons, this Court does not find, at this time, Defendants CLARK COUNTY and STUART are
14 entitled to the discretionary-act immunity set forth by NRS 41.032(2). In short, this Court denies
15 Defendants' motion as it seek summary judgment with respect to the intentional infliction of
16 emotional distress claim.
17

18 MR. EGGLESTON'S Claim for Defamation, Slander and Libel

19 19. To prevail on a defamation claim, a party must show (1) a false and defamatory
20 statement by defendant concerning the plaintiff, (2) an unprivileged publication to a third person, (3)
21 fault, amounting to at least negligence and (4) actual or presumed damages. Wynn v. Smith, 117
22 Nev. 6, 10-11, 16 P.3d 424, 427 (2001), *cited by* Neason v. Clark County, 352 F.Supp.2d 1131, 1141
23 (D.C. Nev. 2005); *also see* K-Mart Corp. v. Washington, 109 Nev. 1180, 1191, 866 P.2d 274, 281
24 (1993), *citing* Wellman v. Fox, 108 Nev. 83, 86, 825 P.2d 208, 210 (1992) ("To prevail on a
25 defamation claim, a party must show publication of a false statement of fact.").

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20. Here, MR. EGGLESTON alleged within his First Amended Complaint, p. 23, Defendants CLARK COUNTY and STUART “made verbal and written statements of and concerning Plaintiff: ...he was an unfit parent; ...he had neglected the Eggleston boys and other children; ...he had abused the Eggleston boys and other children; and...he had failed to protect the Eggleston boys from the actions of others, including, specifically, their mother.” In reviewing the evidence presented, this Court saw none to suggest these moving Defendants made the aforementioned verbal statements to any third persons, except perhaps within sworn deposition or court testimony. The written statements were contained in MS. STUART’S reporting and investigation, but there was no evidence presented moving Defendants published the information to third persons other than the Central Registry which was required under NRS 432B.310. That is, not all the elements of these torts have been shown. Further, and notwithstanding such defect, MS. STUART’S investigation and reporting was thereafter scrutinized and substantiated by the DFS Appeals Unit and the Administrative Hearing Officer. More importantly, the investigation and MS. STUART’S findings was judicially reviewed by the First Judicial District Court and the substantiation of the allegations of Physical Injury (Abuse)—Physical Risk by MR. EGGLESTON was determined proven by a preponderance of the evidence. That is, the issues relating to the falsity of MS. STUART’S reporting and statements alleged here were brought by MR. EGGLESTON in the previous action, they were decided on the merits and judicially reviewed by the district court. In short, not only does this Court conclude the elements of defamation, libel and slander were not met, the claims are barred by the doctrine of issue preclusion. This Court, therefore, grants the Motion for Summary Judgment filed by CLARK COUNTY and MS. STUART with respect to the defamation, libel and slander claims.

...

...

MR. EGGLESTON'S Prayer for Punitive Damages against MS. STUART

21. As set forth within his First Amended Complaint, p. 24, MR. EGGLESTON seeks a recovery of \$50,000,000 in punitive damages against all Defendants. NRS 42.005 addresses the award of punitive damages and states in pertinent part:

... in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud or malice, express or implied, the plaintiff, in addition to the compensatory damages, may recover damages for the sake of example and by way of punishing the defendant. Except as otherwise provided in this section or by specific statute, an award of exemplary or punitive damages made pursuant to this section may not exceed:

(a) Three times the amount of compensatory damages awarded to the plaintiff if the amount of compensatory damages is \$100,000 or more; or

(b) Three hundred thousand dollars if the amount of compensatory damages awarded to the plaintiff is less than \$100,000.

22. NRS 42.001 defines the particular conduct of the defendant which may subject him to the imposition of punitive damages:

As used in this chapter, unless the context otherwise requires ...:

1. "Conscious disregard" means the knowledge of the probable harmful consequences of a wrongful act and a willful and deliberate failure to act to avoid those consequences.

2. "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive another person of his or her rights or property or to otherwise injure another person.

3. "Malice, express or implied" means conduct which is intended to injure a person or despicable conduct which is engaged in with a conscious disregard of the rights or safety of others.

4. "Oppression" means despicable conduct that subjects a person to cruel and unjust hardship with conscious disregard of the rights of the person.

23. While the State of Nevada has waived immunity from liability and action, and consents to liability being determined in accordance with the same rules of law as are applied to civil actions against natural persons and corporations, such is limited to what is provided in NRS 41.032 through 41.038, inclusive, NRS 485.318(3) and any statute which expressly provides for governmental immunity. See NRS 41.031. NRS 41.035 specifically limits an award of damages sounding in tort brought under NRS 41.031 against a present or former officer or employee of the

1 State or any political subdivision, immune contractor or State Legislator arising out of an act or
2 omission within the scope of the person's public duties or employment to an amount not to exceed
3 \$200,000.00, exclusive of interest computed from the date of judgment, to or for the benefit of any
4 claimant. Such an award may not include any amount as exemplary or punitive damages.

5 **24.** The state's limitations on its waiver of immunity, however, does not apply to claims
6 brought under federal law, and specifically those brought for deprivation of constitutional rights
7 under Title 42 U.S.C. §1983. *See Eggleston*, 137 Nev. at 514, 495 P.3d at 491, *quoting N. Nevada*
8 *Association of Injured Workers v. Nevada SHS*, 107 Nev. 108, 115, 807 P.2d 728, 732 (1991)
9 ("[C]ivil rights violations...are hardly descriptive of acts that may be rationally included within the
10 prerogatives of an employee's official capacity.") The limitations of NRS 41.031 and NRS 41.035,
11 however, do apply to MR. EGGLESTON'S remaining state law cause of action for intentional
12 infliction of emotional distress.

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15 **25.** Moving Defendants propose MR. EGGLESTON has sued MS. STUART based upon
16 her official or governmental capacity and not her individual one, and thus, Plaintiff cannot recover
17 punitive damages as against her. This Court disagrees. As set forth *supra*, MR. EGGLESTON'S
18 opposing evidence shows MS. STUART arrived at his home with two armed police officers and
19 coerced him and the children's mother to sign temporary guardianship papers under the threat he
20 would not otherwise see his children again. If he did sign the papers, he would see his children in
21 the next several days. If the jury were to find in favor of MR. EGGLESTON on this point, MS.
22 STUART would be acting in her individual rather than official capacity. In that instance, MR.
23 EGGLESTON would not be limited in his recovery for punitive damages. *See Eggleston*, 137 Nev.
24 at 514, 495 P.3d at 491. Moving Defendants' Motion for Summary Judgment as it seeks exclusion
25 of MR. EGGLESTON'S prayer for punitive damages.
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...

Accordingly, based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED the Motion for Summary Judgment filed September 29, 2023 by Defendants CLARK COUNTY and GEORGINA STUART is granted in part, denied in part. The motion is granted as it seeks dismissal of MR. EGGLESTON'S Fourth Cause of Action for Defamation, Libel and Slander. It is also granted as it seeks to bar the re-litigation of DFS's finding of MR. EGGLESTON'S maltreatment of the minor children under the issue preclusion doctrine. It is denied as it seeks dismissal of MR. EGGLETON'S remaining two causes of action for deprivation of his constitutional rights under Title 42 U.S.C. §1983 and intentional infliction of emotional distress. It is also denied as it seeks total exclusion of the recovery for punitive damages as against MS. STUART.

Dated this 15th day of January, 2024



SUSAN JOHNSON, DISTRICT COURT JUDGE

8F6 9F4 1942 0C4D
Susan Johnson
District Court Judge

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 Steve Eggleston, Plaintiff(s) CASE NO: A-16-748919-C
7 vs. DEPT. NO. Department 22
8 Georgina Stuart, Defendant(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 1/15/2024

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If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 1/16/2024

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5 PLAINTIFF, IN PRO PER

6
7 DISTRICT COURT
8 CLARK COUNTY, NEVADA
9

10 STEVE EGGLESTON,

11 Plaintiff,

12 -vs-

13 GEORGINA STUART; CLARK COUNTY,
14 NEVADA; LISA CALLAHAN; BRIAN
15 CALLAHAN; AND DOES 1 THROUGH 100,
16 INCLUSIVE,

17 Defendants.

CASE NO. A-16-748919-C
DEPT NO. VIII

FIRST AMENDED COMPLAINT
FOR CIVIL RIGHTS VIOLATIONS,
CHILD ABDUCTION,
CONSPIRACY,
DEFAMATION

18 JURISDICTION

19 1. At all relevant times, Plaintiff STEVE EGGLESTON (Plaintiff or "Eggleston") resided in
20 Clark County, Nevada, and was the natural father of two young boys, Minor Son 1 (now 6 years
21 of age), and Minor Son 2 (now 5 years of age) (collectively "the Eggleston Boys").

22 2. At all relevant times, unless otherwise alleged, Defendant GEORGINA STUART was an
23 individual employed by Defendant CLARK COUNTY, NEVADA, serving as a Senior Family
24 Services Specialist with the CLARK COUNTY DEPARTMENT OF FAMILY SERVICES,
25 CHILD SUPPORT SERVICES DIVISION. On information and belief, in partial response to the
26 allegations herein, she was transferred to a different position.

27 3. At all relevant times, Defendant CLARK COUNTY was a county in the State of Nevada.
28

1 4. On information and belief, at all relevant times, Defendants LISA CALLAHAN and
2 BRIAN CALLAHAN are individuals living in the State of Illinois in the greater Chicago area.

3 5. At all relevant times, Laura Battistella ("Battistella") was the natural mother of the
4 Eggleston Boys as well as four children from her previous marriage ("the Rodriguez Children"),
5 of which two were pre-teens ("the Rodriguez Pre-Teens") and two were teenagers ("the
6 Rodriguez Teens").

7 6. At all relevant times, until early January 2015, Eggleston and Battistella lived in the same
8 single-family dwelling ("the Family Home") in Clark County, Nevada, together with the
9 Eggleston Boys and some combination of the Rodriguez Children (first all four, then the oldest
10 departed to college, then the second oldest returned to Chicago to live with the Callahan
11 defendants).

12 FACTUAL ALLEGATIONS

13
14 7. On information and belief, in early December 2014, one of the teenage Rodriguez
15 Children visiting from the Chicago area called 911, reporting that her mother, Battistella, had
16 spoken words of suicidal ideation.

17 8. Thereafter, an emergency response team arrived at the Family Home and, on information
18 and belief, took Battistella to an emergency mental healthcare facility, where she was checked in
19 for suicide watch.

20 9. On information and belief, Battistella had no prior history of attempted suicide or suicidal
21 ideation. She later denied having any suicidal desires, saying her words were just a figure of
22 speech expressing her being upset.

23 10. On information and belief, thereafter Defendant GEORGINA STUART arrived at the
24 Family Home purportedly to conduct an investigation, though she did not tell Plaintiff the
25 purpose for her visit. It appeared to be a routine follow-up where minor children lived in the
26 home to ensure another adult was present.
27
28

1 11. On information and belief, no allegations of abuse or neglect were made to Defendant
2 GEORGIAN STUART, Defendant CLARK COUNTY, or any other County employee against
3 Plaintiff or as to the Eggleston Boys. At all relevant times, Plaintiff was led to believe Stuart's
4 visit was protocol following any mental healthcare response of a parent with children,

5 12. At all times, Plaintiff was a fit parent and fully capable of taking care of and raising sons,
6 the Eggleston Boys.

7 13. On or about Christmas eve, December 24, 2014, Defendant GEORGINA STUART
8 interviewed Plaintiff for a very short time in the Family Home. No suggestion of any kind was
9 made that any of the children were in any kind of danger, that there had been any abuse or
10 neglect of any of the children, that Plaintiff being investigated as being abusive or neglectful, or
11 that he ever had been or was unfit to have custody over and raise his sons.

12 14. Battistella was released on Christmas Day and returned to the Family Home, where the
13 remainder Plaintiff and the children were all present. Thereafter, on exact dates known to the
14 COUNTY and STUART defendants, and contained in their records, Defendant GEORGINA
15 STUART returned to the Family Home. At that time, Defendant GEORGINA STUART
16 appointed Plaintiff and the oldest Rodriquez child supervisory guardians of the children.
17 Plaintiff signed a document making this appointment official and defining his obligations, which
18 he at all times fulfilled. Further, no suggestion was ever made to Plaintiff that he had in any way
19 failed to fulfil his obligations under this appointment.
20

21 15. During the same visit, among other things, Defendant GEORGINA STUART asked
22 Plaintiff to take a baseline Drug and Alcohol test in the next few days, indicating it was part of
23 the established protocol. Plaintiff agreed and did so, and promptly thereafter, on information and
24 belief, Defendants GEORGINA STUART and CLARK COUNTY received delivery of
25 Plaintiff's test results showing he was not using or abusing alcohol or drugs.
26

27 16. Over the holidays and into the new year, Defendant GEORGINA STUART returned to
28 the Family Hone on several occasions. During one visit, she represented that she was involved

1 in a "brand new program" that was funding situations like that of the Eggleston-Battistella
2 family, that she had recommended the family for inclusion in the program, and that, if Plaintiff
3 and Battistella agreed to participate in the program, a team of professionals would help
4 accomplish the well-being of the family in light of Battistella's perceived condition. Defendant
5 GEORGINA STUART specifically asked Plaintiff if he was willing to participate, as he had
6 expressed to her that he was seriously considering the option of immediately moving from the
7 Family Home and taking the Eggleston Boys with him in light of everything that had transpired.

8 17. Plaintiff and Battistella counselled, ministered and considered Defendant GEORGINA
9 STUART's proposal, then agreed to accept it, committing to make best efforts to keep the family
10 together. Thereafter, they promptly informed Defendant GEORGINA STUART that they would
11 participate in the program. Whether and to what degree the program was a county, state or
12 private program is known to Defendant and, on information and belief, contained in records that
13 have never been disclosed or shown to Plaintiff.
14

15 18. Soon thereafter, Defendant GEORGINA STUART (a) informed Plaintiff that he and
16 Battistella had been approved for the program, (b) returned to the Family Home with a team of
17 professionals (about a half dozen in all) that would be working with them under the new
18 program, and (c) confirming expressly that they had been accepted into the program and would
19 be the first family to kick it off.

20 19. Oddly, on one visit, Defendant GEORGINA STUART pulled Plaintiff aside and
21 whispered to him words to the effect, "This is an important new project. A lot of money is
22 involved. Do not let us down." Plaintiff assured her that they would do their best. Thereafter,
23 Plaintiff expressly sought assurance from Defendant GEORGINA STUART that she was
24 authorized to admit them into the family program, that he could rely upon and make important
25 decisions based on her representations, to which she promptly replied that she had full authority
26 and they such reliance was warranted. At no time did she remotely suggest that further approval
27 by anyone would be required.
28

1 20. Defendant GEORGINA STUART then scheduled an appointment to start the program
2 with Plaintiff, Battistella, the Eggleston Boys and the minor Rodriguez children on or about
3 January 6, 2015, commencing with a meeting scheduled at the Family Home at about 1:00 pm, at
4 which the team previously introduced would begin their work. Toward this end, she indicated
5 she needed everyone to be home to meet the official team and establish protocols for going
6 forward. In this connection, over the holidays, Defendant LISA CALLAHAN, Battistella's
7 sister, had arrived from Indiana, or somewhere in the greater Chicago area, purportedly to assist
8 the family in their time of need over the holidays by helping watch the children and supporting
9 her sister.

10 21. During this time, there was no suggestion, mention or discussion of any kind with
11 Plaintiff that Defendant GEORGINA STUART or anyone else believed or had expressed the
12 belief that the children had been subject to any kind of neglect or abuse or were in imminent risk
13 thereof, or that Plaintiff was not a fit parent. Indeed, Plaintiff's youngest son had been in the
14 hospital for several days, having suffered from a burst appendix when the diagnosis was
15 originally missed by the first hospital to which he had been taken several times for an upset
16 stomach.

17 22. In the course of the foregoing visits, Defendant GEORGINA STUART represented that
18 Clark County would assist with their rent for January 2015 (over \$2000), and that Plaintiff would
19 count on (i.e., rely upon) that commitment in adjusting his December work schedule, so that
20 Plaintiff could be with the family during these hard times – with Battistella in rehabilitation and
21 his youngest son in the hospital - and concentrate on commencing the new program and making
22 it a success. Pursuant thereto, on January 2, 2015, Plaintiff sent this email to Defendant
23 GEORGINA STUART:
24 "Hi Georgina!
25 I'm checking in via email so you have my online information. It's listed below.
26
27
28

1 Laura said she attended AA yesterday and Lisa (who attended with her) says she did well.
2 Already I can hear in Laura the voice of the person I fell in love with and the mom the kids know
and love. It would be wonderful to have her back.

3 Little [youngest son] is struggling [because of his burst appendix], which is a complicating
4 emotional layer, but [oldest daughter] and Laura have stayed at the hospital with him
throughout. I visit and hold his hand once or twice a day, while trying to keep the battleship
5 Egglestella (as we call it - Eggleston / Battistella, Laura's maiden name) afloat. [Youngest son] is
daddy's man.

6 Laura confirmed a few minutes ago she's planning to get her Baseline test today, and I'm
7 planning to do the same when I visit [my youngest son] and am on that side of town later today.
8 We are limited of course by having one car between me, Laura, [and the two teenage girls who
are visiting for the holidays]. At least Lisa has a rental and has been able to take the kids the last
two nights.

9 I wanted to confirm that a rent check will be arriving at the house today. It should be made
10 payable to [name of the landlord], who owns the house and is our landlord. We deposit the
check directly into his account at Bank of America. Sometimes he asks us to deposit cash, but he
11 has not done so this month.

12 You indicated the check (amount \$2035) will be delivered to the house today. Can you possibly
13 let me know what time the delivery will arrive so I can be sure to be here to receive it? If by
chance no one is here, can it be left under the mat at the front door? Let me know if there's a
14 protocol to follow.

15 Your involvement and the new program are a Godsend. Thank you.

16 Sincerely, Steve."

17
18 23. On January 5, 2015, Plaintiff emailed Defendant GEORGINA STUART as follows,
19 confirming delivery of the information she had requested pursuant to the program:

20 "Hi Georgina!

21 I'm attaching the following:

- 22 1. My bank statement for the last 90 days.
- 23 2. My pay stub for teaching at Sanford Brown College - IADT. I get this every 2 weeks but not
for the holidays as the students are off and I only get paid for classes taught. This will renew
24 mid-month in January, as classes start again this week (I teach 8 hours Tuesdays and Thursdays
this term.)
- 25 4. Receipts showing rent payments for Sept-Nov 2014. I could not find the Dec receipt and must
have misplaced it in all the chaos. It was paid, however, and it was paid on time.
- 26 5. A large wire transfer from 7/18 showing I do get paid in chunks on the management side of
my business from time to time.
- 27 6. A current artist contract for [artist] for \$3,000. He could only pay \$1000 in December (which
went toward bills and auto repair) but despite its language the second payment will not be here
28 until the 3rd or 4th week of January due to cash flow issues on his end.

1 Also, I have an annual contract with [another artist] for \$5,000 which he says he will renew on
2 2/1. He has the option of paying it over the next 6 months, or in a discounted lump sum of
3 \$4,000, which is how he paid last year. That is probable to occur, so by mid-January we should
4 be back on our feet beginning with my teaching check.

5 Laura's contribution is \$300 more or less every two weeks (she's at the hospital and thus far I've
6 been unable to find her stubs), for a total of \$600 more or less, plus daily tips of \$20-40 (she
7 works 4 days per week, 30 hours per week total).

8 I have printed hard copies that I'll give to you at our meeting. Steve."

9 24. Later that same day, Plaintiff emailed Defendant GEORGINA STUART again:

10 "I found this Chase bank statement for Laura showing direct deposits on this card (she does not
11 have an actual account, just a debit card for direct payment), of \$381 on 9/23 and \$356 on 10/7.

12 This is typical of each month except of course this December 2014. Steve."

13 25. On or about January 6, 2015, the very morning of the scheduled first meeting of the first
14 day of the program, Plaintiff sent yet another email to Defendant GEORGINA STUART:

15 "Hi Georgina, here's my address (texted as well): Sanford Brown College/IADT, 2495 Village
16 View Drive, Henderson, NV 89074. They can leave it under my name at the front desk, or call
17 me at 702-772-3286 and I'll come down. Thanks! Steve."

18 26. On or about the afternoon of January 6, 2015, at about 1:00 p.m., Plaintiff and Battistella
19 were at the family house as scheduled and waiting anxiously for Defendant GEORGIAN
20 STUART to arrive with her team to kick off the new program and help them keep the family
21 together. Instead, here's what happened:

22 (a) Defendant GEORGINA STUART arrived at the Family Home with two armed
23 police officers wearing highly visible, HIP-holster guns, Defendant LISA CALLAHAN and
24 several other people whose role and reason for being there was not defined. On information and
25 belief, this was not the team who visited earlier or who had been previously selected to help the
26 family.

27 (b) Defendant GEORGINA STUART, policemen at her side, entered the Family
28 Home and announced to Plaintiff and Battistella in these words or words to this effect: "Either

1 you sign temporary guardianship of all the children over to Lisa *right now* or the police are
2 taking your children into custody *right now* and you will *never* see them again.”

3 (c) Battistella, after the import of the words set in, started screaming and crying and
4 ran into the back yard, utterly devastated, followed by one of the policemen as the other
5 policeman stood sentry at the back store, blocking any exit, with his hand on his pistol indicating
6 he was prepared to draw and use it at a moment's notice.

7 (d) The announcement came as a total shock. When Plaintiff asked what happened to
8 the program, Defendant GEORGINA STUART indicated the family would not be participating
9 in the program. She stated that her supervisory had overridden her decision at the last moment.
10 No further explanation was given, the family was not put into the program, and no rental
11 assistance was provided. No was any explanation given as to why the program had anything to
12 do with Plaintiff's continued custody of his sons.

13 (e) On information and believe, and as more specifically alleged in the Second Cause
14 of Action, Defendants GEORGINA STUART, LISA CALLAHAN, and others had conspired to
15 cause the abduction of the Eggleston boys without probably cause in and violation of the civil
16 rights of Plaintiff and each of his sons, as evidenced, inter alia, by presenting temporary
17 guardianship papers that Plaintiff was told to sign or else face the permanent taking and removal
18 of his sons.

19 (f) As Battistella screamed in the background, Defendant GEORGINA STUART and
20 one or both of the police officers (depending on the exact moment, as it was in the manner of a
21 tag team) repeatedly threatened Plaintiff with the immediate removal of his children if he did not
22 sign “now.” This happened even after Plaintiff stated that he needed to call his family law
23 attorney, specialist Emily McFarling, Esq., “right now.” One police officer repeated several
24 times that Plaintiff did not have time to call anyone, that “you need to sign right now or your
25 children will be taken,” or words to this effect, all the while with the heel of his hand on his butt
26 of his pistol.
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1 (g) Notwithstanding the authorities intimidating him, Plaintiff excused himself to his
2 home office, where he was able to reach his attorney, Emily McFarling, Esq., on his mobile, and
3 then insist that Defendant GEORGINA STUART talk to her, which she did. On information and
4 belief, during this conversation, Defendant GEORGINA STUART expressly represented to
5 Attorney McFarling that, if Plaintiff signed the temporary guardianship papers, so as to allow
6 time to get Battistella out of the house and into a resident treatment program, the Eggleston Boys
7 would be returned to him in several days.

8 (h) Though under coercion and duress, Plaintiff pulled Defendant LISA CALLAHAN
9 aside to his home office to discuss the potential temporary guardianship. At that time, Plaintiff
10 expressly informed Defendant LISA CALLAHAN that he was signing under coercion and duress
11 and that she had no permission to remove the Eggleston Boys – not from the Family Home, not
12 from the County and not from the State of Nevada. She stated she understood.

14 (i) Soon thereafter, Plaintiff and Battistella, accompanied by Defendant LISA
15 CALLAHAN, signed a previously-prepared temporary guardianship form in front of nearby
16 notary in order to prevent the police from removing the children “right now” and causing him to
17 never see the Eggleston Boys again. This document was signed under duress by Plaintiff and
18 never, to his information and belief, signed by the CALLAHAN Defendants.

19 (j) Within the hour, the Family Home was empty, except for Plaintiff. Everyone was
20 gone, and he was standing there alone, his boys taken and his life in shambles.

21 (k) All of her belongings left behind, Battistella never returned to the Family Home.
22 On information and belief, she was put on a plane to Colorado to stay with her Aunt and her
23 whereabouts were secreted from Plaintiff. As a result, Plaintiff would not learn for weeks that
24 Battistella had been permanently relocated, leaving Plaintiff to handle all the bills and
25 maintenance and somehow carry on.
26

27 (l) Despite her assurance to the contrary, Defendant LISA CALLAHAN abducted
28 and removed the Eggleston Boys from the county and the state and, on information and belief,

1 together with Defendant Brian Callahan, hide them at their apartment in Indiana (or the greater
2 Chicago area), neither contacting Plaintiff nor disclosing the whereabouts or condition of the
3 Eggleston Boys to him.

4 (m) On information and belief, neither Defendant LISA CALLAHAN nor Defendant
5 BRIAN CALLAHAN ever signed or notarized the temporary guardianship document as required
6 by the legal recitations on the document and as required by Nevada law, such that the
7 guardianship document was *void ab initio* and never took legal effect, separate and apart from
8 and in addition to the duress, coercion and fraud previously described.

9 (n) At all times, on information and belief, the removal of the Eggleston Boys
10 constituted an unlawful and malicious abduction, on one level no different in import than a child
11 kidnapping by a total stranger.

12 (o) At all times, on information and belief, the actions of Defendant GEORGINA
13 STUART, Defendant CLARK COUNTY, and the police constituted a de facto custodial taking
14 of the Eggleston Boys, triggering all the constitutional and legal rights that would be triggered
15 had the police taken the boys into direct custody and whisked them away in the back of their
16 police cars.

17 (p) Several weeks later, Plaintiff's attorney, Emily McFarling, Esq., spoke to
18 Defendant GEORGINA STUART by phone over the status of her investigation and the return of
19 the Eggleston Boys. Among other things, Defendant GEORGINA STUART represented to
20 McFarling that she had no objection to Plaintiff resuming immediate custody of the Eggleston
21 Boys, and expressly confirmed that no Report of abuse or neglect would be issued against
22 Plaintiff, indicating expressly that the "file would soon be closed."

23 (q) After speaking to Defendant Georgian Stuart, Attorney McFarling served the
24 Callahan Defendants with notice of objection to the abduction of the Eggleston Boys and
25 expressly revoked any temporary guardianship of the Boys, as expressly allowed by statute even
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1 if the document had been properly and voluntarily signed and notarized by all parties, which it
2 was not, as previously alleged.

3 (r) On information and belief, in contravention of her representations to Attorney
4 McFarling, and as further alleged in the Second Cause of Action, Defendant GEORGINA
5 STUART and other DOE Defendants, in furtherance of the conspiracy, caused to issue a false
6 report that Plaintiff had subjected the children to abuse or neglect or imminent threat thereof, a
7 so-called failure to protect, when in fact he was at all times a fit parent and such report was not
8 warranted or justified on any grounds, among them, to wit:

9 (1) Defendant GEORGINA STUART never inquired of Plaintiff about his fitness as a
10 parent, and never suggested to him that his children were subject to allegations of abuse or
11 neglect by anyone, much less him or his failure to protect them against others;

12 (2) Defendant GEORGINA STUART never contacted or spoke to any person with
13 actual personal knowledge of the manner in which the children were being raised and taken care
14 of, including neighbors who entrusted their children with Plaintiff and Battistella, friends and
15 clients;

16 (3) Defendant GEORGINA STUART never contacted the doctors for any of the
17 children, which doctors would have told her that there was no history and no signs of anything
18 abnormal for any of the children, as indeed there wasn't;

19 (4) Defendant GEORGINA STUART never contacted any of the teachers or child
20 care minders who taught and watched the children regularly, which individuals would have
21 indicated no problems of abuse or neglect with the children; and

22 (5) Defendant GEORGINA STUART did no due diligence on Plaintiff, his
23 accomplishments and capabilities, nor Defendants LISA or BRIAN CALLAHAN, including
24 inquiry into potential elder abuse or neglect by Defendant LISA CALLAHAN, of her own
25 mother and failure to properly raise her own teenage daughter.
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1 (s) Unbeknown to Plaintiff at the time of filing, on information and belief, several
2 months later the CALLAHAN Defendants secretly filed a legal action for guardianship of the
3 Eggleston Boys in an Illinois state court, falsely and fraudulently representing among other
4 things that Plaintiff and Battistella had consented to her temporary guardianship, that she had
5 custody of the children with the approval, consent, and blessing of Defendants GEORGINA
6 STUART and CLARK COUNTY, that the temporary guardianship was legal and valid, and that
7 Plaintiff had been determined by Defendants GEORGINA STUART and CLARK COUNTY to
8 be unfit as a parent.

9 (t) Not knowing of the above filing at the time, as he had not been notified of the
10 proceedings, named or served, Plaintiff filed for paternity, physical and legal custody of the
11 Eggleston Boys in Clark County District Court, the only proper forum for jurisdiction of the
12 custody of the Eggleston Boys, and obtained an Order confirming paternity, determining Plaintiff
13 was a fit father, and awarding him full legal and physical custody of the Boys ("Custody Order").
14

15 (u) Plaintiff, through legal counsel McFarling and directly, promptly served that
16 Custody, Paternity and Fitness Order on the CALLAHAN Defendants and repeatedly demanded
17 return of the Eggleston Boys. This demand was ignored. The Boys were never returned.

18 (v) From the time the Eggleston Boys were abducted on or about January 6, 2015,
19 Plaintiff has been allowed to see his sons only once, for about 30 minutes, at a hearing in Will
20 County, Illinois, which had been initially concealed from him by the CALLAHAN Defendants
21 but which had been revealed to Battistella by one of her minor daughters when Battistella had
22 been flown there to visit her children for Mother's Day 2015.

23 (w) Except for that one occasion, on information and belief, the CALLAHAN
24 Defendants, aided, abetted and assisted by Defendants GEORGINA STUART and CLARK
25 COUNTY, as well as family members and others whose names and involvement are not
26 currently known, in abducting, concealing, and exercising custody of the Eggleston Boys to the
27 wrongful and unlawful exclusion of Plaintiff, their father, without legal or moral cause, in
28

1 violation of the federal and state Constitutions, civil laws, criminal laws, Plaintiff's fundamental
2 right as a father and parent, the Eggleston Boys' fundamental rights as children, Plaintiff's Civil
3 Rights, and the aforesaid Clark County Court Custody Order.

4 (x) Though the CALLAHAN Defendants allowed Plaintiff occasional weekly phone
5 calls with the Eggleston Boys beginning in the summer of 2015, Plaintiff was cut off without
6 justification or any explanation of any kind in January 2016. Plaintiff has not heard from, talked
7 to, or seen his sons since that time, the last statement being made to him by his oldest son, "dad,
8 do you remember the good old days?" That was about twenty months ago from the date of this
9 First Amended Complaint.

10 FIRST CAUSE OF ACTION

11 (Civil Rights – Violation of 42 U.S.C. section 1983 – Defendants GEORGINA STUART,
12 CLARK COUNTY, and Does 1 through 60, inclusive)

13
14 27. Plaintiff incorporates by reference as if set forth herein all previous allegations.

15 28. On information and belief, at all times relevant to this Cause of Action, Defendant
16 CLARK COUNTY exercised power possessed by virtue of state law and Defendant
17 GEORGINA STUART, as an employee of Defendant CLARK COUNTY, acted under color of
18 state law.

19 29. On information and belief, at all times relevant to this Cause of Action, the conduct
20 alleged herein by Defendant CLARK COUNTY and Defendant GEORGINA STUART resulted
21 from actions taken on the part of a government entity that implemented or executed a policy
22 statement, ordinance, regulation, or decision officially adopted and promulgated by that body's
23 officers, or the result of the entity's custom, the custom and policy being a moving force behind
24 the deprivation of Plaintiff's rights, damages and request for relief alleged herein, including but
25 not limited to the following:

26
27 (a) With indifference to an obvious need, and knowing this indifference would likely
28 result in a CLARK COUNTY employee making a wrong decision, with regard to the actions

1 alleged herein, Defendant CLARK COUNTY failed to train its employees on responses to
2 suicide ideation, situations where one parent was allegedly unfit and one parent was fit to be a
3 parent over young children, and/or situations where two unmarried parents lived together with
4 children from different parents, the one living at the home being fit, among other things;

5 (b) At no time was neglect of, abuse of, or failure to protect the Eggleston boys made,
6 such that Defendant CLARK COUNTY and Defendant GEORGINA STUART fabricated and
7 made up the existence of the making of such a report to justify their wrongful, illegal and
8 unconstitutional actions as alleged herein;

9 (c) Defendant CLARK COUNTY and Defendant GEORGINA STUART failed to
10 disclose and explain any allegations or reports of child abuse or neglect to Plaintiff, and/or
11 alleged failure to protect, thereby depriving him of notice and any fair opportunity to respond
12 and provide convincing, irrefutable evidence that he was a fit parent, in addition to the evidence
13 thereof already in their custody;

14 (d) Defendant CLARK COUNTY and Defendant GEORGINA STUART failed to
15 properly investigate any such allegations or report, including but not limited to:

16 (1) failing to properly and competently interview Plaintiff as to Plaintiff's fitness
17 as a parent and the fact the Eggleston Boys were never subject to abuse or neglect or under
18 imminent threat thereof (e.g., Defendant GEORGINA STUART interviewed Plaintiff only once,
19 for approximately 15 minutes the day before Christmas while she was in a big hurry to leave,
20 interviewed Plaintiff only about Battistella's condition and not the children, and never once
21 suggested Plaintiff was unfit as a parent or that any of the children were subject to abuse or
22 neglect or under imminent threat thereof; and other material witnesses which she made no effort
23 to even contact);

24 (2) failing to contact material witnesses as to the ongoing proper care received by
25 the Rodriguez children and the Eggleston Boys over the preceding days, months, and years (and
26 corresponding utter and total lack of abuse or neglect), including neighbors who customarily
27
28

entrusted their children with Plaintiff and Battistella (and vice-versa), family friends who visited the house, teachers and parents of students from the school attended by the Rodriguez children, and doctors who saw and treated all of the children (there never, ever being any documentation or suggestion of abuse or neglect by any of them);

(3) failing to conduct any due diligence as to the significant unfitness as custodians of the Callahan Defendants to whom Plaintiff was coerced to give custody of the Eggleston Boys under threat of unlawful removal (e.g., strong evidence exists that Defendant Lisa Callahan committed elder abuse of her mother when she was suffering from Alzheimer's disease, that she evidenced significant irresponsibility in managing her mother's care, and that she had made clearly inappropriate decisions adversely affecting her mother's health and well-being, and that she had raised her only daughter with such little guidance and care that she became pregnant as a teenager from an alleged gangbanger).

(e) Defendant GEORGINA STUART concealed material facts about her investigation and intentions from Plaintiff, with the purpose of depriving him of the opportunity and ability to protect his fundamental parental rights and protect the Eggleston Boys from wrongful removal, all as part of an ongoing custom and practice of abusing her power and authority and taking actions designed, not to advance the best interests of parents, children and families, but rather, to enhance the budgets and monetary allocations to Defendant CLARK COUNTY, i.e., Defendants CLARK COUNTY and Defendant Stuart put budget money and their own job security over the health and welfare of families and children;

(f) After misleading Plaintiff, Defendant GEORGINA STUART implemented an "Ambush Strategy," as alleged above, complete with law enforcement officers looking ready to draw their guns, with the purpose of depriving him of the opportunity and ability to protect his fundamental parental rights and protect the Eggleston Boys from wrongful removal, all as part of an ongoing custom and practice of abusing her power and authority and taking actions designed, not to advance the best interests of parents, children and families, but rather, to enhance the

1 budgets and monetary allocations to Defendant CLARK COUNTY, i.e., Defendants CLARK
2 COUNTY and Defendant Stuart put budget money and their own job security over the health and
3 welfare of families and children;

4 (g) Defendant Georgian Stuart misrepresented her authority to offer and promise
5 Plaintiff rent assistance and enter into the program with Plaintiff and Battistella by, among other
6 things, falsely representing to Plaintiff that she had the authority both to commit the rental funds
7 and put them in the new program (e.g., Plaintiff specifically asked Stuart if she had the authority
8 to make these representations, to which she said she did, asked her if a Supervisor needed to
9 approve it, to which she said he/she did not, and reaffirmed that he could rely on her since he
10 was turning down work to help watch the children, to which she said he could);

11 (h) On information and belief, on the night of January 5, 2015, Defendant GEORGINA
12 STUART's Supervisor overrode her promises and agreement to provide Plaintiff rental
13 assistance and enter them into the new program, causing Stuart to take actions designed to cover
14 up her misrepresentations and misdeeds and abuse her power and authority and take actions
15 designed, not to advance the best interests of parents, children and families, but rather, to
16 enhance the budgets and monetary allocations to Defendant CLARK COUNTY, and to protect
17 the funding of the new program and, therefore, the jobs and entitlements of both herself and her
18 Supervisor in times of state and county budgetary pressure and crisis;

19 (i) On information and belief, scrambling to cover her tracks and/or those of here
20 Supervisor, to protect the new program and to avoid potential legal liability, among other things
21 known to the CLARK COUNTY and Stuart Defendants, Defendant GEORGINA STUART
22 decided to execute the "Ambush Plan" plan to cover-up her misfeasance and malfeasance in
23 handling the situation, knowing in most cases the "Ambush Plan" would crush the family
24 emotionally and financially and thus render them unable to protect their legal rights or those of
25 the children in question, whose rights, health, and well-being would be substantially and
26 permanently injured;

1 (j) On information and belief, Defendants CLARK COUNTY and Stuart employed a
2 known, unconstitutional method of coercing parents into signing over temporary custody to third
3 parties when removing the children was not warranted or justified, so as to cover their tracks,
4 accomplish unconstitutionally and illegally what could not be accomplished constitutionally and
5 legally, all as part of an ongoing custom and practice of abusing power and authority and taking
6 actions designed, not to advance the best interests of parents, children and families, but rather, to
7 enhance the budgets and monetary allocations to Defendant CLARK COUNTY in difficult
8 financial times, i.e., Defendants CLARK COUNTY and Defendant Stuart put budget money and
9 their own job security over the health and welfare of families and children;

10 (k) On information and belief, on or about January 6, 2016, Defendant CLARK
11 COUNTY and Defendant GEORGINA STUART exercised custody over the Eggleston boys,
12 used the power and intimidation of Clark County police officers to carry out their plan and
13 scheme, and otherwise coerced Plaintiff into involuntarily signing a guardianship document
14 making the Callahan Defendants guardians of the Eggleston boys, without any just or probably
15 cause, exigent circumstances, emergency or other valid constitutional and legal reason, other
16 than an abuse of power and Plaintiff's rights, including fundamental parental rights, as alleged
17 herein; and

18 (l) On information and belief, Defendant CLARK COUNTY and Defendant Georgian
19 Stuart issued and/or caused to be issued a written report against Plaintiff accusing him of neglect,
20 abuse and/or failure to protect the Rodriguez children, over whom he didn't even have custody,
21 and Eggleston boys, over whom he did, said report containing false, fraudulent and misleading
22 allegations against Plaintiff and drawing conclusions not warranted or justified by the allegations
23 made.
24

25
26 30. On information and belief, as a legal and proximate result of the foregoing, Plaintiff was
27 denied his fundamental, constitutional right of parenthood and fatherhood, has been irreparably
28 damaged by the deprivation of raising his sons and sharing their love and joy, experienced

1 extreme and severe pain, suffering, and bodily injury (including loss of sleep, nightmares,
2 headaches, etc.), suffered extreme and severe emotional distress, incurred substantial financial
3 losses and injuries, and such other and further injury and damages according to proof but which
4 exceed the jurisdictional minimum of this court.

5 31. On information and belief, said Defendants acted with fraud, oppression, malice and a
6 malignant heart in violating Plaintiff's rights, abusing its position of public trust, permanently
7 scarring the Eggleston Boys, including callously depriving them of their love and familiar
8 relationship with their father, and undermining the proper working of a free and democratic
9 country.

10 Accordingly, Plaintiff prays for relief as hereinafter set forth.

11 SECOND CAUSE OF ACTION

12 (Civil Rights – Conspiracy, Aiding and Abetting Violation of 42 U.S.C. section 1983 – All
13 Named Defendants and Does 1 through 50, inclusive)
14

15 32. Plaintiff incorporates by reference as if set forth herein all previous allegations, including
16 specifically those set forth in paragraph 29(a) through (I), inclusive, of the FIRST CAUSE OF
17 ACTION.

18 33. On information and belief, on the days leading up to January 6, 2015, and prior to the
19 aforesaid abduction of the Eggleston Boys, Defendant GEORGINA STUART met repeatedly in
20 person, spoke by phone, and/or communicated via email, SMS text and other online media, with
21 other employees of Defendant CLARK COUNTY and DOES 1 through 10, inclusive, about
22 Plaintiff, the Eggleston boys, Battistella, The Rodriguez children, and the CALLAHAN
23 Defendants, and by and through these contacts, planned and plotted the details of how, among
24 other things, the Eggleston Boys would be abducted and removed from Plaintiff's custody
25 unlawfully and in violation of his civil rights and theirs, including but not limited to the aforesaid
26 "Ambush Plan," the engagement of policeman wearing weapons, the use and preparation of the
27 aforesaid temporary custody forms, the unlawful threats and coercion that would be made, the
28

1 lies and misrepresentations that would be told, and the unlawful removal of the Eggleston Boys
2 from Clark County and the State of Nevada over Plaintiff's presumed objection ("the Planned
3 Abduction").

4 34. On information and belief, also on the days leading up to January 6, 2015, and prior to
5 the aforesaid abduction of the Eggleston Boys, Defendant GEORGINA STUART met repeatedly
6 in person, spoke by phone, and/or communicated via email, SMS text and other online media,
7 with the CALLAHAN Defendants and DOES 11 through 20, inclusive, about Plaintiff, the
8 Eggleston boys, Battistella, The Rodriguez children, the Ambush Plan, and the Planned
9 Abduction, and by and through these contacts, planned and plotted the details of how, among
10 other things, the Eggleston Boys would be abducted and removed from Plaintiff's custody
11 unlawfully and in violation of his civil rights and theirs, including but not limited to the aforesaid
12 "Ambush Plan," the engagement of policeman wearing weapons, the use and preparation of the
13 aforesaid temporary custody forms, the unlawful threats and coercion that would be made, the
14 lies and misrepresentations that would be told, and the unlawful removal of the Eggleston Boys
15 from Clark County and the State of Nevada over Plaintiff's presumed objection ("the Planned
16 Abduction").

17
18 35. On information and belief, as a result of the aforesaid contacts, Ambush Plan and Planned
19 Abduction, among other things, Defendants GEORGINA STUART, CLARK COUNTY, Lisa
20 Callahan, Brian Callahan, and Does 1 through 60, inclusive, conspired, agreed among
21 themselves, assisted, aided and/or abetted each other in causing, carrying out, implementing,
22 and/or accomplishing, by wrongful deed, fraud, cover-up and/or otherwise, the allegations of
23 wrongdoing and omission alleged in the First Cause of Action, including but not limited to,
24 execution on January 6, 2017, at the Family Home of the aforesaid "Ambush Plan," the
25 engagement of policeman wearing weapons, the use and preparation of the aforesaid temporary
26 custody forms, the threats that would be made, the lies and misrepresentations that would be told,
27
28

1 and the unlawful removal of the Eggleston Boys from Clark County and the State of Nevada
2 over Plaintiff's presumed objection ("the Planned Abduction").

3 36. On information and belief, pursuant to the aforesaid conspiracy, aiding and abetting,
4 and/or joint venture, on January 6, 2015, and on repeated occasions thereafter, the exact times,
5 places, means and dates all known to Defendants and contained in their records, the following
6 acts and/or omissions took place as regards the violation of Plaintiff's civil rights and those of his
7 sons:

8 (a) the Eggleston boys were abducted, removed from Plaintiff's custody and taken
9 from the State as previously alleged;

10 (b) Plaintiff was not given notice of or provided a prompt due process hearing as
11 required by Nevada law, the Nevada Constitution, federal civil rights and other laws or the
12 federal Constitution;

13 (c) A false report or reports would be and was issued that falsely characterised
14 Plaintiff as an unfit parent and/or as abusing and/or neglecting his sons, which report would be
15 and was used to justify the removal of his sons, denial of custody of his sons by others, and
16 denial of visitation and contact with his sons;

17 (d) Use of the aforesaid false reports would be combined with false and misleading
18 files and materials never disclosed to Plaintiff, as well as ongoing contacts via phone, email, and
19 other online media, to create the false and misleading impression that grounds existed for the
20 exercise by other courts of so-called emergency guardianship jurisdiction (despite the lack of any
21 emergency or grounds therefor);

22 (f) Plaintiff would not be and was not provided constitutional notice of any charges
23 or reasonable cause for the forced removal and abduction of his sons, nor given an opportunity to
24 dispute those charges or allegations, call witnesses to disprove them, or otherwise receive
25 substantive or procedural due process;

1 (g) Despite Plaintiff's repeated requests, the files, records, alleged evidence, and
2 purported witnesses, if any, supporting the Defendants' actions, omissions, and conspiracy, as
3 alleged, were concealed, altered, destroyed, and/or not provided to Plaintiff in violation of
4 federal and state law and the federal and state Constitutions;

5 (h) Plaintiff would be and was defamed, branded and deemed unfit as a parent for his
6 sons despite being found fit and awarded full legal and physical custody of his sons by a Nevada
7 District Court judge; and

8 (i) The concealed information and alleged evidence against Plaintiff would be shared
9 with other government officials, courts, judges and others so as to prejudice and harm Plaintiff's
10 rights of liberty, due process, parenthood, privacy and custody of his boys.

11 36. On information and belief, as a legal and proximate result of the foregoing, Plaintiff was
12 denied his fundamental, constitutional right of parenthood and fatherhood, has been irreparably
13 damaged by the deprivation of raising his sons and sharing their love and joy, experienced
14 extreme and severe pain, suffering, and bodily injury (including loss of sleep, nightmares,
15 headaches, etc.), suffered extreme and severe emotional distress, incurred substantial financial
16 losses and injuries, and such other and further injury and damages according to proof but which
17 exceed the jurisdictional minimum of this court.

18 37. On information and belief, said Defendants acted with fraud, oppression, malice and a
19 malignant heart in violating Plaintiff's rights, abusing its position of public trust, permanently
20 scarring the Eggleston Boys, including callously depriving them of their love and familiar
21 relationship with their father, and undermining the proper working of a free and democratic
22 country.

23 Accordingly, Plaintiff prays for relief as hereinafter set forth.

24 THIRD CAUSE OF ACTION

25 (Intentional Infliction of Emotional Distress – All Named Defendants and Does 40 through 100,
26 inclusive)

1 38. Plaintiff incorporates by reference as if set forth herein all previous allegations.

2 39. On information and belief, the conduct, actions and omissions of Defendants, and each of
3 them, as alleged herein, were and are outside all possible bounds of human decency, were and
4 are utterly intolerable in a free, democratic and civilized community, were and are extreme and
5 outrageous conduct committed with the intention of, or with reckless disregard for, inflicting
6 extreme and severe mental emotional distress on Plaintiff and the Eggleston Boys, which
7 behavior actually and/or proximately caused Plaintiff to suffer the injuries and damages alleged
8 herein.

9 40. On information and belief, as a legal and proximate result of the foregoing, Plaintiff was
10 denied his fundamental, constitutional right of parenthood and fatherhood, has been irreparably
11 damaged by the deprivation of raising his sons and sharing their love and joy, experienced
12 extreme and severe pain, suffering, and bodily injury (including loss of sleep, nightmares,
13 headaches, etc.), suffered extreme and severe emotional distress manifesting itself in physical
14 and bodily injury, incurred substantial financial losses and injuries, and such other and further
15 injury and damages according to proof but which exceed the jurisdictional minimum of this
16 court.

17
18 41. On information and belief, said Defendants acted with fraud, oppression, malice and a
19 malignant heart in violating Plaintiff's rights, abusing its position of public trust, permanently
20 scarring the Eggleston Boys, including callously depriving them of their love and familiar
21 relationship with their father, and undermining the proper working of a free and democratic
22 country.

23 Accordingly, Plaintiff prays for relief as hereinafter set forth.

24
25 FOURTH CAUSE OF ACTION

26 (Defamation, Libel & Slander – Against All Named Defendants Except Defendant Brian
27 Callahan, and Does 25 – 75, inclusive)

28 42. Plaintiff incorporates by reference as if set forth herein all previous allegations.

1 43. On information and belief, Defendants CLARK COUNTY, GEORGINA STUART, and
2 Does 25 – 50, inclusive, on specific dates known to them within the last two years, made verbal
3 and written statements of and concerning Plaintiff:

4 (a) That he was an unfit parent;

5 (b) That he had neglected the Eggleston boys and other children;

6 (c) That he had abused the Eggleston boys and other children; and

7 (d) That he had failed to protect the Eggleston boys from the actions of others,

8 including, specifically, their mother.

9 44. On information and belief, Defendant Lisa Callahan and Does 45 – 75, inclusive, on
10 specific dates known to them within the last two years, made verbal statements of and
11 concerning Plaintiff:

12 (a) That he was an unfit parent;

13 (b) That he had neglected the Eggleston boys and other children;

14 (c) That he had abused the Eggleston boys and other children; and

15 (d) That he had failed to protect the Eggleston boys from the actions of others,

16 including, specifically, their mother.

17 45. The aforesaid statements were false and known to be false by each of the charged
18 defendants, were published to third parties who understood them to be of and concerning
19 Plaintiff and who understood them to be derogatory of his character.

20 46. On information and belief, the aforesaid statements were not privileged as to all
21 Defendants in that they were made with malice.

22 47. On information and belief, the aforesaid statements were not privileged as to Defendant
23 Lisa Callahan and Does 45 – 75, inclusive, in that they were made as part of a pattern and
24 practice of unconstitutional actions and inactions, were made to defraud Plaintiff and cover up
25 illegal and unconstitutional behaviour, and were outside any routine privileged statements.
26
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28

1 48. On information and belief, as a legal and proximate result of the foregoing, Plaintiff was
2 denied his fundamental, constitutional right of parenthood and fatherhood, has been irreparably
3 damaged by the deprivation of raising his sons and sharing their love and joy, experienced
4 extreme and severe pain, suffering, and bodily injury (including loss of sleep, nightmares,
5 headaches, etc.), suffered extreme and severe emotional distress manifesting itself in physical
6 and bodily injury, suffered actual financial damages, and incurred substantial financial losses and
7 injuries, and such other and further injury and damages according to proof but which exceed the
8 jurisdictional minimum of this court.

9 49. On information and belief, said Defendants acted with fraud, oppression, malice and a
10 malignant heart in violating Plaintiff's rights, abusing its position of public trust, permanently
11 scarring the Eggleston Boys, including callously depriving them of their love and familiar
12 relationship with their father, causing Plaintiff irreparable harm, and/or undermining the proper
13 working of a free and democratic country.

14 Accordingly, Plaintiff prays for relief as hereinafter set forth.

15
16 RELIEF REQUESTED

- 17 1. Compensatory damages in the sum of \$10 million or according to proof (and as
18 circumscribed by the Court's order and Nevada law);
19 2. Damage to Plaintiff's reputation in the sum of \$10 million or according to proof (as
20 circumscribed by the Court's order and Nevada law);
21 3. Punitive damages in the sum of \$50 million or according to proof (as circumscribed by
22 the Court's order and Nevada law);
23 4. Interlocutory and Permanent Injunctive relief, including but not limited to:
24 a. Return of sole, permanent custody of the Eggleston Boys to Plaintiff forthwith;
25 b. Bar of any contact by the Callahan Defendants or any of their family members of
26 the Eggleston Boys except as, when and if expressly allowed by Plaintiff and/or
27 Nevada courts;
28

- 1 c. Correcting, Improving and Offering State of the Art CPS Training, Procedure and
2 Protocols for investigating suicide ideation scenarios, blended families with
3 children from different parents, unmarried parents living together with children
4 from different parents, and situations where one parent is allegedly not fit and one
5 parent clearly is fit, among other things;
- 6 d. Eliminating, banning and educating against the use of armed police officers,
7 threats of child removal, denial of counsel involvement, and other deceitful,
8 fraudulent, abusive and illegal actions used as subterfuges to remove children
9 from their parent or parents and circumvent the law, proper procedure and the
10 protections provided by the U.S. and Nevada Constitutionals for both parents and
11 children;
- 12 e. Eliminating, banning and educating against the use and issuance by CPS of false
13 and fraudulent alleged neglect and abuse reports to justify wrongful, deceitful
14 and/or unconstitutional actions previously taken to remove children and violate
15 parental/children's legal and constitutional rights;
- 16 f. Revising the appeals process for review of abuse reports to bring them in
17 compliance with the procedural and substantive due process rights of the parents,
18 custodians and children involved, including the requirement of due diligence in
19 collecting and analysing evidence or the lack thereof;
- 20 g. Banning any further child removal in Nevada County by Defendants GEORGINA
21 STUART and/or CLARK COUNTY until constitutional, lawful and proper
22 procedural due process, substantial due process and fair processes are put in place
23 for the investigation of alleged child abuse and neglect, the removal of children,
24 the use of armed police officers, the issuance of abuse and neglect reports, and the
25 timely appeal and/or challenge thereof, including policies of making evidence
26 available to the children's parent and guardian; and
27
28

h. Any other injunctive relief that the court deems necessary and proper, given especially the allegations that evidence has been fraudulently falsified, concealed and misrepresented by the CLARK COUNTY defendants herein.

xxx

xxx

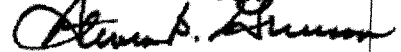
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5. Prejudgement interest as allowed by law;
6. Costs of suit herein;
7. Such other and further relief as the Court deems just and proper.

DATE: January 8, 2017


Steve Eggleston, Plaintiff



1 **OMSJ**

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15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 * * *

18 STEVE EGGLESTON, an individual,

19 Plaintiff,

20 vs.

21 GEORGINA STUART; DEPARTMENT OF
22 FAMILY SERVICES, CHILD SUPPORT
23 SERVICES, CLARK COUNTY, NEVADA;
24 LISA CALLAHAN; BRIAN CALLAHAN; and
25 DOES 1 through 100, inclusive,

26 Defendants.

CASE NO. A-16-748919-C

DEPARTMENT NO. XXII

**OPPOSITION TO DEFENDANTS
CLARK COUNTY AND GEORGINA
STUART'S MOTION FOR
SUMMARY JUDGMENT**

**Date of Hearing: November 7, 2023
Time of Hearing: 8:30 a.m.**

27 Defendants Motion for Summary Judgment should be denied. Genuine issues of material
28 fact exist as to the elements for the civil rights violations under 42 U.S.C. § 1983, IIED, and
defamation, and as to the applicability of immunities available to Defendants. Therefore,
Defendants are not entitled to judgment as a matter of law on any of Mr. Eggleston's claims against
them.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant DEPARTMENT OF FAMILY SERVICES, CHILD SUPPORT SERVICES,
CLARK COUNTY, NEVADA, based on a referral from an anonymous source, opened a child

1 abuse/neglect case against non-party Laura Rodriguez (formerly Battistella) (Case: 1362581 –
2 RODRIGUEZ, LAURA). *See* Motion at Ex. G, p. 1 (UNITY Case Notes). CPS assigned
3 Defendant GEORGINA STUART (now Anderson) to investigate and assess the family's needs.
4 *Id.* At the time, the family consisted of minor children K.R., J.R., H.E., and R.E.; Laura (biological
5 mother of all four minor children); and Mr. Eggleston (biological father of H.E. and R.E.
6 ("Eggleston Boys")). *Id.* Mr. Eggleston, a former attorney, college professor, and author, was
7 primarily responsible for supporting all four minor children. The family lived in a four-bedroom,
8 three-bathroom rented house in Las Vegas, Nevada. During the investigation, Laura's two older
9 children, Alexis and Selena Rodriguez, were visiting from Illinois while on winter break from
10 college and high school, respectively. *See* Motion at Ex. G, p. 1.

11 After arranging to obtain in-home services and rental assistance for the family from
12 December 23, 2014, through January 6, 2015, Stuart arrived at the Eggleston family's home on
13 January 7, 2015, to present a Catch-22 ultimatum to Mr. Eggleston: 1) agree to guardianship of
14 the Eggleston Boys to Laura's sister and brother-in-law, Lisa and Brian Callahan, who reside in
15 Illinois; or 2) have CPS place the Eggleston Boys in foster care. *See* Motion at p. 9, ll. 18-19. Mr.
16 Eggleston had to make this impossible decision, demanded of him abruptly and without
17 forewarning in the presence of police officers, without sufficient time to process all the
18 implications of the ultimatum. Mr. Eggleston reluctantly agreed to the *temporary* guardianship.
19 Defendants communicated with Lisa throughout their investigation and thereafter. Despite
20 destroying Mr. Eggleston's relationship with his two sons, Defendants attempt to deflect the blame
21 (both internally and externally) and/or hide between inapplicable immunities.

22 **II. PROCEDURAL HISTORY**

23 On August 10, 2017, Mr. Eggleston filed his First Amended Complaint for Civil Rights
24 Violations, Child Abduction, Conspiracy, Defamation ("FAC"), which alleges civil rights -
25 violation of 42 U.S.C. § 1983; intentional infliction of emotional distress; and defamation, libel,
26 and slander against Defendants. On February 9, 2022, the Court entered the Default of Lisa
27 Callahan and the Default of Brian Callahan for their failure to answer or otherwise respond to the
28

1 FAC.¹ On September 29, 2023, Defendants filed the Motion, which argues that they are entitled
2 to summary judgment because “Plaintiff cannot establish all elements of his claims and/or they are
3 barred by various immunities.” *Id.* at p. 2, ll. 9-10. Mr. Eggleston addresses and refutes each of
4 Defendants’ arguments in turn *infra*. The jury trial is set for January 2024. *See* Third Amended
5 Order Setting Civil Jury Trial.

6 **III. FACTUAL BACKGROUND**

7 **A. Disputed Material Facts**

8 Mr. Eggleston disputes many of the purported undisputed material facts set forth in the
9 Motion on pages 2-12, including but not limited to the following.

10 1. “In 2013, Laura gave Guardianship of Selena to Lisa, after Selena refused to buy
11 drugs for Laura.” *See* Motion at p. 2, ll. 24-25. Selena’s guardianship occurred because she wanted
12 to return to Illinois to be with her friends and Mr. Eggleston told her she needed to leave the family
13 home after a fight with Laura turned physical. *See* Rodriguez Depo., **Exhibit 1**, at 118:16-119:11.

14 2. “Prior to the 12/22/14 CPS Report, police were called several times to the Eggleston
15 home due to domestic violence between Plaintiff and Laura.” *See* Motion at p. 2, l. 25 to p. 3, l.

16 2. Mr. Eggleston called the police twice because Laura was being aggressive. However, neither
17 Mr. Eggleston nor Laura were arrested either time. *See* Eggleston Depo., **Exhibit 2**, at 65:15-68:1.

18 3. “...on 4/7/14, CPS received a Hotline call indicating H.E. fell in the pool and nearly
19 drowned while Laura was watching him and Plaintiff was in his office working.” *See* Motion at
20 p. 3, ll. 5-7. The accident occurred while two adult friends were in the backyard (Laura was cutting
21 their hair). Laura and Mr. Eggleston took H.E. to the hospital in an abundance of caution. *See*
22 Smith Depo., **Exhibit 3**, at 36:2-40:9. Per the CPS Referral Note: “This report will be screened
23 out as Information Only. No present danger, impending danger, or maltreatment. The child is
24 responsive and alert at the hospital. Mother was outside in the backyard when he fell into the pool.
25 He was retrieved from the water quickly, given CPR and transported to the hospital.” *See* Motion
26 at Ex. A (CPS Referral Summary at MSJ00002).

27 ///

28 ¹ The Motion incorrectly states that the Court entered default *judgments* against the Callahans on
February 9, 2022. *Id.* at p. 2, ll. 17-18.

1 4. “Stuart observed the children from the front door and completed a Present Danger
2 Assessment (PDA) finding the children were safe.” *See* Motion at p. 3, ll. 19-21. In addition to
3 the fact that Stuart did not enter the home to observe the minor children, the PDA simultaneously
4 states that H.E. and R.E. were “not assessed” but “no present danger is identified.” *See* Motion at
5 Ex. K (Present Danger Assessment Report at CC001156-58).

6 5. “Alexis provided information in the 12/22/14 CPS Report and Stuart spoke with
7 Alexis and learned that on multiple occasions and with increasing frequency, to be safe from Laura
8 who was abusing alcohol and drugs, Alexis and/or the children locked themselves in the bathroom
9 until Laura passed out.” *See* Motion at p. 3, l. 1 to p. 4, l. 2. However, Alexis had only returned
10 to Las Vegas for winter break and testified that the children only locked themselves in the
11 bathroom on one occasion between December 2014 and December 2015. *See* Ex. 1, at 105:6-8
12 and 164:24-165:11 (“During the time frame of me being home, once is what I can remember.”).

13 6. “In the preceding months, K.R. had called Alexis several times after locking herself
14 and the children in the bathroom when Laura was out of control, which was reported to be
15 happening weekly.” *See* Motion at p. 4, ll. 4-6. However, Alexis never contacted DFS or police
16 to report her concerns. *See* Ex. 1, at 105:12-18.

17 7. “Alexis and Selena were providing supervision of the children. Again, during these
18 times, Plaintiff was reported to be, and admitted to being, in the home working in his office and
19 unaware of that [sic] was going on with the children. Laura reported Plaintiff worked 16 hours a
20 day, 7 days a week.” *See* Motion at p. 5, ll. 7-12. After the Present Danger Plan was put in place,
21 there is no allegation in the DFS record that Alexis and Selena were watching the minor children
22 while Mr. Eggleston was working. *See* Motion at Ex. G (UNITY Notes, generally). Additionally,
23 Mr. Eggleston never admitted not knowing what was going on with the children. If Laura was in
24 and out of the hospital, and “MIA for hours” at a time (*see* Motion at p. 6, ll. 3-4), she could not
25 know Mr. Eggleston’s work schedule at this time. Mr. Eggleston was not teaching at this time as
26 it was winter break.

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1 8. “During the investigation, Stuart had substantial contact with Plaintiff.” *See*
2 Motion at p. 6, l. 15. Stuart’s only documented face-to-face contact with Mr. Eggleston occurred
3 on December 24, 2023; January 5, 2023; and January 7, 2023. *See* Motion at Ex. G (UNITY Case
4 Notes at MSJ00024, 30, and 33). There is no evidence of any phone calls between Stuart and Mr.
5 Eggleston. *Id.* generally.

6 9. “On 12/23/14, Stuart attempted to contact Plaintiff, but he was ‘at work’ and she
7 left him a message to contact her.” *See* Motion at p. 6, ll. 15-17. During winter recess, which
8 began around December 10, 2014, through January 7, 2015, when the children were removed from
9 the home, Mr. Eggleston did not work outside the family home. *See* Ex. 2, at 36:22-39:25.

10 10. “On 12/24/15, Stuart made face-to-face contact with Plaintiff, advised him of the
11 reported allegations, and provided him with an agency brochure indicating his rights on removal,
12 visitation, etc.” *See* Motion at p. 6, ll. 17-19. Per the First Amended Complaint, “[n]o suggestion
13 of any kind was made that any of the children were in any kind of danger, that there had been any
14 abuse or neglect of any of the children, that Plaintiff [was] being investigated as being abusive or
15 neglectful, or that he ever had been or was unfit to have custody over and raise his sons.” *Id.* at ¶
16 13.

17 11. “Alexis, Selena and Lisa, not Plaintiff or Laura, primarily were with H.E. at
18 Hospital and caring for and supervising the children at home.” *See* Motion at p. 6, ll. 9-11.
19 Defendants cite to a UNITY Note which only states that “[t]he parents have had limited contact
20 with [H.E.] at the hospital with the relatives being there and providing care and supervising for the
21 children.” *Id.* at Ex. G (UNITY Notes at MSJ000030). However, the note does not identify which
22 relatives, provide a timeframe, and is not supported by the deposition testimony in this case.

23 In relaying their Statement of Undisputed Material Facts, Defendants repeatedly cite to the
24 UNITY Case Notes. *See, e.g.,* Motion at n. 8, 12, 16, 21, 25, 29, 32, 36, 37, 42, and 47.
25 Defendants’ expert testified that the purpose of UNITY notes is to document the level of effort
26 occurring during the life of a DFS case – i.e., the who, what, when, where, and why. *See* Lester
27 Depo., **Exhibit 4**, at 143:6-11. However, for this case, Stuart’s UNITY Case Notes (Motion at Ex.
28

1 G) are far from infallible. Ignoring the numerous grammatical and spelling errors, the UNITY
2 Case Notes are replete with errors and omissions, including but not limited to the following:

- 3 • "...Lisa and Brian Callahan who reside out of state in Illinois and have been in Las Vegas
4 for the past two weeks." Ex. G at MSJ00035. Brian was never in Las Vegas during this
5 timeframe. See Lisa Callahan Depo., **Exhibit 5**, at 123:17-22; and Brian Callahan Depo.,
6 **Exhibit 6** at 38:13-19.
- 7 • "Present was **DFS in home specialist**, this specialist, **Mojave Mental health**, Sup Mary
8 Ateberry [*sic*], Sharon Savage and Clint Holder." Ex. G at MSJ00033 (emphasis added).
9 Stuart was unable to identity who was present at the January 6, 2015, case staffing. See
10 Stuart Depo., Ex. 7 at 115:18-116:25.² Stuart also does not provide any explanation as to
11 what happened at this meeting.
- 12 • "CFT with the parents and relatives in the parents['] home." Stuart did not identity which
13 relatives were present at the January 7, 2015, child and family team (CFT). See **Exhibit 7**
14 at 126:1-127:17. Stuart did not note or remember that Marianne Lanuti, Esq., a Nevada
15 attorney and Alexis' boyfriend's mother, attended the CFT. *Id.* at 127:3-5; Ex. 5, at 82:8-
16 25; and Ex. 1, at 53:7-54:1.
- 17 • Stuart reportedly met with Mr. Eggleston on multiple occasions, but only one meeting is
18 documented. Ex. G at MSJ00024. Similarly, she reportedly met with the minor children,
19 but did not document the contact. Ex. G at MSJ00030.
- 20 • Stuart provided Mr. Eggleston drug tests for himself and Laura but does not document a
21 deadline for completing the tests or the results (negative) for Mr. Eggleston. Ex. G at
22 MSJ00024.
- 23 • "Boystown and Mojave Mental health attempted safety services intervention that was not
24 successful." Ex. G at MSJ00031. Stuart provides no explanation why the services were
25 unsuccessful.

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28 ² For the first time, after the close of discovery, Defendants identify Jazmin Laker-Ojok as the
"DFS in home specialist" present at the staffing meeting. See Motion at p. 8, ll. 16-17.

- Plaintiff's expert identifies several discrepancies in the information documented in Stuart's UNITY Case Notes, which "compromise the validity and overall safety determination of [R.E. and H.E]." *See* Expert Report of Javonni Henderson, LCSW, LMSW, **Exhibit 8**.

B. Undisputed Material Facts

The gravamen of Mr. Eggleston's claims against Defendants is that, instead of utilizing numerous support services available to families faced with the same difficult obstacles Mr. Eggleston was encountering (and which Stuart had previously discussed with him), they chose to present Mr. Eggleston and Laura with an ultimatum – i.e., sign over temporary guardianship to the Callahans of their minor children or have them placed in foster care. *See* FAC at ¶ 26.

On December 30, 2023: Lisa told Stuart "She is hoping that her sister will allow her to take the children back to Illinois with her while she and Steven get things situated and in treatment." *See* Motion at Ex. G (UNITY Case Notes at MSJ00028). From that point on the plan developed to accomplish that.

On January 5, 2015, at 10:20 a.m., Stuart receives a phone call from Alexis and Selena, who relay numerous concerns regarding Laura and "Steven[]"s reluctance to intervene to protect the children" with no further explanation. *See* Motion at Ex. G (UNITY Notes at MSJ00030). At 11:22 a.m., Stuart sends McKay an email in which she states "[t]his is a case that I staffed for removal." *See* **Exhibit 9** hereto. However, at 2:00 p.m., a DFS Child and Family Team (CFT) Meeting was held in the family home with Stuart, Mr. Eggleston, Laura, Boys Town, Mojave Mental Health, and the children (except for H.E., who was still in the hospital), during which the family agreed to in-home services. *See* Motion at p. 8 citing Ex. G (UNITY Notes at MSJ00030). Stuart does not express any concerns regarding Mr. Eggleston. *Id.* At 7:54 p.m., there is an email exchange between Stuart and Lisa discussing daycare for the minor children. *See* **Exhibit 10** hereto (CC1861). While Stuart indicates removal was needed because several family members were leaving town, she did not yet know when H.E. was going to be released from the hospital. *See* Motion at Ex. G (UNITY Notes at MSJ00030 ("[H.E.] continues to be at Sunrise Hospital due to his appendicitis and surgery...His discharge date is not known at this time. Possibly 7-10 days.")). In fact, Lisa did not leave until after H.E. was released. *See* Ex.5, at 89:5-21 and 96:18-

1 20; and Ex.1, at 50:5-8. Prior to January 7, 2015, Stuart called Alexis and Lisa and informed them
2 that the decision had been made that the minor children could not remain in the home with Laura
3 and Mr. Eggleston. *See* Ex. 5 at 77:12-81:7; and Ex.1, at 61:7-64:12.

4 In January 2015, the Callahans lacked the resources to take care of the minor children.
5 Their condo in Orland Hills, Illinois only had two bedrooms and two bathrooms. *See* Ex.5, at
6 99:8-10. The first night, the children slept on blow up mattresses and a pullout couch. Ex.5 at
7 100:4-7. K.R. and J.R. then went to stay with Lisa's cousin, for several weeks. *Id.* at 100:7-21.
8 The Callahans also had to immediately apply for government assistance, including food stamps
9 and a monthly stipend, the latter of which they were still receiving as of March 2023. *Id.* at 31:21-
10 32:25. Additionally, Stuart did not conduct any background investigation on the Callahans. *See*
11 Ex. 7 at 208:7-209:15.

12 Stuart's only two issues with Mr. Eggleston continuing to care for the Eggleston Boys were
13 daycare and rent. *See* Ex.7 at 111:7-112:7. As part of her job duties, Stuart helps arrange for
14 families in need to receive daycare and rental assistance (including \$2,000 that can be used for
15 "anything to get the family stable"). *Id.* and 195:2-197:11.

16 On January 13, 2015, Lisa sends Stuart an email stating that she arrived back in Chicago
17 with the minor children and advising that "[t]he school has requested a copy of a CPS report stating
18 that the parents were deemed unfit so that they can provide services for after school care and for
19 [H.E.] to be tested for any learning disabilities." *See* Email Chain, **Exhibit 11**, CC001882-88. On
20 January 23, 2015, Stuart replies to Lisa, stating that "case [1362581] will be substantiated at this
21 time." *Id.* However, on December 29, 2014, CPS' findings of allegations of negligent treatment
22 and/or inadequate supervision against Mr. Eggleston were "UNSUBSTANTIATED" as to all four
23 minor children. *See* Motion at Ex. H (CPS Referral Summary at MSJ00045).

24 Mr. Eggleston was willing to leave Laura – i.e., move out with the Eggleston Boys – and
25 told Stuart as much. *See* Ex. 2 at 106:3-107:1. The DFS record acknowledges this fact. *See*
26 Motion at Ex. G (UNITY Notes at MSJ000031 ("The parents are not remaining together as a
27 couple and wish to go their separate ways.")) and Ex. S (Nevada Initial Assessment at MSJ00137
28 (same)).

1 Both experts opined that Defendants failed to complete a safety plan before determining
2 removal was necessary. *See* Ex. 4 at 73:24-74:7, 75:2-8, 131:12-25; and Ex. 8 at pp. 6-7 (“There
3 is no documentation showing the Safety Plan Determination (SPD) was completed to determine if
4 in-home services were needed to keep the children safe in the home. ... Without completing an
5 SPD there is no systematic way to know if a Safety Plan is needed and what type of services need
6 to be implemented.”).

7 In her notes for the underlying DFS investigation, Stuart references a meeting on January
8 6, 2015:

9 Case staffing regarding safety services in the home at DFS south office. Present
10 was DFS in home specialist, this specialist, Mojave Mental health, Sup Mary
11 Ateberry [sic], Sharon Savage and Clint Holder.

12 *See* Motion at Ex. G at MSJ00033. The emails produced during discovery³ shed some light on
13 the subject matter for the January 6 meeting. On January 5, 2015, Stuart advises McKay of her
14 plan for removal and the return of the check if that occurs. McKay then advises Stuart to staff this
15 and “come up with a better plan.” *Id.* at CC001854-56. In other email exchanges between
16 Atteberry, Stuart, McKay, Savage, Holder, there is discussion that the family is on board with
17 Mojave and Boystown services, that this is a good case for those programs and the in-home safety
18 plan needs to be solidified. There is further discussion about [Present Danger Assessment] and the
19 SPD [Safety Plan Determination] being done prior to the staffing meeting. *Id.* at CC001865-72.
20 Lastly, there are further emails that discuss the request for money to assist with rent and daycare.
21 *Id.* at CC001874-81. However, after the January 6th meeting, Stuart advises the money is no longer
22 needed “as the children will be removed from the home.” *Id.* at CC001874-81.

23 These emails demonstrate: 1) the County, including Atteberry, Stuart, McKay, and Savage,
24 were considering providing Mr. Eggleston’s family with in-home services through multiple
25 providers prior to the January 6 staff meeting; and 2) a decision was made during the January 6
26 staff meeting to not provide any services and instead, remove the minor children from the home
27 despite no safety plan determination.

28 ³ *See* Defendants’ Fourteenth Supplemental Disclosure Statement and Internal County Emails, true
and correct copies of which are attached hereto as **Ex. 12**.

1 Neither the Mojave representative nor Clint Holder participated in the decision making
2 process to remove. See Affidavit of Anne Marie Abruscato, a true and correct copy of which is
3 attached hereto as **Ex. 13** at ¶ 8 and Holder Depo., **Ex. 14**, at 13:6-9; 42:9-43:11. Stuart testified
4 that during the January 6 meeting that either Atteberry or McKay made the decision to remove the
5 minor children from the home. See Ex.7 at 115:18-117:21. However, McKay was not at the
6 meeting. Ex.7 at 116:22-25. While Atteberry had no recollection regarding the January 6 meeting,
7 she also had no reason to believe it did not take place. See Atteberry Depo., **Ex.15**, at 49:10-59:17.
8 Atteberry does remember discussing Mr. Eggleston and Laura Rodriguez with Stuart. *Id.* at 53:11-
9 16. Importantly, Stuart is the person that provided the information and drafted the NIA. See Ex.7
10 at 112:18-19.

11 Pursuant to its website, CPS describes its focus as follows:

12 Child Protective Services (CPS) is the first step to ensure the safety and
13 permanency of children who are reported as being abused or neglected. The
14 focus of CPS is on protecting the child from harm or risk of harm and to make
15 it safe for the child to live with the parent or caretaker. The CPS worker assesses
16 family functioning and identifies strengths and risks in the home. As part of the
assessment to ensure that the home is safe for the child(ren), the CPS worker
and family will develop a plan to address any problems that have been
identified.⁴

17 Given the complexity and multidimensional aspect of child abuse and neglect, “[a]
18 **coordinated effort that involves a broad range of community agencies and professionals is**
19 **essential for effective child protection.**”⁵ One common thread, however, is that when a parent
20 has a case plan, the primary goal is always reunification with the parent(s) and, along those lines,
21 family preservation is an important goal. See Ex. 15 at 113:1-19.

22 **IV. LEGAL ARGUMENT**

23 **A. Legal Standard for Summary Judgment**

24 “If a reasonable jury could find for the non-moving party, summary judgment is
25 inappropriate.” *Borgerson v. Scanlon*, 117 Nev. 216, 220, 19 P.3d 236, 238 (2001) (citation
26 omitted); see also *Witherow v. State Bd. of Parole Com'rs*, 123 Nev. 305, 308, 167 P.3d 408, 409
27

28 ⁴ dcfs.nv.gov/Programs/CWS/CPS/CPS/ (last accessed October 17, 2023).
⁵ *Id.* (emphasis in original).

1 (2007) (“A genuine issue of material fact exists, precluding summary judgment, when a reasonable
2 jury could return a verdict for the nonmoving party.”) (citation omitted). NRCP 56(c) establishes
3 two basic substantive requirements for the entry of summary judgment: 1) there must be no
4 genuine issue as to any material fact; and 2) the moving party must be entitled to judgment as a
5 matter of law. *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005) (citation
6 omitted); *Cromer v. Wilson*, 126 Nev. 106, 109, 225 P.3d 788, 790 (2010) *citing Wood*; *Delgado*
7 *v. Am. Family Ins. Group*, 125 Nev. 564, 571, 217 P.3d 563, 568 (2009) *citing same*. When
8 reviewing a motion for summary judgment, the evidence and all reasonable inferences drawn from
9 it must be viewed in a light most favorable to the nonmoving party. *Allstate Ins. Co. v. Fackett*,
10 125 Nev. 132, 137, 206 P.3d 572, 575 (2009) *citing Wood v. Safeway, Inc.*, 121 Nev. 724, 732,
11 121 P.3d 1026, 1031 (2005) and NRCP 56(c); and *Waldman v. Maini*, 124 Nev. 1121, 1136, 195
12 P.3d 850, 860 (2008) (citations omitted). The pleadings play a limited role in summary judgment
13 proceedings. *Dredge Corp. v. Husite Co.*, 78 Nev. 69, 89 n. 2, 369 P.2d 676, 687 n. 2 (1962).

14 As to a genuine issue of material fact, it is axiomatic that the presence of any such issue or
15 dispute precludes the court from entering summary judgment. In such a case, a trial for the
16 determination of that issue by the jury is required. NRCP 56(c); *see also Wood*, 121 Nev. at 730,
17 121 P.3d at 1030. Thus, to preclude summary judgment, the issue must be a question of *fact* rather
18 than a question of *law*. *Springer v. Federated Church of Reno*, 71 Nev. 177, 179-80, 283 P.2d
19 1071, 1071-72 (1955). Nevada case law includes examples of what the Nevada Supreme Court
20 considers an issue of fact. *See, e.g., Nelson v. City of Las Vegas*, 99 Nev. 548, 665 P.2d 1141
21 (1983) (what is *reasonable* is a question of fact that turns on the facts and circumstances of each
22 particular case and should be resolved by a trier of fact); and *Kornton v. Conrad, Inc.*, 119 Nev.
23 123, 67 P.3d 316 (2003).

24 **B. Legal Standard for Violation of 42 U.S.C. § 1983 - Fourteenth Amendment**
25 **Due Process Interference with Parent/Child Relationship.**

26 The elements of a cause of action for civil rights violation of 42 U.S.C. § 1983 are: 1)
27 defendant deprived plaintiff of rights, privileges, or immunities secured by the Constitution or the
28

1 laws of the United States; and 2) defendant was acting under color of state law. 42 U.S.C. § 1983,⁶
2 *Ortega v. Reyna*, 114 Nev. 55, 58, 953 P.2d 18, 20-21 (1998), *abrogated on other grounds by*
3 *Martinez v. Maruszczak*, 123 Nev. 433, 168 P.3d 720 (2007) *citing Cummings v. Charter Hosp. of*
4 *Las Vegas, Inc.*, 111 Nev. 639, 647, 896 P.2d 1137, 1142 (1995) (additional citation omitted). The
5 purpose of a 42 U.S.C. § 1983 action is to deter state actors from using the badge of their authority
6 to deprive individuals of their fundamentally guaranteed rights and to provide relief to victims if
7 such deterrence fails. *Wyatt v. Cole*, 504 U.S. 158, 161, 112 S. Ct. 1827, 1830 (1992) (citation
8 omitted).

9 Parents possess a constitutionally protected liberty interest in companionship and society
10 with each other. *Smith v. City of Fontana*, 818 F.2d 1411, 1418 (9th Cir. 1987)(*overruled on other*
11 *grounds*). This liberty interest is rooted in the Fourteenth Amendment, which states in relevant
12 part that “[n]o State shall...deprive any person of life, liberty, or property, without due process of
13 law.” U.S. Const. amend. XIV, § 1. A parent’s right includes a custodial interest (but only while
14 the child is a minor), and a companionship interest (even after a child reaches the age of
15 majority). *Id.* at 1419. State interference with these liberty interests may give rise to a Fourteenth
16 Amendment due process claim that is cognizable under 42 U.S.C. § 1983. *Kelson v. City of*
17 *Springfield*, 767 F.2d 651, 654 (9th Cir. 1985).

18 To bring a Fourteenth Amendment due process claim, the parent and child must have
19 relationships “which reflect some assumption ‘of parental responsibility.’” *Kirkpatrick v. County*
20 *of Washoe*, 843 F.3d 784, 789 (9th Cir. 2016) (en banc) (“It is when an unwed father demonstrates
21 a full commitment to the responsibilities of parenthood by coming forward to participate in the
22 rearing of his child that his interest in personal contact with his child acquires substantial protection
23 under the due process clause.”) (internal quotation marks and brackets omitted). Parents can bring
24 a Fourteenth Amendment due process claim only if they demonstrate “consistent involvement in
25 a child’s life and participation in child-rearing activities.” *Wheeler*, 894 F.3d at 1058.
26

27 ⁶ “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any
28 State..., subjects, or causes to be subjected, any citizen of the United States or other person within
the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the
Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other
proper proceeding for redress...”

1 1. *Two Types of Claims: Procedural and Substantive*

2 A claim of interference with the parent/child relationship in violation of the Fourteenth
3 Amendment may be brought as either a procedural due process claim or a substantive due process
4 claim. *See City of Fontana*, 818 F.2d at 1419-20. A procedural due process claim may arise when
5 the state interferes with the parent-child relationship for the purpose of furthering a legitimate state
6 interest. *See id.* at 1419. Thus, “where the best interests of the child arguably warrants termination
7 of the parent’s custodial rights, the state may legitimately interfere so long as it provides
8 ‘fundamentally fair procedures.’” *City of Fontana*, 818 F.2d at 1419 *quoting Santosky v. Kramer*,
9 455 U.S. 745, 754 (1982). A substantive due process claim may arise when the state interferes
10 with the parent-child relationship “for purposes of oppression.” *Id. quoting Daniels v. Williams*,
11 474 U.S. 327, 331 (1986). For instance, “the state has no legitimate interest in interfering with
12 this liberty interest through the use of *excessive* force by police officers.” *City of Fontana*, 818
13 F.2d at 1419-20. Each type of claim is evaluated under a distinct standard.

14 a. Standard for Procedural Due Process Violation

15 Procedural due process claims typically arise when a state official removes a child from a
16 parent’s care. For such claims, “[t]he Fourteenth Amendment guarantees that parents will not be
17 separated from their children without due process of law except in emergencies.” *Rogers v.*
18 *County of San Joaquin*, 487 F.3d 1288, 1294 (9th Cir. 2007) *quoting Mabe v. San Bernardino*
19 *Cnty., Dep’t of Pub. Soc. Servs.*, 237 F.3d 1101, 1107 (9th Cir. 2001). Removing a child from a
20 parent’s custody violates the Fourteenth Amendment unless the removal (1) is authorized by a
21 court order (typically a warrant); or (2) is supported by “reasonable cause to believe that the child
22 is in imminent danger of serious bodily injury,” and the scope of intrusion does not extend beyond
23 that which is reasonably necessary. *Id. quoting Mabe*, 237 F.3d at 1106.

24 Removing children from their parents’ custody without court authorization is permissible
25 when officials have reasonable cause to believe that the children are at imminent risk of serious
26 bodily injury or molestation in the time it would take them to get a warrant. *Rogers*, 487 F.3d at
27 1294-95; *see also Wallis v. Spencer*, 202 F.3d 1126, 1138 (9th Cir. 2000). All serious allegations
28 of abuse must be investigated and corroborated before they will give rise to “a reasonable inference

1 of imminent danger sufficient to justify taking children into temporary custody.” *Demaree v.*
2 *Pederson*, 887 F.3d 870, 879 (9th Cir. 2018) (per curiam) (internal quotation marks
3 omitted). There must be “specific, articulable evidence that provides reasonable cause to believe
4 that a child is in imminent danger of abuse.” *Wallis*, 202 F.3d at 1138; *see also Sjurset v. Button*,
5 810 F.3d 609, 622 (9th Cir. 2015) (holding officials’ belief of imminent danger objectively
6 reasonable where mother who had tested positive for drugs and had previously been convicted of
7 child endangerment prevented officers from verifying child’s safety, and officials could not have
8 obtained court order for 36 hours).

9 Conversely, removing children from their parents’ custody without a court’s authorization
10 can give rise to a violation of a liberty interest when there is no imminent risk of physical or sexual
11 abuse. *Demaree*, 887 F.3d at 879 (holding officials unconstitutionally removed children from
12 parents’ custody because officials’ fear of “sexual exploitation” based on nude photos of children
13 was not objectively reasonable since photos were not distributed, did not depict sexual conduct,
14 and did not reflect risk of physical sexual abuse). **Evidence that children are malnourished,**
15 **their home is disorderly or unsanitary, or that their parents lack health insurance or fail to**
16 **provide them daycare does not constitute exigent circumstances.** *Rogers*, 487 F.3d at 1296.

17 b. Standard for Substantive Due Process Violation

18 A substantive due process claim of impermissible interference with familial association
19 arises when a state official harms a parent in a manner that shocks the conscience. *Porter v.*
20 *Osborn*, 546 F.3d 1131, 1137 (9th Cir. 2008). “[O]nly official conduct that ‘shocks the conscience’
21 is cognizable as a due process violation. *Id. quoting Cnty. of Sacramento v. Lewis*, 523 U.S. 833,
22 846 (1998). “There are two tests used to decide whether officers’ conduct ‘shocks the
23 conscience.’” *Id.* at 1056. A state official’s conduct may shock the conscience if (1) the official
24 acted with a “purpose to harm” the victim for reasons unrelated to legitimate law enforcement
25 objectives; or (2) the official acted with “deliberate indifference” to the victim. *Porter*, 546 F.3d
26 at 1137. Which test applies turns on the specific circumstances of the underlying events in each
27 case. If the encounter at issue escalated so quickly that the officer had to make a snap judgment,
28 the plaintiff must show the officer acted with a “purpose to harm.” *Id.* However, if the situation

1 evolved within a time frame that allowed officers to reflect before acting, the plaintiff must show
2 the officer acted with “deliberate indifference.” *Id.*

3
4 i. Purpose to Harm Standard

5 The Supreme Court developed the purpose-to-harm standard in recognition that not every
6 harm caused by government officials gives rise to a Fourteenth Amendment claim. *See Lewis*, 523
7 U.S. at 848-49. For instance, situations requiring split-second decisions, where the officer did not
8 have a “practical” opportunity for “actual deliberation” cannot establish purposeful harm. *Lewis*,
9 523 U.S. at 851.

10 ii. Deliberate Indifference Standard

11 The deliberate indifference standard applies in situations where the officers who caused
12 the harm to the parent or child acted (or failed to act) in a situation when “actual deliberation is
13 practical.” *Lewis*, 523 U.S. at 851. When officials have “time to make unhurried judgments,” and
14 “extended opportunities to do better,” but unreasonably allow harm to occur, then their “protracted
15 failure even to care” can shock the conscience, thus giving rise to a substantive due process claim.
16 *Id.* “Actual deliberation” requires a longer period than “deliberation” as that term is used in
17 homicide law. *Id.* at 851 n.11. Because it shocks the conscience for officials to cause harm to a
18 parent with deliberate indifference, a substantive due process claim of impermissible interference
19 with familial association can arise in these circumstances. *Porter*, 546 F.3d at 1137.

20 C. Defendants Are Not Entitled to Summary Adjudication on Eggleston’s Claims.

21 1. Civil Rights Violations: 42 U.S.C. § 1983

22 Mr. Eggleston’s first cause of action is for a violation of his civil rights under 42 U.S.C. §
23 1983. *See* FAC at ¶¶ 27-31. The fundamental right to “bring up children” is encompassed within
24 the right to liberty, a core guarantee protected by the due process clause of the Fourteenth
25 Amendment. *Eggleston v. Stuart*, 137 Nev. 506, 511, 495 P.3d 482, 489 (2021) *citing Meyer v.*
26 *Nebraska*, 262 U.S. 390, 399, 43 S. Ct. 625, 626 (1923) The Motion argues that “[t]he FAC fails
27 to allege any specific constitutional Amendment or statutory right.” *Id.* at p. 13, l. 16. In fact, the
28 FAC repeatedly references “his fundamental parental rights” (*id.* at ¶ 29(e), (f), (k)) and his
“constitutional right of parenthood and fatherhood” (*id.* at ¶ 30) in alleging his § 1983 claim.

1 a. Substantive Due Process

2 Mr. Eggleston alleges a violation of substantive due process, which “guarantees that no
3 person shall be deprived of life, liberty or property for arbitrary reasons” and protects certain
4 individual liberties against arbitrary government deprivation regardless of the fairness of the state's
5 procedure. *Eggleston*, 137 Nev. at 510, 495 P.3d at 488-89 (citations omitted). Indeed, in
6 *Eggleston*, the Nevada Supreme Court held that at its core, the FAC alleges that Defendants forced
7 him to sign papers giving Lisa temporary guardianship, presenting a substantive due process claim
8 for violation of the fundamental right to parent his children. 137 Nev. at 511-12, 495 P.3d at 489-
9 90. Defendants stole Mr. Eggleston’s right to parent his children by coercing him to choose
10 between guardianship with the Callahans and foster care with DFS.

11 Defendants represent that Mr. Eggleston, “on the advice of his counsel,” consented to the
12 termination of his parental rights. *See* Motion at p. 14, ll. 11-12. Mr. Eggleston alleges that he
13 agreed to temporary guardianship only after Ms. McFarling spoke with Stuart, who represented
14 that if Mr. Eggleston signed the guardianship papers, allowing time for Laura to move to a resident
15 treatment program, “the Eggleston Boys would be returned to him in several days.” *See* FAC at ¶
16 26(g). Ms. McFarling confirmed Mr. Eggleston’s account during her deposition:

17 So Georgina confirmed and specifically told me that if he did not sign the
18 guardianship paperwork, that DFS and the police would take away the children
19 right then. She relayed to me that they had a plan to put them in this program
starting that same day, and her supervisor had vetoed it.

20 I clarified with her that, you know, what happens if he does sign these
21 guardianship papers? Number one, she confirmed to me that Lisa Callahan and
22 Brian Callahan were not going to be taking the children outside the state of
Nevada, that they were just going to stay with them in Nevada.

23 She confirmed that it was a temporary, it was only a temporary guardianship,
24 and it was only until Steve got his affairs in order. That it was very, very
25 temporary. Just get childcare sorted out, get everything under control, not things
that take very long to do, and then he would have the children.

26 She also confirmed that if he signed the guardianship papers, that they would
27 not file a petition, an abuse and neglect petition, against Steve and Laura, and
the DFS case would then just be closed out.

28 *See* Ex. 16, Deposition of Emily McFarling at 20:4-21:2.

1 Defendants also represent that after Mr. Eggleston signed the guardianship papers on
2 January 7, 2015, they “were no longer involved” with the family. *See* Motion at p. 14, ll. 12-14.
3 However, Stuart continued to communicate with Lisa after January 7 regarding the family, both
4 via email and over the phone. *See* Ex. 7 at 214:17-23; 218:6-12; 209:16-22 and *see also* Ex. 11
5 (email). Stuart was also calling the hospital to check on H.E. and determine his discharge date.
6 Ex. 7 at 209:23-210:1. Furthermore, CPS planned to stay involved after the removal. *See, e.g.,*
7 Motion at Ex. G, MSJ00024 (Stuart notes that “[t]he aunt will call CPS in Nevada when she is
8 planning on returning the children to either parent.”). Thus, genuine issues of material fact exist
9 precluding summary judgment on Mr. Eggleston’s substantive due process claim.

10 Next, Defendants argue that because they have not come across any case law directly on
11 point, “there is no law establishing Defendants violated any of Plaintiffs’ rights.” *See* Motion at
12 p. 14, ll. 19-24. Once again, Defendants ignore *Eggleston*, wherein the Nevada Supreme Court
13 held that if Mr. Eggleston’s allegations are true, “the State’s actions ‘shock the conscience’ by
14 removing the possibility of reunification and by violating Eggleston’s fundamental right to raise
15 his children. The constitutional violation was complete when the State forced Eggleston to sign
16 the temporary guardianship papers, and thus this claim is fundamentally a substantive due process
17 one...” 137 Nev. at 512, 495 P.3d at 489-90 (internal quotations altered). While Defendants
18 presented the guardianships as temporary, with the Eggleston Boys remaining Clark County, the
19 result was their removal to Illinois several days later, which permitted Lisa to obtain permanent
20 guardianship, which she retains to this day.

21 b. Procedural Due Process

22 Mr. Eggleston also alleges a violation of procedural due process, which protects persons
23 from deprivations of life, liberty, or property that are mistaken or unjustified and “arise where the
24 State interferes with a liberty or property interest and the State’s procedure was constitutionally
25 insufficient.” *Eggleston*, 137 Nev. at 511, 495 P.3d at 489. To establish a claim under § 1983 for
26 deprivation of procedural due process, the claimant must establish: 1) a liberty or property interest
27 protected by the Constitution; 2) a deprivation of that interest by the government; and 3) lack of
28 process. *State v. Eighth Judicial Dist. Court ex rel. Cnty. of Clark*, 118 Nev. 140, 154, 42 P.3d

1 233, 242 (2002) (citation omitted). Defendants argue Mr. Eggleston's allegation is vague and the
2 evidence is to the contrary of said allegation.

3 In fact, Mr. Eggleston specifically alleges that Defendants "failed to disclose and explain
4 any allegations or reports of child abuse or neglect to Plaintiff, and/or alleged failure to protect,
5 thereby depriving him of notice and any fair opportunity to respond and provide convincing,
6 irrefutable evidence that he was a fit parent, in addition to the evidence thereof already in their
7 custody." See FAC at ¶ 29(c). Defendants' argument that "the DFS records establish Plaintiff
8 received both notice and an opportunity to respond" (see Motion at p. 15, ll. 6-7) ignores two key
9 points, precluding summary judgment on Mr. Eggleston's procedural due process claim.

10 First, as presented to Mr. Eggleston, the DFS investigation only concerned abuse and
11 neglect allegations against Laura. Indeed, DFS' UNITY Case Notes state that Stuart "[a]dvised
12 Steven of the report allegations," which per the source, consisted of "the natural mother [] abusing
13 drugs and alcohol and placing the children at risk," including an instance when "she was so out of
14 control the children locked themselves in the bathroom to be safe from her until she passed out."
15 See Motion at Ex. G, MSJ00024, 32. The Case Notes further state that "Father and adult siblings
16 understand the present danger threats of the mother feeling overwhelmed, substance abuse and
17 untreated mental health issues." *Id.* at MSJ00024. Defendants would have the Court believe that
18 during her interactions with Mr. Eggleston, Stuart addressed "Plaintiff's own previous failure to
19 demonstrate protective capacity" (see Motion at p. 15, l. 17) but also prepared a present danger
20 plan under which he, Alexis, and Selena agreed to "provide 24 hour supervision of the children
21 until further notice of DFS" (MSJ00024).

22 Second, prior to January 7, 2015, DFS' UNITY Case Notes show that Defendants
23 represented to Laura and Mr. Eggleston that they were working to provide the in-home services
24 necessary to keep the family together, rather than on guardianships to break up the family. *See*,
25 e.g., Motion at Ex. G, MSJ00024 ("Mother is aware of DFS/CPS involved [*sic*] and is open and
26 cooperative with the needs for services in the home."); *id.* at MSJ00030 ("CFT with the Boystown
27 and Mojave Mental Health Safety Services in the families [*sic*] home. ... Family has agreed to
28 Boystown and Mojave Services in the home."); *id.* at MSJ00033 ("DFS attempted to engaged [*sic*]

1 in home services. Boys[]town involved with the family and Mojave Mental health services met
2 with the family and safety services were not an option although the family is open and cooperative
3 to treatment services.”). Thus, through January 6, 2015, there was no meaningful notice to Mr.
4 Eggleston or an opportunity for him to respond, as his participation in the investigation was
5 premised on a plan to address Laura’s problems through services denied at the eleventh hour.
6 *Eureka Cnty. v. Seventh Judicial Dist. Court in & for Cnty. of Eureka*, 134 Nev. 275, 280, 417
7 P.3d 1121, 1125 (2018) (“Notice must be given at an appropriate stage in the proceedings to give
8 parties meaningful input in the adjudication of their rights.”) *quoting Hamdi v. Rumsfeld*, 542 U.S.
9 507, 533, 124 S. Ct. 2633, 2649 (2004) (“It is equally fundamental that the right to notice and an
10 opportunity to be heard must be granted at a meaningful time and in a meaningful manner.”).

11 Similarly, given the highly stressful nature of the January 7, 2015, meeting, which included
12 two armed police officers and a hysterical Laura having to be consoled and calmed down by several
13 family members, Mr. Eggleston cannot be said to have had ample notice or an opportunity to be
14 heard just because he was able to contact an attorney. *See* Motion at p. 15, ll. 18-20. Blindsiding
15 him with an ultimatum, Stuart required Mr. Eggleston to decide between guardianship and foster
16 care on the spot, without any opportunity to deliberate. Mr. Eggleston’s ability to interact with the
17 Callahans after Lisa returned to Illinois with the Eggleston Boys is of no moment as to whether
18 Defendants violated procedural due process. As a parent, Mr. Eggleston had a fundamental liberty
19 interest in raising the Eggleston Boys. *Eggleston*, 137 Nev. at 511, 495 P.3d at 489 *citing Troxel*,
20 530 U.S. at 65, 120 S. Ct. at 2060. Defendants deprived him of that interest throughout the
21 investigation into Laura, culminating in the January 7 meeting. And there was a lack of process
22 because Defendants chose to keep Mr. Eggleston in the dark regarding its plan for the Eggleston
23 Boys until the last possible minute.

24 c. Qualified Immunity

25 In *Saucier v. Katz*, the United States Supreme Court developed a two-pronged inquiry for
26 determining when summary judgment based on qualified immunity is appropriate. 533 U.S. 194,
27 121 S. Ct. 2151 (2001). As a threshold matter, a court must ask whether, taken in the light most
28 favorable to the party asserting the injury, the facts alleged show the officer’s conduct violated a

1 constitutional right. 533 U.S. at 201, 121 S. Ct. at 2156. If no constitutional violation would exist
2 even if the allegations are taken as true, the inquiry ends, and a finding of qualified immunity is
3 appropriate. *Id.* However, if the parties' submissions indicate a possible constitutional violation,
4 the reviewing court must assess whether the constitutional right was clearly established at the time
5 of the alleged violation. *Id.* If the law does not put an officer on notice that her conduct is clearly
6 unlawful, summary judgment based on qualified immunity is still appropriate. 533 U.S. at 202,
7 121 S. Ct. at 2156.;⁷ *see also Butler ex rel. Biller v. Bayer*, 123 Nev. 450, 458-59, 168 P.3d 1055,
8 1061-62 (2007) *citing Saucier*.

9 Here, the analysis is rather straightforward. Mr. Eggleston alleges the following facts,
10 which must be taken as true for purposes of the first prong of the *Saucier* inquiry:

- 11 • DFS failed to train its employees on responding to similar family situations/dynamics;
- 12 • Defendants fabricated allegations of neglect abuse, or failure to protect the Eggleston Boys;
- 13 • Defendants deprived Mr. Eggleston of notice and an opportunity to respond to allegations;
- 14 • Defendants failed to properly investigate any such allegations;
- 15 • Stuart concealed material facts about her investigation and intentions from Mr. Eggleston;
- 16 • Stuart implemented an "ambush strategy" after misleading Mr. Eggleston;
- 17 • Stuart misrepresented her authority to offer rental assistance and in-home services;
- 18 • Stuart's supervisor overrode promised assistance and Stuart took action to cover her tracks;
- 19 • Stuart's executed the "ambush plan" to cripple the family's ability to protect their rights;
- 20 • Defendants coerced Laura and Steve into executing the temporary guardianships;
- 21 • Defendants abused their power as no constitutional, legal reason for removal existed; and
- 22 • Defendants falsely accused Mr. Eggleston of neglect, abuse, and/or failure to protect.

23 See FAC at ¶ 29(a)-(l).

24 As to the second prong of the *Saucier* inquiry, Mr. Eggleston's liberty in interest in the
25 care, custody, and control of the Eggleston Boys is the oldest of the fundamental liberty interests
26 for due process purposes. *Eggleston*, 137 Nev. at 511, 495 P.3d at 489. There is no disputing the

27 ⁷ While the United States Supreme Court continues to recognize that the *Saucier* protocol is often
28 beneficial, lower courts have the discretion to decide whether *Saucier*'s two-step procedure for
resolving government official's qualified immunity claims is worthwhile in particular cases.
Pearson v. Callahan, 555 U.S. 223, 236-37, 129 S. Ct. 808, 818 (2009).

1 fact that Atteberry, Savage, and McKay, along with Stuart, Holder, and a Mojave representative,
2 attended the January 6 staff meeting during which the decision was made to remove the Eggleston
3 Boys from the home so they could live with Lisa. This decision resulted in depriving Mr. Eggleston
4 of his fundamental right to bring up his children, as protected by the Fourteenth Amendment.
5 Atteberry, Savage, McKay, and Stuart, as employees of the County (a political subdivision of
6 Nevada), were acting under color of state law with knowledge that their conduct was clearly
7 unlawful as they were violating an age old, fundamental liberty interest.

8
9 2. *Intentional Infliction of Emotional Distress*

10 Mr. Eggleston's third cause of action is for intentional infliction of emotional distress
11 (IIED). See FAC at ¶¶ 38-41. The elements of a cause of action for intentional infliction of
12 emotional distress are: 1) defendant's conduct was extreme or outrageous with either the intention
13 of, or reckless disregard for causing emotional distress to plaintiff; and 2) plaintiff suffered severe
14 or extreme emotional distress as the actual or proximate result of defendant's conduct. *Dillard*
15 *Dept. Stores, Inc. v. Beckwith*, 115 Nev. 372, 378, 989 P.2d 882, 886 (1999) (citation omitted);
16 and *Miller v. Jones*, 114 Nev. 1291, 1299-300, 970 P.2d 571, 577 (1998) (citations omitted). As
17 to defendant's conduct, extreme and outrageous conduct is that which is outside all possible
18 pounds of decency and is regarded as utterly intolerable in a civilized community. *Maduike v.*
19 *Agency Rent-A-Car*, 114 Nev. 1, 4, 953 P.2d 24, 26 (1998) (citation omitted). As the elements do
20 not require a physical injury, such an injury is not a prerequisite to establishing emotional distress.
21 *Sadler v. PacifiCare of Nev.*, 130 Nev. 990, 997, 340 P.3d 1264, 1268 (2014) (citation omitted).

22 In *Eggleston*, in the context of analyzing his § 1983 claim, the Nevada Supreme Court
23 found that as alleged in the FAC, Defendants' "actions 'shock the conscience' by removing the
24 possibility of reunification and by violating Eggleston's fundamental right to raise his children."
25 137 Nev. at 512, 495 P.3d at 489-90 (internal quotations altered). The standard required to defeat
26 summary judgment for an IIED claim is similar to the shock the conscience test for a substantive
27 due process claim. In order to shock the conscience of the court, a defendant's actions must go
28 beyond the "decencies of all civilized conduct." *Cnty. of Sacramento*, 523 U.S. at 846. Similarly,
extreme, and outrageous conduct is "outside all possible bounds of decency."

1 The Motion characterizes the ultimatum Defendants gave Mr. Eggleston as an *option* and
2 a *choice* “necessarily in the best interests of the children, even if distressing to Plaintiff.” *Id.* at p.
3 20, ll. 1-11. Conceding its actions could have caused Mr. Eggleston distress, Defendants instead
4 argue their conduct was neither extreme nor outrageous. Stuart’s conduct was both extreme and
5 outrageous with the intention of causing emotional distress to Mr. Eggleston in having the
6 Eggleston Boys not only removed from the home with no forewarning and after being told family
7 services and rental assistance were available to him, but also moved approximately 1,700 miles
8 across country (from Clark County, Nevada to Will County, Illinois). Furthermore, if the Court
9 denies the Motion as to Mr. Eggleston’s § 1983 claim, for the reasons set forth *supra*, then pursuant
10 to the *Eggleston* Court’s holding, extreme and outrageous conduct (i.e., conduct which shocks the
11 conscience) is established, at least for purposes of defeating summary judgment on IIED.

12 Defendants also argue that Mr. Eggleston has not proven a causally related physical injury.
13 See Motion at p. 20, ll. 13-14. A plaintiff, in order to prevail on a claim for intentional infliction
14 of emotional distress under Nevada law, must set forth objectively verifiable indicia to establish
15 that the plaintiff actually suffered extreme or severe emotional distress. *Dinkins v. Schinzel*, 362
16 F. Supp. 3d 916, 926 (D. Nev. 2019) citing *Miller v. Jones*, 114 Nev. 1291, 1300, 970 P.2d 571,
17 577 (1998). While medical evidence is one acceptable manner in establishing that severe emotional
18 distress was suffered, other objectively verifiable evidence may suffice. Plaintiffs’ statement that
19 he suffered depression, stress, loss of sleep, and headaches is insufficient – i.e., something more
20 than just the plaintiff’s own testimony is necessary. Nevada adopted a sliding scale approach based
21 on the severity of the emotional distress. The testimony of friends and family may suffice when
22 the IIED is at the most extreme end of the scale. *Franchise Tax Bd. of Cal. v. Hyatt*, 130 Nev. 662,
23 695-97, 335 P.3d 125, 147-49 (2014), *vacated and remanded on other grounds sub nom. Franchise*
24 *Tax Bd. of California v. Hyatt*, 578 U.S. 171, 136 S. Ct. 1277 (2016).

25 During his deposition, when asked to describe what immediately happened preceding his
26 diagnosis of a stroke and a heart attack, Mr. Eggleston testified that he had not been able to sleep
27 due to stress and worry related to the abduction of the Eggleston Boys. See Eggleston Depo. at
28 185:22-188:9. While Defendants cite to Mr. Eggleston’s medical records in summarizing some

1 of his family medical history, notably absent from the medical records is any medical finding
2 regarding causation. Mr. Eggleston will testify how the removal of the Eggleston Boys from his
3 care by way of apprehension gave rise to great emotional and psychological distress for him.
4 Defendants' actions did not merely constitute a serious intrusion into the family sphere but
5 destroyed the family sphere in an irreparable manner. More specifically, Mr. Eggleston's
6 testimony will detail his mental pain and suffering over the loss of his boys and the helpless
7 experience of being present while it happened. Mr. Eggleston will also present corroborating
8 testimony from family and friends (*see*, e.g., Smith Depo. at 51:5-16, 52:15-23) as well as expert
9 testimony from Dr. John Paglini, who conducted a comprehensive forensic psychological
10 evaluation of Mr. Eggleston⁸ and concluded:

11 To conclude, Mr. Eggleston exhibits mild to moderate depressive symptoms,
12 anxiety related to stress, other specified trauma- and stressor-related disorder,
13 and mild neurocognitive disorder via a stroke in February 2022. Any parent
14 would be emotionally distraught if their child/children were taken away and
15 have had the experiences of Mr. Eggleston for the last eight years. Mr. Eggleston
16 has suffered shame, humiliation, intrusive thoughts, worry, depression,
17 hopelessness, and insomnia. ... Clearly, from his stroke, he has had difficulties
18 with memory loss and inability to process and synthesize information.

19 *See* Expert Rebuttal, Ex. 17 at pp. 28-29. In short, Mr. Eggleston attributes his injury to
20 Defendants' actions; and Defendants dismissively attribute it to his health and family history.
21 Thus, there exists a genuine issue of material fact as to whether Defendants' alleged conduct was
22 the cause in fact of Mr. Eggleston's stroke and heart attack, precluding summary judgment on the
23 second element of IIED.

24 Third, Defendants argue that they have discretionary act immunity. *See* Motion at p. 21, ll.
25 1-19. Acts by state employees are entitled to discretionary-function immunity if they meet two
26 criteria: 1) the disputed act must be discretionary, in that it involves an element of judgment or
27 choice, and 2) even if an element of judgment or choice is involved, the court must determine if
28 the judgment is of the kind that the discretionary function exception was designed to shield, i.e.,

⁸ Dr. Paglini's evaluation consisted of a mental status exam/behavioral observations, psychosocial history, educational history, employment history, pre-incident psychological history, substance use history, medical history, relationship history, changes since the subject incident, a battery of psychological testing, collateral interview of Mr. Eggleston's wife, an analysis of the instant case, and a DSM-5 diagnostic impression.

1 actions based on considerations of social, economic, or political policy. *Butler*, 123 Nev. at 465-
2 66, 168 P.3d at 1066 (2007) citing *Martinez v. Maruszczak*, 123 Nev. 433, 446-47, 168 P.3d 720,
3 729 (2007) (additional citations omitted). While Defendants correctly state this standard, their
4 analysis of how it applies here is fatally conclusory, stating merely that “Plaintiff’s state law claims
5 fail on discretionary act immunity, including [IIED].” See Motion at p. 22, ll. 8-9.

6 Instead, Defendants cite to NRS 41.032(2)⁹ and several statutes in NRS Chapter 432B,
7 which governs the protection of children from abuse and neglect. While DFS is indeed obligated
8 to adhere to these statutes, its discretion is not without bounds. See Motion at p. 21, l. 20 (stating
9 that “[b]y law, DFS is vested with **broad discretion** in carrying out its duties to protect children”
10 but not providing any citations to such law) (emphasis added). Indeed, acts that violate the
11 Constitution are not discretionary, and thus, do not qualify for immunity under NRS 41.032. See,
12 e.g., *Jones v. Las Vegas Metro. Police Dep’t*, 873 F.3d 1123, 1133 (9th Cir. 2017) (decisions made
13 in bad faith, such as abusive conduct resulting from hostility or willful or deliberate disregard for
14 a citizen’s rights, including constitutionally protected interest in the companionship of children,
15 are not protected under NRS 41.032(2) even if they arise out of a discretionary function); *Koiro v.*
16 *Las Vegas Metro. Police Dept.*, 69 F. Supp. 3d 1061, 1074 (D. Nev. 2014), *aff’d*, 671 Fed. Appx.
17 671 (9th Cir. 2016) (acts taken in violation of the Constitution cannot be considered discretionary
18 within meaning of NRS 41.032); *Goodman v. Las Vegas Metro. Police Dept.*, 963 F. Supp. 2d
19 1036, 1061 (D. Nev. 2013), *aff’d in part, rev’d in part, dismissed in part*, 613 Fed. Appx. 610 (9th
20 Cir. 2015) (if defendants violate the Constitution, the discretionary function exception to Nevada’s
21 waiver of sovereign immunity will not shield them from state liability); and *Walker v. City of N.*
22 *Las Vegas*, 394 F. Supp. 3d 1251, 1275 (D. Nev. 2019) (genuine issue of material fact as to whether
23 police officers’ actions violated the Constitution precluded summary judgment on officers’
24 statutory immunity defense under Nevada law to plaintiff’s state law claims). As such, if
25 Defendants violated Mr. Eggleston’s fundamental constitutional right under the Fourteenth
26 Amendment to bring up the Eggleston Boys, then they do not have discretionary immunity.

27
28 ⁹ “Based upon the exercise or performance or the failure to exercise or perform a discretionary
function or duty on the part of the State or any of its agencies or political subdivisions or of any
officer, employee or immune contractor of any of these, whether or not the discretion involved is
abused.”

1 Defendants' last argument as to IIED is that Lisa's conduct is a superseding, intervening
2 cause. *See* Motion at p. 22, l. 10. As a prefatory matter, whether an event constitutes a superseding
3 or intervening cause are generally questions of fact, best left for the jury to decide. *Smith v. City*
4 *of Chandler*, 794 Fed. Appx. 594, 596 (9th Cir. 2019); and *Scialabba v. Brandise Const. Co., Inc.*,
5 112 Nev. 965, 971, 921 P.2d 928, 931 (1996). Furthermore, Defendants' premise for its argument
6 – i.e., that the Court may find that Lisa committed a tort or crime in abducting the Eggleston Boys
7 or improperly denied him the ability to communicate with his boys (*see* Motion at p. 22, ll. 11-14)
8 – is procedurally flawed. As the Court has already entered Lisa's default, it will exercise its
9 discretion as to whether it needs to "establish the truth of any allegation by evidence" to enter
10 default judgment against Lisa. NRCP 55(b)(2). Thus, the Court may not make a specific finding
11 regarding Lisa as to any tort she may have committed. Furthermore, as this Court is hearing a civil
12 action, it cannot make a finding as to whether Lisa committed a crime.

13 As to foreseeability, Defendants present a hodgepodge of alleged facts, none of which
14 collectively or individually prove anything. *See* Motion at p. 22, l. 21 to p. 23, l. 7. Stuart admits
15 that she knew Lisa planned to return to Illinois with the Eggleston Boys. *See* Ex. 7, at 83:18-84:6.
16 Whether or not there were issues with Lisa denying contact or visitation with Selena after obtaining
17 guardianship (*see* Motion at p. 22, ll. 23-25) of her is irrelevant as Selena is Laura's daughter, not
18 Mr. Eggleston's. While there may be no evidence that Lisa has a criminal record, Stuart did not
19 conduct any background investigation on Lisa or Brian. *Id.* at 208:7-209:15. As Defendants
20 violated Mr. Eggleston's Fourteenth Amendment parental right, there was indeed a legal bar to
21 Lisa taking the Eggleston Boys to Illinois. As previously discussed, the circumstances under which
22 Mr. Eggleston was forced to sign the guardianships cannot accurately be characterized as
23 *voluntarily*. In bold print, Defendants imply that Mr. Eggleston did not revoke H.E.'s guardianship
24 (*see* Motion at p. 23, ll. 4-5) despite knowing full well that McFarling's March 31, 2015,
25 correspondence to the Callahans states that the revocation applies to both children. *See* **Ex. 18**
26 ("The purpose of this letter is to inform you that Steve no longer wishes to maintain you as
27 temporary guardians of his children and therefore requests that you return them to his custody
28

1 immediately.”).¹⁰ Defendants’ statement that “Plaintiff’s conduct created the situation that
2 allowed Lisa to leave the State with the Boys” (see Motion at p. 23, ll. 5-6) is belied by Defendants’
3 investigation, which began as a result of a referral that Laura was suffering from substance abuse
4 and mental health issue.

5 The record also contradicts the implication that Mr. Eggleston caused his own emotional
6 distress in not working with his attorney to pursue legal action for the return of the Eggleston Boys.
7 See Motion at p. 23, ll. 14-16. Mr. Eggleston in fact worked with several attorneys to, *inter alia*,
8 revoke the guardianships, establish paternity of the Eggleston Boys, obtain full custody via a
9 separate proceeding in Nevada, challenge custody in Will County, Illinois, file the instant action,
10 successfully appeal dismissal of the instant action, and petition for reversal of wrongfully
11 substantiated allegations of child abuse and neglect.

12 3. *Defamation, Libel, and Slander*

13 Mr. Eggleston’s fourth cause of action is for defamation, libel, and slander. See FAC at ¶¶
14 42-49. The elements of defamation are: 1) defendant made a false and defamatory statement
15 concerning plaintiff; 2) an unprivileged publication of this statement was made to a third person;
16 3) defendant was at least negligent in making the statement; and 4) plaintiff sustained actual or
17 presumed damages as a result of the statement. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706,
18 714, 57 P.3d 82, 87-88 (2002); and *Simpson v. Mars Inc.*, 113 Nev. 188, 190, 929 P.2d 966, 967
19 (1997) citing *Chowdhry v. NLVH, Inc.*, 109 Nev. 478, 483, 851 P.2d 459, 462 (1993). A statement
20 is defamatory if it would tend to lower the subject in the estimation of the community, excite
21 derogatory opinions about the subject, and hold the subject up to contempt. *Pegasus*, 118 Nev. at
22 715, 57 P.3d at 88 (citation omitted). If the published statements could be construed as defamatory
23 statements of fact, and therefore actionable, then the jury should resolve the matter. *Id.* (citation
24 omitted); *Lubin v. Kunin*, 117 Nev. 107, 111, 17 P.3d 422, 425-26 (2001) (where a statement is
25 susceptible of different constructions, one of which is defamatory, resolution of the ambiguity is a
26 question of fact for the jury). Similarly, libel is defamation in writing and slander is spoken
27

28 ¹⁰ See also Appendix to Defendants Clark County and Georgina Stuart’s Motion for Summary Judgment, describing Exhibit Z, which is the Revocation of Nomination and Consent of Guardianship, as *Revocations* (plural).

1 defamatory statements. LIBEL, Black's Law Dictionary (11th ed. 2019); *Dinkins v. Schinzel*, 362
2 F. Supp. 3d 916, 923 (D. Nev. 2019); SLANDER, Black's Law Dictionary (11th ed. 2019); and
3 *Illaraza v. HOVENSA LLC*, 73 F. Supp. 3d 588, 603 (D.V.I. 2014).

4 First, as to falsity, Defendants argue that there is no evidence that the DFS record was false.
5 There are presently two pending actions wherein DFS' findings and conclusions are at issue – 1)
6 the instant action where a jury should make the determination as to falsity; and 2) *Steve Eggleston*
7 *vs. Department of Family Services, Clark County, Nevada*, Carson City District Court Case No.
8 20 OC 00164 1B, wherein the court is considering Mr. Eggleston's Petition for Judicial Review
9 challenging an Appeal Hearing Decision¹¹ wherein the appeal hearing officer substantiated child
10 abuse and neglect findings against him by DFS.

11 Second, as to publication, Defendants argue that DFS was statutorily required to determine
12 whether the allegations of physical injury neglect/risk (*see* Substantiation Letter, Motion at Ex.
13 EE) were substantiated (NRS 432B.300) and to report its finding to the State Central Registry
14 (NRS 432B.310). *See* Motion at p. 24, l. 24 to p. 25, l. 2. DFS' decision as to whether to substantiate
15 the report of abuse or neglect against Mr. Eggleston should have considered all available evidence.
16 2011 Nev. Op. Atty. Gen. No. 02 (Feb. 22, 2011). As part of Mr. Eggleston's case in chief on his
17 § 1983 claim, he will provide that it did not do so.

18 Defendants' reliance on its statutory duties requires an analysis of the common interest
19 privilege, a conditional privilege which exists where a defamatory statement is made in good faith
20 on any subject matter in which the person communicating has an interest, or in reference to which
21 she has a right or a duty, if it is made to a person with a corresponding interest or duty. *Lubin*, 117
22 Nev. at 115, 17 P.3d at 428 (citations omitted). As discussed *supra*, the statements and findings
23 made during the investigation against Mr. Eggleston were made in bad faith (i.e., with malice),
24 rendering the privilege inapplicable. In *Neason v. Clark Cnty., Nevada*, the District of Nevada
25 analyzed the common interest privilege in the context of NRS 432B.310. 352 F. Supp. 2d 1133

26
27 ¹¹ Notably, on May 26, 2023, District Judge James Wilson ordered the appeal hearing officer to
28 prepare "an amended appeal hearing decision that includes a concise and explicit statement of the
underlying facts supporting the findings that '[t]he preponderance of the evidence indicates that
Mr. Eggleston allowed the minor children to be subjected to harmful behavior by the mother that
resulted in a plausible risk of physical injury/harm pursuant to NRS 432.140.'" *See* Order for
Limited Remand, a true and correct copy of which is attached hereto as **Ex. 19**, at p. 2, ll. 14-20.

1 (D. Nev. 2005). The *Neason* Court's holding indicates that if Clark County communicates a report
2 on a parent's alleged abuse to the Central Registry with malice in fact, it would not constitute a
3 privileged publication under the common interest privilege. *Id.* at 1142-43.

4 Lastly, Stuart communicated with Lisa, as well as Lisa's attorney regarding the allegations
5 against Steve. *See Ex. 20* - emails between attorney Shabazz and Stuart. In an email from Lisa to
6 Stuart regarding Mr. Eggleston being unfit, Stuart responded that the allegations would be
7 substantiated (this was prior to substantiation occurring). Stuart's willingness to provide
8 information to Lisa, her attorney and upon information and belief the guardian ad litem in the
9 Illinois case resulted in the Illinois court being provided false information that Lisa relied on to
10 obtain guardianship. Stuart's direct actions of the publication of false information harmed Mr.
11 Eggleston directly in his pursuit to get his children back.

12 4. Punitive Damages

13 Mr. Eggleston requests punitive damages as part of his claims against Stuart. *See* FAC at
14 p. 24, ¶ 3. Pursuant to NRS 42.005(1), "in an action for the breach of an obligation not arising
15 from contract, where it is proven by clear and convincing evidence that the defendant has been
16 guilty of oppression, fraud or malice, express or implied, the plaintiff, in addition to the
17 compensatory damages, may recover damages for the sake of example and by way of punishing
18 the defendant." If a party claims punitive damages, then "**the trier of fact** shall make a finding of
19 whether such damages will be assessed." NRS 42.005(3) (emphasis added). Indeed, while a
20 plaintiff is never entitled to punitive damages as a matter of right, "where the district court has
21 determined that the conduct at issue is, as a threshold matter, subject to civil punishment, **the**
22 **allowance or denial of exemplary or punitive damages rests entirely in the discretion of the**
23 **trier of fact.**" *Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 612, 5 P.3d 1043, 1052 (2000)
24 (citations omitted) (emphasis added).

25 The jury may award Mr. Eggleston punitive damages on any of his claims against Stuart.
26 A plaintiff may claim punitive damages under § 1983 when "the defendant's conduct is shown to
27 be motivated by evil motive or intent, or when it involves reckless or callous indifference to the
28 federally protected rights of others." *Shafer v. City of Boulder*, 896 F. Supp. 2d 915, 942 (D. Nev.

1 2012) quoting *Smith v. Wade*, 461 U.S. 30, 56, 103 S. Ct. 1625, 1640 (1983). A jury may also
2 award punitive damages for intentional infliction of emotional distress (see, e.g., *Dillard Dept.*
3 *Stores, Inc. v. Beckwith*, 115 Nev. 372, 381, 989 P.2d 882, 887-88 (1999)) and defamation (see,
4 e.g., *Bongiovi v. Sullivan*, 122 Nev. 556, 581-82, 138 P.3d 433, 451 (2006)¹²). As to his § 1983
5 claim, the Nevada Supreme Court specifically held that Mr. Eggleston may pursue punitive
6 damages against Stuart:

7 Here, Eggleston appeals from a final judgment, the district court's order
8 dismissing Eggleston's claims. In a prior order, the district court dismissed
9 punitive damages against Stuart, finding Stuart was immune from punitive
10 damages because Eggleston's complaint alleged Stuart was acting within the
11 scope of her employment with the exception of "certain occasions" not
12 specifically pleaded within the complaint. However, in his complaint, Eggleston
13 alleged that Stuart arrived at his home with two police officers and forced him
14 to sign temporary guardianship papers under the threat that he would otherwise
never see his children again. Taking these allegations as true, Eggleston could
15 prove that Stuart violated his civil rights and, therefore, **that Stuart was acting**
16 **in her individual capacity rather than her official capacity**. In turn, Eggleston
could be able to pursue punitive damages against Stuart.

15 *Eggleston*, 137 Nev. at 514, 495 P.3d at 491 (emphasis added). Thus, Defendants' argument that
16 Mr. Eggleston's claim for punitive damages against Stuart must be considered in her official
17 capacity is res judicata.

18 Defendants also argue that punitive damages against Stuart in her official capacity are
19 unavailable because there is no evidence of oppression, fraud, or malice. For purposes of NRS
20 42.005(1), *oppression* is a conscious disregard for the rights of others which constituted an act of
21 subjecting plaintiff to cruel and unjust hardship; *fraud* is an intentional misrepresentation,
22 deception, or concealment of a material fact known to the person with the intent to deprive another
23 person of his or her rights or property or to otherwise injure another person; and *malice* is conduct
24 which is intended to injure a person or despicable conduct which is engaged in with a conscious
25 disregard of the rights or safety of others. *USF Ins. Co. v. Smith's Food & Drug Ctr., Inc.*, 921 F.
26 Supp. 2d 1082, 1098 (D. Nev. 2013), *as corrected* (Mar. 27, 2013) (citations omitted). The facts
27 demonstrate that a reasonable jury could find Stuart acted with oppression, fraud, and/or malice.

28 ¹² See also NRS 42.005(2)(e) (limitations of a punitive damages award do not apply to an action
brought against a person for defamation).

1 As to fraud, Stuart herself admits that she concealed from Mr. Eggleston the fact that Defendants
2 were going to deny previously discussed services, and instead recommend foster care or
3 guardianship with the Callahans. *See* Ex.7 at 123:23-124:13. Stuart acted with the intent of
4 depriving Mr. Eggleston of his constitutional, parental right to raise the Eggleston Boys, and
5 otherwise caused him emotional distress as discussed *supra*.

6 **V. CONCLUSION**

7 Based on the foregoing, the Court should deny the Motion in its entirety.

8 Finally, the 2019 Amendment to Rule 56 includes judicial discretion under NRCP 56(e)
9 whereby “[i]f a party fails to properly support an assertion of fact or fails to properly address
10 another party’s assertion of fact as required by Rule 56(c), the court may...give an opportunity to
11 properly support or address the fact.” Given that the instant action is fact intensive, if Mr.
12 Eggleston inadvertently did not properly support or address a material fact herein, then he
13 respectfully requests that the Court exercise its discretion and give him an opportunity to do so.

14 DATED this 17th day of October 2023.

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Clark Hill, and that on the 17th day of October 2023, I caused to be served a true and correct copy of the foregoing **OPPOSITION TO DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S MOTION FOR SUMMARY JUDGMENT** in the following manner:

(ELECTRONIC SERVICE) Pursuant to Administrative Order 14-2, the above-referenced document was electronically filed on the date hereof and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List.

/s/ Clarissa Reyes
An Employee of CLARK HILL PLLC