

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.

Electronically Filed
Apr 26 2024 11:09 AM
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO. 87906

DISTRICT COURT CASE NO.

A-16-748919-C

APPENDIX TO EMERGENCY PETITION FOR WRIT OF MANDAMUS
VOLUME 1 OF 2

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APPENDIX TO EMERGENCY PETITION FOR WRIT OF MANDAMUS
VOLUME 1 OF 2

Date	Title	Bates Numbers
9/29/23	Appendix to Defendants Clark County and Georgina Stuart's Motion for Summary Judgment (Volume 1)	WRIT059-118
9/29/23	Defendants Clark County and Georgina Stuart's Motion for Summary Judgment (Volume 1)	WRIT028-058
10/31/23	Defendants Clark County and Georgina Stuart's Reply to Plaintiff's Opposition to Motion For Summary Judgment (Volume 2)	WRIT155-239
1/15/24	Findings of Fact, Conclusions of Law and Order (Volume 2)	WRIT240-261
8/10/17	First Amended Complaint for Civil Rights Violations, Child Abduction, Conspiracy, Defamation (Volume 1)	WRIT001-027
10/17/23	Opposition to Defendants Clark County and Georgina Stuart's Motion for Summary Judgment (Volume 1)	WRIT119-149
10/18/23	Order Granting Defendant Clark County and Georgina Stuart's Motion for Leave to File Exhibits to Motion for Summary Judgment Under Seal (Volume 2)	WRIT150-154

DATED this 26th day of April, 2024.

/s/ Felicia Galati, Esq.
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CERTIFICATE OF SERVICE

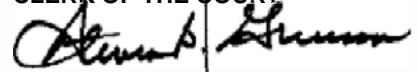
I HEREBY CERTIFY that on this 26th day of April, 2024, I sent via e-mail a true and correct copy of the above and foregoing **APPENDIX TO EMERGENCY PETITION FOR WRIT OF MANDAMUS, VOLUME I** by electronic service through the Nevada Supreme Court's website, (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

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Honorable Judge Susan H. Johnson
Eighth Judicial District Court
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To be hand delivered

/s/ Lisa Rico

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PLAINTIFF, IN PRO PER

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVE EGGLESTON,

Plaintiff,

-vs-

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

Defendants.

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

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

JURISDICTION

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

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. On information and belief, in partial response to the allegations herein, she was transferred to a different position.

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

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

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

13 14. Battistella was released on Christmas Day and returned to the Family Home, where the
14 remainder Plaintiff and the children were all present. Thereafter, on exact dates known to the
15 COUNTY and STUART defendants, and contained in their records, Defendant GEORGINA
16 STUART returned to the Family Home. At that time, Defendant GEORGINA STUART
17 appointed Plaintiff and the oldest Rodriguez child supervisory guardians of the children.
18 Plaintiff signed a document making this appointment official and defining his obligations, which
19 he at all times fulfilled. Further, no suggestion was ever made to Plaintiff that he had in any way
20 failed to fulfil his obligations under this appointment.
21

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

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
14 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.

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.

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.

13 (i) Soon thereafter, Plaintiff and Battistella, accompanied by Defendant LISA
14 CALLAHAN, signed a previously-prepared temporary guardianship form in front of nearby
15 notary in order to prevent the police from removing the children “right now” and causing him to
16 never see the Eggleston Boys again. This document was signed under duress by Plaintiff and
17 never, to his information and belief, signed by the CALLAHAN Defendants.

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

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

25 (l) Despite her assurance to the contrary, Defendant LISA CALLAHAN abducted
26 and removed the Eggleston Boys from the county and the state and, on information and belief,
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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 27. Plaintiff incorporates by reference as if set forth herein all previous allegations.

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

18 29. On information and belief, at all times relevant to this Cause of Action, the conduct
19 alleged herein by Defendant CLARK COUNTY and Defendant GEORGINA STUART resulted
20 from actions taken on the part of a government entity that implemented or executed a policy
21 statement, ordinance, regulation, or decision officially adopted and promulgated by that body's
22 officers, or the result of the entity's custom, the custom and policy being a moving force behind
23 the deprivation of Plaintiff's rights, damages and request for relief alleged herein, including but
24 not limited to the following:

25 (a) With indifference to an obvious need, and knowing this indifference would likely
26 result in a CLARK COUNTY employee making a wrong decision, with regard to the actions
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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
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1 entrusted their children with Plaintiff and Battistella (and vice-versa), family friends who visited
2 the house, teachers and parents of students from the school attended by the Rodriguez children,
3 and doctors who saw and treated all of the children (there never, ever being any documentation
4 or suggestion of abuse or neglect by any of them);

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

13 (e) Defendant GEORGINA STUART concealed material facts about her
14 investigation and intentions from Plaintiff, with the purpose of depriving him of the opportunity
15 and ability to protect his fundamental parental rights and protect the Eggleston Boys from
16 wrongful removal, all as part of an ongoing custom and practice of abusing her power and
17 authority and taking actions designed, not to advance the best interests of parents, children and
18 families, but rather, to enhance the budgets and monetary allocations to Defendant CLARK
19 COUNTY, i.e., Defendants CLARK COUNTY and Defendant Stuart put budget money and their
20 own job security over the health and welfare of families and children;

21 (f) After misleading Plaintiff, Defendant GEORGINA STUART implemented an
22 "Ambush Strategy," as alleged above, complete with law enforcement officers looking ready to
23 draw their guns, with the purpose of depriving him of the opportunity and ability to protect his
24 fundamental parental rights and protect the Eggleston Boys from wrongful removal, all as part of
25 an ongoing custom and practice of abusing her power and authority and taking actions designed,
26 not to advance the best interests of parents, children and families, but rather, to enhance the
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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 30. On information and belief, as a legal and proximate result of the foregoing, Plaintiff was
25 denied his fundamental, constitutional right of parenthood and fatherhood, has been irreparably
26 damaged by the deprivation of raising his sons and sharing their love and joy, experienced
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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 32. Plaintiff incorporates by reference as if set forth herein all previous allegations, including
15 specifically those set forth in paragraph 29(a) through (l), inclusive, of the FIRST CAUSE OF
16 ACTION.

17 33. On information and belief, on the days leading up to January 6, 2015, and prior to the
18 aforesaid abduction of the Eggleston Boys, Defendant GEORGINA STUART met repeatedly in
19 person, spoke by phone, and/or communicated via email, SMS text and other online media, with
20 other employees of Defendant CLARK COUNTY and DOES 1 through 10, inclusive, about
21 Plaintiff, the Eggleston boys, Battistella, The Rodriguez children, and the CALLAHAN
22 Defendants, and by and through these contacts, planned and plotted the details of how, among
23 other things, the Eggleston Boys would be abducted and removed from Plaintiff's custody
24 unlawfully and in violation of his civil rights and theirs, including but not limited to the aforesaid
25 "Ambush Plan," the engagement of policeman wearing weapons, the use and preparation of the
26 aforesaid temporary custody forms, the unlawful threats and coercion that would be made, the
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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,
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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.

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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.
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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 RELIEF REQUESTED

- 16
- 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
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1 h. Any other injunctive relief that the court deems necessary and proper, given
2 especially the allegations that evidence has been fraudulently falsified, concealed
3 and misrepresented by the CLARK COUNTY defendants herein.

4 xxx

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7 xxx

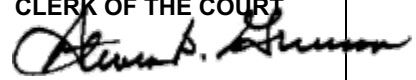
1 5. Prejudgement interest as allowed by law;

2 6. Costs of suit herein;

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

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5 DATE: January 8, 2017

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7 Steve Eggleston, Plaintiff
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CLARK COUNTY and GEORGINA STUART

DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON,

Plaintiff,

v.

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

Defendants.

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

HEARING REQUESTED

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

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

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

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

10 **II. PROCEDURAL AND FACTUAL BACKGROUND**

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

18 **III. STATEMENT OF UNDISPUTED MATERIAL FACTS**

19 **A. DFS Child Protective Services (CPS) Reports**

20 In 2014, Plaintiff resided with Laura. They were not married. In addition to their two
21 sons (the Eggleston Boys), two of Laura's older children (K.R. and J.R., ages 11 and 8) also
22 resided in the home. Laura also has two older daughters, Alexis and Selena Rodriguez who, in
23 2014, resided in Illinois, as did their maternal aunt, Lisa Callahan. In 2013, Laura gave
24 Guardianship of Selena to Lisa, after Selena refused to buy drugs for Laura.² Prior to the
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28 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
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24 ⁹ Id. at CC 8A and 11A; CPS Referral Summary #1643346 (Exh. E).

25 ¹⁰ See CPS Referral Summary #1643346 at CC 027A (Exh. E); CPS Referral Summary
26 #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

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).

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

D. Temporary Guardianships

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

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

⁴⁴ See Investigations Policy (Exh. MM).

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

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

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 and 199;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).

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

E. Substantiation

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

IV. LEGAL STANDARD

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

⁶⁴ See McFarling Depo, p. 43 (Exh. V).

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).

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

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

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

After voluntarily signing the Temporary Guardianships, Plaintiff alleges “**LISA CALLAHAN** abducted and removed the Eggleston Boys from the county and state” and took them to Illinois.⁶⁷ Defendants did not remove the children from the State nor was Lisa Callahan acting as Defendants’ agent in any regard. Defendants have not located any § 1983 case law establishing a substantive due process claim based on a parent’s assignation of Guardianship following and abuse/neglect investigation, where the temporary guardian thereafter takes the children from the State. Thus, there is no law establishing Defendants violated any of Plaintiff’s rights and/or caused Plaintiff any deprivation thereof by agreeing to forego removal if the 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. Sorrells 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
7 The question before this Court is, therefore, whether the County Defendants' conduct
8 violated a constitutional right that was clearly established on the date of the alleged violation.
9 The answer is no, and Defendants are entitled to qualified immunity.

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

19 There is no clearly established precedent that would place any reasonable official on
20 notice that either the recommended removal, or foregoing removal when the parents signed the
21 Temporary Guardianships, would violate a Constitutional right – because it did not. Where DFS
22 determines a child needs protection, it may remove the child from the home, including where a
23 child has been or might be subjected to neglect by a person responsible for the welfare of the
24 child. See, e.g., NRS 432B.340 and 432B.330. Here, CPS had substantial information from the
25 family – including Plaintiff who acknowledged he was working and unaware of Laura's actions
26 around the children, regarding the safety risks and/or threats posed by Laura's various and
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28

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).

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

1. Plaintiff's IIED Claim Fails

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

a. County Defendants' Conduct

First, looking to the County Defendants conduct, a CPS Report of abuse and neglect was made. The County Defendants investigated, as they are statutorily required to do. They actively interacted with Plaintiff and Laura's family in that regard. Plaintiff acknowledged his prior failure to act in a protective capacity and his need for additional services and support in that regard. Stuart actively attempted to arrange in home services until it became clear that in the absence of the supporting Illinois family member's presence, those services were not sufficient to protect the children, and removal by DFS, or assignment of temporary guardianships by 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
8 these, whether or not the discretion involved is abused.

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

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

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

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

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

First, Plaintiff cannot present evidence of foreseeability. Id. (observing that the originally negligent party is only liable for a third party's intentional tort or crime if it was foreseeable); Momox-Caselis, supra. It was not foreseeable that Lisa would “abduct,” or wrongfully deny Plaintiff contact/visitation with the Boys. Lisa had Guardianship of Selena and there is no evidence of any such issues. There is no evidence that Lisa has a criminal record, and she initially allowed Plaintiff to speak to the Boys for the first year from the date they left

Las Vegas on 1/9/15.⁷⁶ The Temporary Guardianships did not require Lisa to stay in Nevada and there was no legal bar to her taking the Boys to Illinois. Plaintiff voluntarily signed the Guardianships after consultation with his own lawyer. Plaintiff did not revoke R.E.'s Guardianships until 2/18/15, long after Lisa and the Boys had left Nevada.⁷⁷ **Defendant has not located a Revocation for H.E.** Plaintiff's conduct created the situation that allowed Lisa to leave the State with the Boys. Therefore, Defendants are entitled to summary judgment. Id. citing Celotex Corp., supra.

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

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

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

...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;(3) That he had abused the Eggleston boys and other

⁷⁶ See L. Callahan Depo., p. 103 (Exh. Q).

⁷⁷ See Revocation (Exh. Z).

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

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

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

a. Defamation

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

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

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

⁷⁹ See FAC, ¶43.

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
8 **b. Slander and Libel**

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

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

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

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, or 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 **VI. CONCLUSION**

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

15 DATED this 29th day of September, 2023.

16 OLSON CANNON GORMLEY & STOBERSKI

17 
18

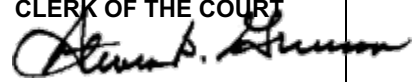
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25 CLARK COUNTY and GEORGINA STUART
26
27
28

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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CLARK COUNTY and GEORGINA STUART

DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON,

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

Plaintiff,

v.

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

Defendants.

**APPENDIX TO DEFENDANTS CLARK COUNTY AND GEORGINA
STUART'S MOTION FOR SUMMARY JUDGMENT**

(*Filed Under Seal)

Exhibit A*	CPS Referral Summary	MSJ001-MSJ004
Exhibit B	Marion Biron Affidavit	MSJ005-MSJ007
Exhibit C*	St. Rose Hospital Record	MSJ008
Exhibit D*	Lisa McKay Deposition Pages	MSJ009-MSJ0011
Exhibit E*	CPS Summary	MSJ0012-MSJ0018
Exhibit F*	Montevista Record	MSJ0019
Exhibit G*	Unity Case Notes	MSJ0020-MSJ0039
Exhibit H*	CPS Referral Summary	MSJ0040-MSJ0045
Exhibit I*	Sunrise Hospital Records	MSJ0046-MSJ0047
Exhibit J	Supreme Court Documents regarding Plaintiff Suspension	MSJ0048

1	Exhibit K*	Present Danger Assessments	MSJ0049-MSJ0057
2	Exhibit L*	Georgina Stuart Deposition Pages	MSJ0058-MSJ0082
3	Exhibit M*	CPS Brochure	MSJ0083-MSJ0091
4	Exhibit N*	Present Danger Plan	MSJ0092
5	Exhibit O*	Alexis Rodriguez Deposition Pages	MSJ0093-MSJ0105
6	Exhibit P*	Boys Town Referral	MSJ0106-MSJ0107
7	Exhibit Q*	Lisa Callahan Deposition Pages	MSJ0109-MSJ131
8	Exhibit R*	Calendars	MSJ0132-MSJ0135
9	Exhibit S*	Nevada Initial Assessment	MSJ0136-MSJ0146
10	Exhibit T*	Mary Atteberry Deposition Pages	MSJ0147-MSJ0156
11	Exhibit U*	Steven Eggleston Deposition Pages	MSJ0157-MSJ0169
12	Exhibit V*	Emily McFarling Deposition Pages	MSJ0170-MSJ0187
13	Exhibit W*	Guardianships	MSJ0188-MSJ0189
14	Exhibit X*	Lisa Callahan Email	MSJ0190
15	Exhibit Y*	Emails	MSJ0191-MSJ0246
16	Exhibit Z	Revocations	MSJ0247
17	Exhibit AA	1/11/2015 Email	MSJ0248-MSJ0252
18	Exhibit BB*	Sommer Kariange Affidavit and Log	MSJ0253-MSJ0256
19	Exhibit CC	Illinois Action Docket	MSJ0257-MSJ0269
20	Exhibit DD*	Left Side File	MSJ0270-MSJ0342
21	Exhibit EE*	2/2/2015 Substantiation	MSJ0343-MSJ0349
22	Exhibit FF*	Affidavit of Beverly Brown	MSJ0350-MSJ0352
23	Exhibit GG*	Clint Holder Deposition Pages	MSJ0353-MSJ0355
24	Exhibit HH	Steve Eggleston Basic Info and Timeline	MSJ0356-MSJ0360
25	Exhibit II*	Risk Assessment	MSJ0361-MSJ0362
26	Exhibit JJ	1/7/2015 McFarling Notes	MSJ0363
27	Exhibit KK*	SNHD Referral	MSJ0364-MSJ0366
28	Exhibit LL*	DFS Emails	MSJ0367-MSJ0391
	Exhibit MM	Investigations Policy	MSJ0392
	Exhibit NN	Felicia Galati Affidavit	MSJ0393-MSJ0400
	Exhibit OO	Supplemental Exhibit regarding Daycare	MSJ0401-MSJ0403
	Exhibit PP*	Park Hospital Records	MSJ0404-MSJ0405
	Exhibit QQ	Correspondence from Plaintiff's counsel dated 12/8/2022	MSJ0406-MSJ0409
	Exhibit RR*	Dr. Kimmel's report	MSJ0410-MSJ0419
	Exhibit SS*	Dr. Paglini's report	MSJ0420-MSJ0448

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1 DATED this 29th day of September, 2023.
2

3 OLSON CANNON GORMLEY & STOBERSKI

4 
5

6 _____
7 FELICIA GALATI, ESQ.
8 Nevada Bar No. 7341
9 9950 West Cheyenne Avenue
10 Las Vegas, NV 89129
11 Attorney for Defendants
12 CLARK COUNTY and GEORGINA STUART
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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 **APPENDIX TO 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:

Paola M. Armeni, Esq.
CLARK HILL, LLP.
3800 Howard Hughes Pkwy.
Las Vegas, NV 89169
parmeni@clarkhill.com
Telephone: 702/697-7509
Fax: 702-682-8400

/s/ Lisa Rico

An employee of Olson Cannon Gormley & Stoberski

EXHIBIT “B”

AFFIDAVIT OF MARION C. BIRON

STATE OF NEVADA)
) §
COUNTY OF CLARK)

MARION C. BIRON being first duly sworn, deposes and states:

1. I am employed as a Management Analyst II by the Clark County Department of Family Services (DFS) Administrative Services Division and in such capacity am the custodian of the records of the Department;

2. I make this Affidavit in support of Defendants Clark County and Georgina Stuart's Motion For Summary Judgment (Motion);

3. Attached to Defendants' Motion as Exhibit A is a true and correct copy of Child Protective Services (CPS) Referral Summary #1618945 created and maintained by Department of Family Services (DFS) in its files;

4. Attached to Defendants' Motion as Exhibit E is a true and correct copy of CPS Referral Summary #1643346 created and maintained by DFS in its files;

5. Attached to Defendants' Motion as Exhibit F is a true and correct copy of Laura Rodriguez's Montevista Hospital record obtained and maintained by DFS in its Case File;

6. Attached to Defendants' Motion as Exhibit G are true and correct copies of the UNITY Case Notes for Laura Rodriguez created and maintained by DFS in its files;

7. Attached to Defendants' Motion as Exhibit H is a true and correct copy of CPS Referral Summary #1643759 created and maintained by DFS in its files;

8. Attached to Defendants' Motion as Exhibit K are true and correct copies of three Present Danger Assessments created and maintained by DFS in its files;

9. Attached to Defendants' Motion as Exhibit M is aa true and correct copy of the CPS Brochure maintained by DFS;

10. Attached to Defendants' Motion as Exhibit N is a true and correct copy of the Present Danger Plan completed by Georgina Stuart (Stuart) and maintained by DFS in its files;

11. Attached to Defendants' Motion as Exhibit P is a true and correct copy of the Boys Town Referral completed by Stuart and maintained by DFS case in its files;

12. Attached to Defendants' Motion as Exhibit R are true and correct copies of Mary Atteberry's Calendar and Note, and Lisa McKay and Stuart's Calendars maintained by DFS;

13. Attached to Defendants' Motion as Exhibit S is a true and correct copy of the Nevada Initial Assessment completed by Stuart and maintained by DFS in its files;

14. Attached to Defendants' Motion as Exhibit X is a true and correct copy of Lisa Callahan's 1/13/15 email to Stuart maintained by DFS in its files;

15. Attached to Defendants' Motion as Exhibit Y are true and correct copies of various emails between Plaintiff and Stuart maintained by DFS in its files;

16. Attached to Defendants' Motion as Exhibit II is a true and correct copy of the Risk Assessment created by Stuart and maintained by DFS in its files;

17. Exhibit KK is the Southern Nevada Health District Referral completed by Stuart and maintained by DFS in the Case File;

18. Attached to Defendants' Motion as Exhibit LL are true and correct copies of Emails maintained by DFS in its files;

19. Attached to Defendants' Motion as Exhibit MM is a true and correct copy DFS' Investigation Policy;

20. The originals of the above Records were made at or near the time of the acts, events, conditions or opinions recited therein by or from information transmitted by a person with knowledge, in the course of a regularly conducted activity of the deponent or the office or institution in which the deponent is engaged;

21. ///

22. ///

23. ///

24. ///

25. ///

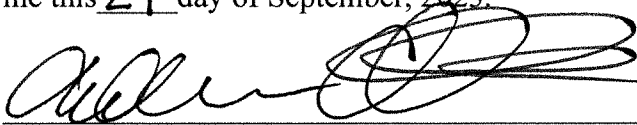
Law Offices of
OLSON CANNON GORMLEY & STOBERSKI
A Professional Corporation
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
(702) 384-4012 Fax (702) 383-0701

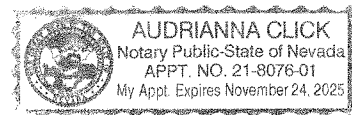
1 21. This Affidavit is made in good faith and not for the purpose of undue advantage.
2
3 FURTHER AFFIANT SAITH NAUGHT.

4 CLARK COUNTY DEPARTMENT OF FAMILY SERVICES,
5 ADMINISTRATIVE SERVICES DIVISION

6 
7 MARION C. BIRON

8 SUBSCRIBED AND SWORN to before
9 me this 29 day of September, 2023.

10 
11 _____



12 NOTARY PUBLIC in and for said
13 County and State

EXHIBIT “J”

(State Bar Court Case No. 02-O-13437)

S129834

IN THE SUPREME COURT OF CALIFORNIA

EN BANC

SUPREME COURT
FILED

FEB 24 2005

Frederick K. Ohlrich Clerk

DEPUTY

IN RE STEVEN B. EGGLESTON ON DISCIPLINE

It is ordered that **STEVEN B. EGGLESTON**, State Bar No. 105111, be suspended from the practice of law for three years and until he makes restitution to Kristen Horan (or the Client Security Fund, if appropriate) in the amount of \$1,405.62 plus 10% interest per annum from October 19, 2002, and furnishes satisfactory proof thereof to the Office of Probation of the State Bar and until he has shown proof satisfactory to the State Bar Court of respondent's rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct, that execution of the suspension be stayed, and that he be placed on probation for five years on condition that he be actually suspended for two years and until he makes restitution to Kristen Horan (or the Client Security Fund, if appropriate) in the amount of \$1,405.62 plus 10% interest per annum from October 19, 2002, and furnishes satisfactory proof thereof to the Office of Probation of the State Bar and until he has shown proof satisfactory to the State Bar Court of respondent's rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct. Respondent is further ordered to comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on October 20, 2004. It is also ordered that respondent take and pass the Multistate Professional Responsibility Examination during the period of his actual suspension. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Respondent is further ordered to comply with rule 955 of the California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of this order.* Costs are awarded to the State Bar and one-fourth of said costs must be added to and become part of the membership fees for the years 2006, 2007, 2008 and 2009. (Bus. & Prof. Code, § 6086.10.)

*(See Bus. and Prof. Code, § 6126, subd. (c).)


Chief Justice



CC 638
MSJ00048

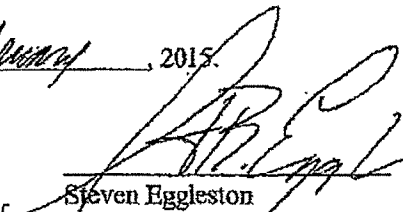
WRIT068

EXHIBIT “Z”

REVOCATION OF NOMINATION AND CONSENT OF GUARDIANSHIP

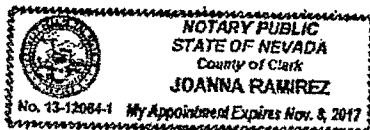
I, Steven Eggleston, the natural father of the minor child, R [REDACTED] Eggleston, born [REDACTED], hereby revoke the Nomination and Consent of Guardianship I executed on January 7, 2015, and which appointed Lisa and Brian Callahan as temporary guardians of said minor child.

DATED this 18 day of February, 2015.


Steven Eggleston

SUBSCRIBED and SWORN to
before me by Steven Eggleston
this 18 day of February, 2015.


NOTARY PUBLIC

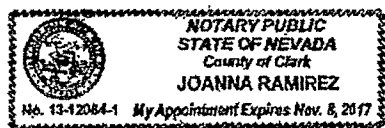


ACKNOWLEDGEMENT

STATE OF NEVADA)
 ss.
COUNTY OF CLARK)

On this 18 day of February, 2015, personally appeared before me, a Notary Public, in and for the said County and State, Steven Eggleston, known to me or proven to me to be the person described in and who executed the foregoing instrument, Revocation of Nomination and Consent of Guardianship, who acknowledged to me that the instrument was executed freely and voluntarily and for the same uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.




NOTARY PUBLIC

EXHIBIT “AA”

Emily McFarling

From: theeggman411@gmail.com on behalf of Steve Eggleston <steve@eggmanglobal.com>
Sent: Sunday, January 11, 2015 12:19 PM
To: Emily McFarling
Subject: Re: Steve / Children

Hi Emily!

The kids were flown to Chicago, in the guardianship custody of Laura's sister, Lisa.

I would like to have primary legal and physical custody of both boys. Already I am taking steps to provide them a structured and nurturing environment. A combination of pre-school at Kid's Academy and a 45-hour per week Au Pair is the direction I'm leaning.

Laura will not agree to anything, I presume. They are hostile, and refusing to tell me where Laura is and/or whether she is with the boys.

My brother just went through this so I have great support and a helping hand in all things. He lives in Napa, but will come out any time.

I will schedule an appointment to come in and see you this coming week. Thanks for your advise.

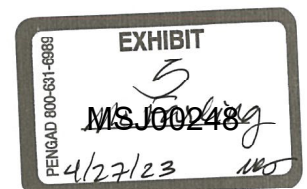
Steve

On Sun, Jan 11, 2015 at 11:25 AM, Emily McFarling <emilym@mcfarlinglaw.com> wrote:

Steve,

- 1) You need to do an affidavit of paternity or file for paternity for Ryder so that you have your rights established asap. Will Laura sign off on the affidavit to make it really easy?
- 2) You can file for custody of your two boys (and paternity too if she won't sign affidavit). Nevada has jurisdiction over custody for the next six months even if they boys are out of state.
- 3) Generally a guardianship must be filed where the children ARE, so you should try to keep them in Nevada until things play out. The CPS worker seemed to think that the plan was for the guardian to stay in your home in NV to help with care. Did they just take the kids out of state?
- 4) You need to set up your life so that you can care for the two boys on your own asap if you are realistically planning on fighting for custody and/or defending an action for guardianship.

Call my office and Mike can schedule a time when you can come in and talk to me about everything.



Very truly yours,

Emily McFarling, Esq.

Nevada Board Certified Family Law Specialist

AV Preeminent® Rated Attorney



6230 W Desert Inn Rd. Las Vegas, NV 89146

702-565-4335 phone | 702-732-9385 fax

Electronic service: eservice@mcfarlinglaw.com

Website: www.mcfarlinglaw.com

Direct email: emilym@mcfarlinglaw.com

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From: theeggman411@gmail.com [mailto:theeggman411@gmail.com] **On Behalf Of** Steve Eggleston

Sent: Thursday, January 08, 2015 7:55 AM

To: Emily McFarling

Subject: Steve / Children

Hi Emily!

Wow what a day yesterday. I was pretty upset the way this came down, but certainly we don't need to meet tonight.

Let me know when you have time on your schedule tomorrow or into next week. I just don't want them thinking I'm not doing anything therefore I don't care.

steve

--
Steve Eggleston, Esq., aka The Eggman

Vegas Office: +1 702-998-7364

Mobile: +1 702-772-3286

Email: Steve@EggmanGlobal.com

www.linkedin.com/SteveEgglestonakaTheEggman

Founder/CEO, Eggman Global Books

Author, "Conflicted," a Trip Splatter Novel

Legal Thriller Street Date: 10/1/14

EggmanGlobalBooks.com

Founder/CEO,

Eggman Global

www.EggmanGlobal.com

Facebook.com/EggmanGlobal

Twitter.com/EggmanGlobal

Co-Founder/CEO, RockGodz Hall of Fame

www.RockGodzHallofFame.com

Facebook.com/RockGodzHOF

The Eggman Theme Song:

www.youtube.com/watch?v=CvERHiTfx9w

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--
Steve Eggleston, Esq., aka The Eggman
Vegas Office: +1 702-998-7364
Mobile: +1 702-772-3286
Email: Steve@EggmanGlobal.com
www.linkedin.com/SteveEgglestonakaTheEggman

Founder/CEO, Eggman Global Books
Author, "Conflicted," a Trip Splatter Novel
Legal Thriller Street Date: 10/1/14
EggmanGlobalBooks.com

Founder/CEO,
Eggman Global
www.EggmanGlobal.com
Facebook.com/EggmanGlobal
Twitter.com/EggmanGlobal

Co-Founder/CFO, RockGodz Hall of Fame
www.RockGodzHallofFame.com
Facebook.com/RockGodzHOF

The Eggman Theme Song:
www.youtube.com/watch?v=CvERHiTfx9w

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EXHIBIT “CC”



Clerk of the Circuit Court
Andrea Lynn Chasteen

Parties

Offenses

Financials

Schedule

Events

Search End

Case: 2015P 000231 **Status:** Open Case **Opened:** 03/30/2015
Title: IN THE MATTER OF THE ESTATE OF vs. RYDER EGGLESTON
Type: PROBATE **File Type:** Guardianship Less than \$15,000.00 **Closed:** N/A

Event Date	Docket Entry
11/17/2021	PROOF OF SERVICE/CERTIFICATE OF SERVICE
11/17/2021	NOTICE OF FILING
11/16/2021	ORDER
11/16/2021	PC - Petition Matter is called for status on visitation. Attorney Katherine Maloney present on behalf of the Guardian. Attorney Todd Scalzo present on behalf of the Father. Attorney Jennifer Lynch present as Guardian Ad Litem. Matter is continued for the same. Order to be filed electronically.
11/10/2021	Faxed receipts (X3)
11/10/2021	Order
11/10/2021	Copy of Minute Entry / Court Order Copy of minute entry and / or court order sent to Attorney Scalzo per Judges' order.
11/10/2021	Copy of Minute Entry/Court Order Copy of minute entry and / or court order sent to Attorney Lynch per Judges' order.
11/10/2021	Copy of Minute Entry / Court Order Copy of minute entry and / or court order sent to Attorney Maloney per Judges' order.
11/10/2021	Case Not On Call
11/10/2021	PC - Petition NOT ON CALL - On the motion of the Court this matter comes on for decision. It is ordered that the Guardian's petition for Attorney fees and costs is granted in part and denied in part. The Guardian's petition for fees incurred due to rule issued is

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Clerk of the Circuit Court
Andrea Lynn Chasteen

Parties	Offenses	Financials	Schedule	Events	Search End
				Kathleen Rock are present on behalf of the Guardian. Attorney, Todd Scalzo is present on behalf of the biological father. Attorney, Jennifer Lynch is present as Guardian Ad Litem. Pretrial held. Arguments heard. Court takes the matter under advisement. Case is continued for status on visitation (via Zoom). Order to be submitted electronically.	
09/14/2021				REPLY TO RESPONSE TO COUNTER-PETITION	
09/14/2021				NOTICE OF FILING	
08/24/2021				PC - Petition Matter is called for status on counseling and status on setting a hearing date for the petition for fees. Attorney Katherine Maloney present. Attorney Todd Scalzo present. Attorney Jennifer Lynch present as Guardian Ad Litem. Matter is continued for status on counseling and hearing on the petition for fees.	
08/24/2021				Order	
07/21/2021				NOTICE OF FILING FILED FOR STEVEN EGGLESTON	
07/21/2021				RESPONSE AND COUNTER PETITION FOR FEES FILED FOR STEVEN EGGL...	
07/13/2021				ORDER	
07/13/2021				PC - Petition Matter is called for status on counseling. Guardian is present and by Attorney Katherine Maloney. Attorney Todd Scalzo present on behalf of the Father. Attorney Jennifer Lynch present as Guardian Ad Litem. Matter is continued for the same. Order is to be submitted electronically.	
06/22/2021				PROOF OF SERVICE/CERTIFICATE OF SERVICE	
06/22/2021				NOTICE OF FILING	
06/18/2021				PROOF OF SERVICE/CERTIFICATE OF SERVICE	
06/16/2021				PETITION FOR ATTORNEY FEES	
06/16/2021				NOTICE OF MOTION	
06/09/2021				ORDER	
06/09/2021				PC - Petition Matter comes on for status on counseling and visitation and presentation of the annual report. Attorney, Katherine Maloney is present on behalf of the Guardian. Attorney, Jennifer Lynch is	

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Clerk of the Circuit Court
Andrea Lynn Chasteen

Parties	Offenses	Financials	Schedule	Events
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Search End

	to compel, petition for contempt and a motion to reallocate Guardian's attorney fees. Guardian present and by Attorney Katherine Maloney and Attorney Kathleen Rock. Father present and by Attorney Todd Scalzo. Attorney Jennifer Lynch present as Guardian Ad Litem. A supervised visitation schedule with counseling is set. See order for all details. Child support is set in the amount of \$1,450.00 a month plus \$200.00 per month as to arrears. Motion to compel is denied as mute. Petition for contempt is denied as mute. The motion to reallocate Guardian attorney fees is denied. Attorney Ms. Maloney is granted leave to file a petition for fees. Matter is continued for status as to counseling/visitation. Order is to be submitted electronically.
04/15/2021	ORDER
04/15/2021	PC - Petition Cause comes on emergency motion to continue hearing date. Attorney Katherine Maloney present on behalf of the Guardian. Attorney Jennifer Lynch present as Guardian Ad Litem. Motion is granted. Hearing is reset. Date of 4/21/21 is stricken. Order is to be submitted electronically.
04/14/2021	MOTION TO CONTINUE OR EXTEND TIME
04/14/2021	NOTICE OF MOTION /EMERGENCY
04/06/2021	ORDER
04/06/2021	PC - Petition Matter is called for status on discovery and hearing date. Attorney Katherine Maloney present on behalf of the Guardian. Attorney Todd Scalzo present on behalf of the Father. Attorney Jennifer Lynch present as Guardian Ad Litem. By agreement the 4/21/21 date is to stand. Order is to be submitted electronically.
03/18/2021	PROOF OF SERVICE/CERTIFICATE OF SERVICE
02/25/2021	Order - GAL FEES
02/25/2021	Order - CHILD SUPPORT
02/25/2021	Matter set for
02/25/2021	PC - Petition Matter is called for status/hearing on child support. Guardian present and by Attorney Katherine Maloney. Attorney Todd Scalzo present on behalf of the Father. Attorney Jennifer Lynch present as Guardian Ad Litem. Argument is heard. It is ordered that temporary

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Clerk of the Circuit Court
Andrea Lynn Chasteen

Parties	Offenses	Financials	Schedule	Events
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Search End

	Matter comes on for Hearing on the motions to compel, objections and rule. Attorney, Katherine Maloney is present on behalf of the Guardian. Attorney, Todd Scalzo is present on behalf of father. Attorney, Jennifer Lynch is present as Guardian Ad Litem. Arguments heard. Attorney Maloney's objection to request for production is sustained. Motion to compel; ruling is reserved. Motion for GAL fees is continued. Motion to reconsider 12/13/19 order filed on 1/2/20 is entered and continued. Case is continued for status on child support calculations and setting for Hearing on pending motions. Order to be submitted electronically.
02/08/2021	PETITION FOR ATTORNEYS FEES
02/08/2021	NOTICE OF FILING
02/05/2021	SUPPLEMENTAL
02/05/2021	NOTICE OF FILING
01/28/2021	EXHIBIT(S)
01/28/2021	AMENDED FILING NOTICE OF FILING
01/28/2021	EXHIBIT(S)
01/28/2021	REPLY TO RESPONSE TO EMERGENCY MOTION TO COMPEL
01/28/2021	NOTICE OF FILING
01/14/2021	ORDER
01/14/2021	PC - Petition Matter is called for status on all pending matters. Guardian is present and by Attorney Katherine Maloney. Attorney Todd Scalzo present on behalf of Father. Attorney Jennifer Lynch present as Guardian Ad Litem. Matter is set for hearing on the motions to compel and any objections. Order is to be submitted electronically.
12/24/2020	PROOF OF SERVICE/CERTIFICATE OF SERVICE
12/24/2020	RESPONSE
12/04/2020	Order
12/04/2020	PC - Petition Matter comes on for status. Attorney, Katherine Maloney is present on behalf of the Guardian. Attorney, Todd Scalzo is present on behalf of father. Attorney, Jennifer Lynch is present as Guardian Ad Litem. Case is continued for status on all pending matters.

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Clerk of the Circuit Court
Andrea Lynn Chasteen

Parties	Offenses	Financials	Schedule	Events	Search End
11/12/2020	NOTICE OF FILING				
11/12/2020	REPLY IN SUPPORT OF MOTION TO MODIFY				
10/28/2020	Proof of Service/Certificate of Service				
10/28/2020	Response				
10/27/2020	Response				
10/27/2020	Notice OF FILING				
09/30/2020	PC - Petition Matter is called for status. Attorney Katherine Maloney present on behalf of the Guardian. Attorney Todd Scalzo present on behalf of the Father. Attorney Jennifer Lynch present as Guardian Ad Litem. Responsive pleading schedule is set. Matter is continued for the same. Order is to be submitted electronically.				
09/30/2020	Order				
09/25/2020	Notice OF FILING				
09/25/2020	Motion to Modify				
09/25/2020	Proof of Service/Certificate of Service				
09/24/2020	Objection				
09/24/2020	Notice OF FILING				
09/18/2020	Proof of Service/Certificate of Service				
08/31/2020	Order				
08/31/2020	Proof of Service/Certificate of Service				
08/31/2020	PC - Petition Matter is called for a motion to compel discovery and a motion to withdraw as counsel. Attorney Katherine Maloney present. Attorney Todd Scalzo present on behalf of Mr. Eggleston. Attorney Jennifer Lynch present as Guardian Ad Litem. Attorney Mr. Zahour's motion to withdraw is granted. The motion to compel discovery is continued for status. Hearing date is stricken. Order to be filed electronically.				
08/27/2020	Proof of Service/Certificate of Service OF FILING				
08/27/2020	Appearance (No Fee Previously Paid on Behalf of Other Party) FOR STEVE				
07/23/2020	Motion TO WITHDRAW				

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Parties	Offenses	Financials	Schedule	Events	Search End
06/11/2020	Order				
06/11/2020	Motion TO COMPEL DISCOVERY				
06/10/2020	Report				
06/10/2020	PC - Petition Matter is called for status on discovery. Guardian is present and by Attorney Katherine Maloney. Attorney Alonzo Zahour present on behalf of Father. Attorney Jennifer Lynch present as Guardian Ad Litem. Attorney Ms. Maloney makes a motion to issue a rule to show cause against the Father. Attorney Mr. Zahour accepts the rule to show cause. Annual report is approved. It is ordered that the Father is not to e-mail Attorney Ms. Maloney. Matter is continued to the hearing date. Order to be filed electronically.				
06/03/2020	REMOTE APPEARANCES IN CIVIL MATTER Notice is mailed pursuant to A.O. 2020-20 regarding REMOTE APPEARANCES IN CIVIL MATTERS, authorizing modifications to Court proceedings and protocols in light of the COVID-19 health emergency.				
06/03/2020	REMOTE APPEARANCES IN CIVIL MATTER Notice is mailed pursuant to A.O. 2020-20 regarding REMOTE APPEARANCES IN CIVIL MATTERS, authorizing modifications to Court proceedings and protocols in light of the COVID-19 health emergency.				
03/26/2020	Proof of Service/Certificate of Service				
03/26/2020	Notice OF FILING				
03/17/2020	Order				
03/17/2020	Matter set for				
03/17/2020	PC - Petition NOT ON CALL - Attorney Katherine Maloney is present on behalf of the Guardian. By agreement matter is set for status on discovery on 6/10/20. Matter is reset for hearing on 9/30/20. Date of 3/19/20 is stricken. ** NO FILE **				
03/17/2020	Case Not On Call				
03/10/2020	Petition for Rule to Show Cause				
03/10/2020	Notice of Motion				
02/19/2020	Reply TO ANSWER TO PETITION FOR CHILD SUPPORT				
02/19/2020	Notice OF FILING				

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Parties	Offenses	Financials	Schedule	Events	Search End
				Lynch is present as Guardian Ad Litem. Petition is set for hearing. Father is ordered to be present.	
01/22/2020	Response				
01/22/2020	Notice OF FILING				
01/02/2020	Exhibit(s)				
01/02/2020	Motion				
12/23/2019	Proof of Service/Certificate of Service				
12/23/2019	Notice OF FILING				
12/18/2019	Petition FOR CHILD SUPPORT				
12/18/2019	Notice of Motion				
12/03/2019	See Order Signed				
12/03/2019	PC - Petition Matter is called for hearing on the Guardian's motion to dismiss Father's petition for visitation, Guardian's petition for fees against the Father, Guardian's motion to strike Father's response to the motion to dismiss. Guardian is present and by Attorney Katherine Maloney. Attorney Alonzo Zahour present on behalf of Father. Pre trial is held and concluded. It is ordered : 1) Guardian's petition for contribution to fees is granted. 2) Father's response is stricken without prejudice. 3) Guardian's motion to dismiss Father's motion for parenting time is granted without prejudice. 4) Diane Wybourn is appointed as Supervised Parenting Coordinator, costs shall be paid 100% by the Father and must be present in person for the visitation. 5) Father must pay for any fees of the Guardian Ad Litem. 6) Father must pay for the Guardian Ad Litem retainer. 7) Father is to pay for any Therapist that the children have for helping them through the reunification. 8) The request for impounded documents from the Vegas proceedings or Illinois proceedings is denied. See order for any details. Matter is continued for status on the filing and approval of the annual report.				
12/02/2019	Motion TO STRIKE PLEADINGS				
12/02/2019	Notice of Motion				
12/02/2019	Response				
09/25/2019	See Order Signed				

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Parties	Offenses	Financials	Schedule	Events	Search End
09/24/2019	Motion FOR CONTINUANCE				
08/02/2019	See Order Signed				
08/02/2019	PC - Petition Matter is called for status and a motion for fees, motion to dismiss and a motion for visitation. Attorney Katherine Maloney present on behalf the Guardian. Attorney Alonzo Zahour present on behalf of father. Attorney Jennifer Lynch present as Guardian Ad Litem. All matters are set for hearing.				
07/23/2019	Motion TO DISMISS				
07/23/2019	Notice of Motion				
07/05/2019	Response				
05/29/2019	PC - Petition Cause comes on petition for attorney fees and costs pursuant to court order and a petition for visitation. Attorney Katherine Maloney present on behalf of the Guardian. Attorney Alonzo Zahour present on behalf of the father. Attorney Jennifer Lynch present as Guardian Ad Litem. Interim Guardian Ad Litem fees are ordered in the amount of \$5,000.00 and are to be paid by Father. Matter is continued for further status on the pending petitions.				
05/29/2019	See Order Signed				
05/23/2019	Petition				
05/23/2019	Notice (with court appearance date)				
05/22/2019	See Order Signed				
05/22/2019	Case Not On Call				
05/22/2019	PC - Petition NOT ON CALL - Attorney Katherine Maloney present on behalf of the Guardian. Motion to strike the date of 5/28/19. Motion is granted. Date of 5/29/19 is to stand. ** NO FILE **				
05/07/2019	Notice (with court appearance date)				
05/07/2019	Motion				
04/10/2019	See Order Signed				
04/10/2019	PC - Petition Matter is called for status on the motion to terminate and the				

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Parties	Offenses	Financials	Schedule	Events	Search End
	NOT ON CALL - Attorney Katherine Maloney is present. Due to inclement weather this matter is rescheduled. Date of 1/30/19 is stricken.				
01/29/2019	Case Not On Call				
12/03/2018	See Order Signed				
12/03/2018	PC - Petition Matter is called for status on the motion to terminate and a motion to strike and dismiss. Attorney Katherine Maloney present on behalf of the Guardian. Attorney Alonzo Zahour present on behalf of the father. Attorney Jennifer Lynch present as Guardian Ad Litem. Matter is continued for the same.				
10/16/2018	Motion				
10/16/2018	Notice (with court appearance date)				
09/25/2018	Proof OF SERVICE				
09/25/2018	Notice (without court appearance date)				
09/25/2018	PC - Petition Matter is called for status on the motion to terminate guardianship. Attorney Alonzo Zahour present on behalf of Father. Attorney Katie Rock present on behalf of the Guardian. Attorney Jennifer Lynch present as Guardian Ad Litem. Matter is continued for the same.				
09/25/2018	Agreed Order				
07/23/2018	See Order Signed				
07/23/2018	PC - Petition Matter is called for status on the motion to terminate guardianship. Attorney Meghan Preston present on behalf of the Guardian. Attorney Jennifer Lynch present as Guardian Ad Litem. Matter is continued for the same.				
07/20/2018	Appearance FILED FOR STEVE EGGLESTON				
07/20/2018	Appearance/Answer (PROBATE)				
06/28/2018	Appearance				
06/28/2018	Notice (without court appearance date)				
05/22/2018	Report (X2)				

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Parties	Offenses	Financials	Schedule	Events	Search End
				guardianship. Third Annual Report presented and approved. Matter is set for the filing and approval of the 4th Annual Report on 5/28/19. Motion to terminate guardianship is continued for status on 7/23/18.	
05/11/2018				Impounded Document APPEARANCE MEMORANDUM NOTICE OF OBJECTI... RELATED CASES AND PETITION FILED BY STEVE EGGLESTON	
05/11/2018				Appearance/Answer (PROBATE)	
05/23/2017				Annual Report Filed by Lisa Callahan (Ryder)	
05/23/2017				Annual Report Filed by Lisa Callahan (Hunter)	
05/23/2017				Supporting Document(s)/Exhibit(s)	
05/23/2017				Affidavit of Jennifer M. Lynch	
05/23/2017				Petition for Attorney's Fees	
05/23/2017				See Order Signed	
05/23/2017				See Order Signed	
05/23/2017				See Order Signed - copy (original 15P230)	
05/23/2017				PC - Annual Report Guardian is present. Attorney Jennifer Lynch present as Guardian Ad Litem. Matter Comes on for presentation of Annual Report. Second Annual Report presented and approved. Petition for Guardian Ad Litem fees and The County of Will shall pay (petition and order copied and sent to Chief Judge). Matter is set for the filing and approval of the 3rd Annual Report.	
05/24/2016				Annual Report Filed - Ryder	
05/24/2016				Annual Report Filed - Hunter	
05/24/2016				See Order Signed - COPY (orig filed in 15 P 230)	
05/24/2016				PC - Annual Report Guardian is present. Annual Report presented and approved. Matter is set for the filing and approval of the 2nd Annual Report.	
09/21/2015				PC - Petition Matter comes on for status on GAL report. Attorney, Sherese Shabazz is present on behalf of the Petitioner. Attorney, Jennifer Lynch is present as GAL. Court being fully advised, plenary guardianship with prejudice is entered. The Court further orders that the Minors may not be removed from the jurisdiction of the Court / State of	

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Parties	Offenses	Financials	Schedule	Events	Search End
	Guardianship is to remain in full force and effect. This matter is for further status as to the filing of the GAL's report.				
07/29/2015	See Order Signed				
07/13/2015	See Order Signed				
07/13/2015	PC - Petition Matter is called for status. Attorney Jennifer Lynch is present. Hearing date of 7/29/15 at 1:30 p.m. is stricken. Matter is continued for status on the GAL report and status on new counsel for father. Judge has file. ** NO FILE THIS DATE **				
07/10/2015	PC - Petition NOT ON CALL - Attorney Jennifer Lynch is present as GAL and makes an emergency oral motion not to have the children be removed from this Court's jurisdiction without specific order of this court. Emergency oral motion is granted. The minor children shall remain in the sole custody of the Guardian, Lisa Callahan. Date of 7/13/15 to stand. ** NO FILE THIS DATE **				
07/10/2015	See Order Signed				
06/30/2015	Judge has File				
06/30/2015	PC - Petition Cause comes on emergency petition to withdraw as counsel. Petitioner, Attorney Nida Abbosi, present. Attorney Jennifer Lynch is present as GAL. Petition is granted. Father of the minors is given 21 days to file his pro se appearance. Date of 7/13/15 is to stand.				
06/30/2015	Copy of Court Minutes from Clark County, Nevada				
06/30/2015	See Order Signed				
06/22/2015	Judge has File				
06/22/2015	Emergency Motion TO WITHDRAW FILED BY EMILY R SMITH				
06/22/2015	Emergency Notice FILED BY EMILY R SMITH				
06/08/2015	Judge returns file				
06/08/2015	Impounded Document- Report of GAL and Documents from Clark County				
06/08/2015	Letters Issued for Ryder				
06/08/2015	Letters Issued for Hunter				

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Parties	Offenses	Financials	Schedule	Events	Search End
				enters an order for new letters of office as plenary guardian without prejudice.	
06/02/2015				Appearance AND ANSWER	
06/02/2015				Notice of Filing	
05/28/2015				Impounded Document - Judge's notes	
05/28/2015				PC - Petition NOT ON CALL - Judge Allen has a telephone conference with Judge Potter from Clark County, Nevada about this case and related case in Nevada. See Judge's impounded notes. Judge Allen to relay information to Attorney Jennifer Lynch and Attorney Sherese Shabazz. Judge Allen will update Judge Potter after the 6/8/15 court hearing.	
05/27/2015				Judge has File	
05/26/2015				IMPOUND DOCUMENT - Verified Statement in Support of Petition	
05/26/2015				Letters Issued for Hunter (temporary)	
05/26/2015				Letters Issued for Ryder (temporary)	
05/26/2015				Motion to dismiss for lack of jurisdiction and for lack of Plaintiff's legal capacity (unsigned) Filed by Attorney Smith and Attorney Abbasi	
05/26/2015				Notice of motion Filed by Attorney Smith and Attorney Abbasi	
05/26/2015				Nomination and consent of guardianship (X2)	
05/26/2015				Acceptance of office of guardian of person of minor	
05/26/2015				Oath and Bond Approved - no surety (X2)	
05/26/2015				See Order Signed	
05/26/2015				Order appointing temporary guardian of minor	
05/26/2015				PC - Guardian of Minor Person Cause comes on for Petition for Guardian of the Minors. Petitioner(s) present and by Attorney Sherese Shabazz. The Minors are present. Father is present and by Attorney Emily Smith and Attorney Nida Abbasi. Court appoints Attorney Jennifer Lynch as GAL. Attorney Lynch is present and accepts the appointment instant. Father objects to the petition. A written consent is filed for the mother. Attorney Smith and Attorney Abbasi are given leave to file a motion to dismiss in open court. It is agreed that Judge Allen and Judge Potter from Clark County, Nevada will	

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Parties	Offenses	Financials	Schedule	Events	Search End
05/26/2015	Appearance Filed For STEVEN EGGLESTON FILED BY EMILY R SMITH				
05/26/2015	Appearance Probate				
05/26/2015	Juvenile Probation Service				
05/26/2015	Juvenile Probation Service				
05/22/2015	Exhibit(s)				
05/22/2015	OBJECTION TO GUARDIANSHIP AND HEARING FILED BY STEVEN EGGLES...				
03/30/2015	Impounded Document				
03/30/2015	APPLICATION TO WAIVE FEES FOR SPECIAL NEEDS GUARDIANSHIP				
03/30/2015	Summons Issued (Copy(s)filed) 2 ORIGINALS				
03/30/2015	Petition				
03/30/2015	Guardianship Less than \$15,000.00				

Informational Message

Site Availability:

- This site is unavailable Monday through Saturday from 11:50 pm CST until 3:00 am CST the next morning, and Sunday from 11:50 pm CST until Monday morning at 5:00 am CST.

Important Covid-19 Related Updates:

- [AO 21-30 Misdemeanor and Traffic Zoom Protocols](#)
- [AO 21-36 Civil Zoom Protocols and Instructions \(If Ordered\)](#)
- [AO 21-38 Domestic Relations Court Zoom Protocols](#)
- [Family Judge Zoom Instructions](#)

EXHIBIT “HH”

Steve Eggleston Basic Info & Timeline

Parents & Children:

Steven B. Eggleston (5/2/56): Father and Step-Father

Laura Battistella (maiden) Rodriguez (married, now divorced): Mother

Children:

Biological for Steve and Laura:

Ryder David Eggleston (12/29/10 – 4)

Hunter John Eggleston (7/18/12) – 2 ½)

Step to Steve, Biological to Laura:

Alexis Rodriguez (20 – 3rd year Loyola Chicago)

Selena (Rodriguez (18 – High School Senior – Chicago)

Kendall (11 – 4th grade)

James, Jr. (7 – 2nd)

Goals:

1. Establish paternity over Ryder because Birth Cert fails to list me as father despite me signing paperwork at hospital and being present for the birth. Stipulation possible.
2. Establish primary legal and physical custody over Ryder and Hunter
3. Arrange fair balance of visitation between parents
4. Terminate Temporary Guardianship of Laura's sister, Lisa Callahan

Residences/Locations:

- Steve: rental home (lease expires 7/15) 8962 Slippery Rock Way, Las Vegas 89123
- Laura: rehab in Vegas (location unknown). Laura is on the Slippery Rock lease.
- Lisa Callahan (Laura's sister): resides with her husband who also has custody in Orland Park (Chicago area), 2 bedroom condo.
- Alexis: at school in Chicago – she attended high school here in Henderson and for school is deemed a NV resident
- Selena: lives with Lisa in Orland and attends high school there (moved 2 years ago when she and Laura got in a “fist fight” / pummeled each other growing out of an argument here at the Slippery Rock house)
- Kendall & Jimmy: either with Lisa in same condo or with their dad (James Rodriguez, Sr.) and his parents/their grandparents in Merrillville, IN area 45 minutes away (technically, prior to signing them over to Lisa had sole legal and physical custody of all 4 Rodriguez children - thought 2 are adults now. Nevada court gave her

that custody and denied James Sr. visitation absent her consent or until he completed drug, alcohol and anger management classes, which he has declined to do. His addiction is very serious, as 14 months ago he received his 5th DUI and spent one year in jail, being released only 12/14. He could have been released after 6 months if he completed the same classes, but he refused. He's in his 50s and his parents are in their 70s.

- Ryder & Hunter: they reside at the Orland condo. So right now in that condo are the Callahans, Selenia and Ryder & Hunter. Maybe James and Kendall.

Events Timeline:

3/09 – Laura's dad and brother grabbed her from a hotel in Merrillville where she had fled domestic violence from James and brought her by car to Henderson, where they were retired (Anthem – he's a retired Union Electrician, step-mom is retired school teacher/Catholic nun).

3/09 – Laura and 4 kids moved into 4-bedroom apartment in Henderson. All the kids started school. (I still have not met her.)

11/09 – Lisa & Kathy visited Laura for Thanksgiving. After a bad argument between Lisa and Laura over Kathy, with no advance notice Lisa left Kathy and her suitcase with Laura and returned to Chicago.

11/09 – Laura, Kathy and 4 children (6) in a 2-bedroom apt.

11/09 – Steve and Laura met at Ovation Lounge.

1/10 – Steve moves in with Laura and by April take a 4-bedroom house in Henderson. Total in house, 7.

1/10 – Meet the parents, dad Ken and step-mom Bonnie. Ken is AA and 20 years sober. Laura is attending AA with a history of alcohol abuse. I stop drinking and attend with her.

3/10 – Laura pregnant.

12/10 – Ryder born at St. Rose. His addition meant we have 5 children, 3 adults, 8 total. Dan is over during these times. Laura gets a DUI, more AA.

6/12 – Laura's been concealing pregnancy but her dad figures it out first – everyone very upset because house financially strapped

Note: Kathy contributes \$2300 monthly, James Sr. \$1200, and Steve \$2-3,000 depending.

7/12 – Hunter born (9 in house, Kathy getting very bad)

10/12 – We get engaged at the Mob Museum. Ex Mayor actually proposes for me. Very funny story. Things are good.

7/13 – We move to new house on Slippery Slope because old owner went into foreclosure and feds required us to vacate. Had this not happened so quick, I might have moved out around that time. Laura's history of abusing meds / alcohol was making her very difficult. I did not drink at all and have never done meds.

8/13 – I quit from managing Michael Grimm due to his oxycotin addiction. As a result, I permanently lose average of \$5,000 per month income from when things were good (which

ended in April 1 when he stopped playing live to supposedly get ready for a fall tour... so my income drops substantially over the summer as we ready the tour)

11/13 – Things have gotten bad between us. I'm trying to figure out a way to move out given we're all on the new lease and committed for 2 years and if I leave she can't pay bills as she's not working.

11/13 – Kathy unexpectedly dies from Alzheimer's complications – everyone thought she'd live another year though she'd been on hospice for 5 months (little did I know that hospice basically beings about the death via meds). She had lived with us the entire term of my relationship with Laura. Laura started taking her mom's meds in the summer, oxycodone. She had allowed the bath tubs upstairs to overflow twice, the first so severe the entire drywall portion of the ceiling of the garage below collapsed.

12/13 – I start living and sleeping only downstairs.

12/13 – Jim Sr. gets his 5th DUI and goes to jail. His child support stops.

Note: In a 30-day period, Kathy's \$2,000+ per month and Jim's \$1200 plus or minus per month both stop. Laura has no job and has allowed her Cosmetology license to expire. I must now pay all the bills for a family of 6 children and 2 adults despite losing my biggest client to addiction only months earlier and just beginning to build back my company. Monthly household bills are \$5-7,000, depending.

1/14 – I go into survival mode. At first I have to take out payday loans, but we get through.

3/14 – Laura gets her Cosmo back and starts working as a hair stylist 30 hours per week. I'm teaching 2 classes at Sanford Brown College each 5-week term (16 hours per week). We're rarely overlap, so either she's at home or I'm at home.

4/14 – Hunter falls into the pool and nearly drowns but is fine. Goes to the hospital one night. Police look at everything but don't press anything. I believe CPS did come out. This is mentioned prominently later by Georgina Stuart at DFS/CPS.

Summer 2014: Alexis and Selena stay all summer with us. 6 children, me and Laura. They help babysit. I've expanded Eggman Global, am teaching, and am now able to meet the monthly bills by working 16-18 hours per day 7 days a week. Laura's taking some pain meds but not drinking and generally all's good though it is tough.

9-10/14 – Laura starts abusing her meds. Has weird, out of it days. Not sure if she's drinking.

10/14 – Laura's drinking. Kids find beer cans. She's getting worse. I take pics.

11/14 – Laura's getting very bad. One night she's wasted and wants car keys. I refuse to give them to her and she calls the cops. Cops come and leave. Nothing happens. She finds a 2nd pair of keys and leaves but does not take Ryder, which was her plan earlier.

11/14 – Thanksgiving: Laura's so wasted by 1 pm that she passes out up stairs and sleeps the rest of the day til 6 pm. Only Kendall and I eat at the table, despite Laura spending all morning getting the meal ready. It had to be Vodka, though she always hides it. By this time, I've been finding Vodka bottles and pot is showing up here and there.

12/14 – Laura goes off on the neighbor, curses, screams, etc. over an issue with leaves falling onto their front yard. I'm working and don't hear much or notice what's going on. Laura's

already high as a kite on something and takes off. I'm now in the office with the kids playing on the driveway with the garage door open and the door to from the garage open (standard). The cops come to the house. Apparently the neighbor thinks the kids have been left alone because they see Laura jet off after the verbal altercation. Out of concern, I ask the if it is okay to leave the kids for a short time with Kendall (weeks from turning 11), because I had done so the previous week to go to Dan's birthday and Hunter had locked himself into the bathroom. Policeman said 11-12 is the number. He leaves his 12-year old sometimes, but Hunter is awful young so not a good idea. I never do it again.

12/14 – Several days later. Laura goes bonkers from booze and pills. She smashes my office door as I hide inside. Several nights earlier she had done the same thing to Jimmy, Kendall and Ryder in their upstairs bedrooms. Both doors to this day are smashed. This time I call the cops because she's scaring me and in fact had assaulted me in the living room me. The cops come but I don't press charges. Next time they say someone is going in.

12/14 – Alexis arrives home a few days later. Laura is drinking Vodka and beer every day, has missed a day or two of work, but still is function and getting to work most of the time.

12/15-16: Laura is drinking every day. We have to fix the car's brakes so don't have much money for Xmas. Laura is upset, but not that upset. Plus grandparents and family are sending bunches of gifts and food to help.

12/20-21 -- Laura gets really wasted on Vodka and pills. The next morning, Laura is still wasted. Alexis confronts her, apparently Laura draws water for a bath in the Jacuzzi in the bathroom, and apparently Laura tells Alexis she was going to kill herself. I'm downstairs working. This is 9 in the morning. Without consulting me, Alexis calls the police for suicide watch. **This is when all goes to hell.** They take Laura away and she isn't released until 5-6 days later, about noon Xmas day.

12/23 or 12/24: Georgian Stuart from CPS/DFS comes to the house and interviews me. Apparently she has already interviewed Laura, Alexis and Selena. Lisa is not yet in town. She only asks me about Laura, the neighbor incident, and the Hunter incident. Only 20 minutes. She asks me no questions about my ability to care for my two boys. At that time, she's not seriously considering taking the kids.

12/25 -- Christmas Day, Laura comes home, is passive from drugs. All is weird but okay. She may have gone out to get booze but I can't tell.

12/26ish – Laura is at an all-day class and Hunter is sick so Alexis takes him to St. Rose Hosp. They do tests and send him home.

12/27ish -- Hunter still sick, so Laura, Alexis and Selena all take him to St. Rose. While there, Alexis finds Vodka in Laura's purse, confronts her, Laura freaks out and checks herself back into psych. They want to keep Hunter overnight and transfer him to Sunrise. The pediatrician at Sunrise says clearly Hunter has a burst appendix, will need surgery, and needs me to sign off. I go in and sign off.

1/3-4: Hunter still in the hospital. Laura's sister Lisa has arrived and talked to Georgina. Laura gets out and we have a big DFS/CPS meeting with a bunch of people. They are putting us into a

new program. During this Laura is hostile with me and we get in an argument which they see. Laura seems high on something and surprises everyone including me with her anger. We are assured they will help us with the rent -- \$2,035. I ask how sure. Georgina says 100%.

1/5 – Laura's going back and forth to classes and Hunter. I'm doing the same. Alexis is with him in between. I get Georgina everything she needs financially for the check – proof I can pay in February.

1/6 – I'm teaching and get more info for Georgina and she assures me rent check is coming. It is due no later than the next day, and we have a big meeting with all the new team meeting us for the new program. I call her from school to make double-sure she'll have the money, because in the meantime I've stayed with Hunter, etc., and don't have the money given the total disruption caused by all this.

1/7 – 1:30. I'm here totally expecting a great meeting. Laura arrives expecting the same, though she is off. Georgina arrives with the cops, announces there's no deal, her supervisor nixed it, and we have one and only one choice: the cops take the kids or they go with Lisa. I learn later that Georgina had already made a deal with Lisa. Laura screams so loud you'd think someone had stabbed her. Clearly she did not know either. I am totally coerced by everyone to sign the Guardian paper. I call you, then I sign. I pull Lisa into my office and make it clear I object to her taking the kids from the state. She says that's the plan. I still sign before a notary. She takes the kids to Alexis' boyfriend's mother's house apparently. No one will tell me where anyone is.

1/7 night – I get and pay the rent, a miracle.

1/8 – 10: Hunter still in the hospital, the kids presumably the same place, me at home freaking out. I ask for flights and Lisa won't give me info.

1/10 – apparently everyone flies to Chicago.

1/10 – now: Lisa tells me she must provide me the least amount of information possible and I can only talk to the boys once per week because I've been declared an unfit father.

Relative Strengths / Weaknesses of Custody or Guardianship:

EXHIBIT “JJ”

Steve Eggleston

Georgia
CPS 455-7906

Dec 22 mom suicide & substance abuse
& dad in house not protecting

Can't leave 4 kids w/ mom

> dad willing to recognize what's going on

been working w/ him 2 weeks
more concern him working

2 y/o old fell in pool and almost drowned

if sign over temp guardianship,

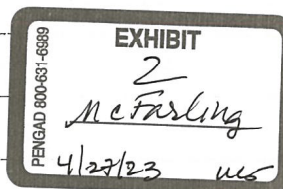
supervisor Mary 455-5455

Anter in hospital 5-7 days
→ not on other birth cert
Ryder

therapist involved, volatile relationship

kids need to be w/ family
family staying

if sign guardianship, keep case open to see through
but no petition filed



MSJ00363
CC005426

WRIT098

EXHIBIT “MM”

2700. Taking Protective Custody

State law gives designated Department staff the authority to take PC of a child when it is determined that there is reasonable cause to believe that doing so is necessary to protect the child from serious harm. Only CPS investigators and CPS supervisors are designated to take children into PC.

PC is the most intrusive among child protective actions. PC may be taken **only** when it has been determined that the child is unsafe **and** when no safety plan will adequately control the relevant safety threats. The CPS investigator **must** consult with the CPS supervisor before taking a child into PC unless the circumstances of the situation suggest extreme immediate danger to the child.

When taking children into PC, the CPS investigator must:

- Assure the safety of all children in the home or facility.
- Enlist the assistance of a law enforcement officer to assist in the removal of a child if there is reason to believe there is a threat of bodily harm against either the child or the CPS investigator, or if there is reason to believe the child has been substantially harmed and/or the parents will flee with him/her.
- Show his/her identification to any person who is responsible for the child and is present at the time the child is taken into custody. If a person who is responsible for the child is not present at the time the child is taken, the person taking the child must show his/her identification to any other person upon request.
- Immediately make every reasonable effort to inform the parent/caregiver that the child has been placed in PC.
- Obtain as much information as possible about any medical problems, health issues, or special dietary needs affecting the child.
- Attempt to identify and locate family members within the third degree of consanguinity to the child (noncustodial parents, grandparents, great-grandparents, aunts, uncles, adult siblings) who may be suitable and able to care for the child.
- Notify the Receiving Team of the removal.

2710. Minimizing the Effects of Separation and Loss When Entering Substitute Care

When taking children into protective custody (PC), the CPS investigator **must** remember the potentially traumatic effect removal has on children. When appropriate given the circumstances, the CPS investigator may decide to minimize this trauma by:

EXHIBIT “NN”

AFFIDAVIT OF FELICIA GALATI, ESQ.

STATE OF NEVADA)
) §
COUNTY OF CLARK)

FELICIA GALATI, ESQ., being first duly sworn, deposes and states:

1. Affiant is a shareholder of the law firm of Olson Cannon Gormley & Stoberski (“law firm”) and is duly licensed to practice law before all of the Courts in the State of Nevada.

2. Affiant is one of the attorneys assigned by the law firm to represent the interests of Defendants Clark County and Georgina Stuart, in Eggleston v. Clark County et al., Case No. A-16-748919-C.

3. Affiant makes this Affidavit in support of Defendants Clark County and Georgina Stuart’s Motion for Summary Judgment (“Motion”).

4. On 6/26/2023, Emily McFarling, Esq., filed a Notice of Entry of Amended Order to Allow Access to Court filed 6/26/23 (Bate Nos. CC 6376 to CC 6380) allowing the parties to obtain the Left Side/Confidential File in Eggleston v. Battistella, Case No. D-15-508989-P (Eggleston Paternity Action), filed in the Eighth Judicial District Court, Family Division, Dept. Q (“Court”). See Exhibit A, hereto.

5. Thereafter, Affiant contacted the above Court and requested and obtained the Left Side/Confidential File (“File”) in the Eggleston Paternity Action and Defendants produced it in this case as: #133. Plaintiff Steven Eggleston vs. Laura Battistella, Case No: D-15-508989-P, Left Side Filed Under Seal obtained from the Eighth Judicial District Court, Family Division via Notice of Entry of Amended Order to Allow Access to Court filed 6/26/23 (#127 above) and Subject to the Terms of That Order (Bate Nos. CC 6453 to CC 6533);

6. Attached to the Motion as Exhibit DD (Bates Nos. CC 6461-6533) is a true and correct copy of a portion of the above File.

7. Affiant hereby attests that the foregoing information is true and accurate to the best of her knowledge as of the date of her signature hereon.

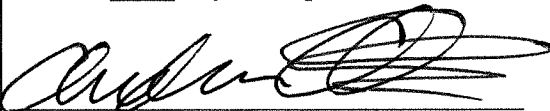
FURTHER AFFIANT SAITH NAUGHT.

DATED this 29th day of September, 2023.



FELICIA GALATI

SUBSCRIBED AND SWORN to before me this 29th day of September, 2023.



NOTARY PUBLIC in and for said
COUNTY AND STATE

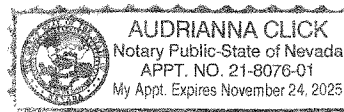
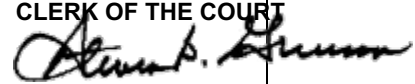


EXHIBIT A

MSJ00395

WRIT104



NEO
Emily McFarling, Esq.
Nevada Bar Number 8567
McFARLING LAW GROUP
6230 W. Desert Inn Road
Las Vegas, NV 89146
(702) 565-4335 phone
(702) 732-9385 fax
eservice@mcfarlinglaw.com
Attorney for Plaintiff,
Steve Eggleston

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

STEVE EGGLESTON,

Plaintiff,

vs.

LAURA BATTISTELLA,

Defendant.

Case Number: D-15-508989-P
Department: Q

NOTICE OF ENTRY OF AMENDED ORDER TO ALLOW ACCESS TO COURT
RECORD

PLEASE TAKE NOTICE that on June 20, 2023, an Ex Parte Order was entered, a copy of which is attached hereto and by reference fully incorporated herein.

DATED this 26th day of June, 2023.

McFARLING LAW GROUP

/s/ Emily McFarling

Emily McFarling, Esq.
Nevada Bar Number 8567
6230 W. Desert Inn Road
Las Vegas, NV 89146
(702) 565-4335
Attorney for Plaintiff,
Steve Eggleston

CERTIFICATE OF SERVICE

The undersigned, an employee of McFarling Law Group, hereby certifies that on the 26th day of June, 2023, served a true and correct copy of Notice of Entry of Order to the following:

 X by e-mail transmission, pursuant to NRCP 5(b) and EDCR 7.26, to the following:

Felicia Galati - fgalati@ocgas.com

Ida Tajalli - itajalli@ocgas.com

Clarissa Reyes - creyes@clarkhill.com

Paola Armeni - parmeni@ClarkHill.com

 X by United States mail in Las Vegas, Nevada, with First-Class postage prepaid and addressed as follows:

Laura Battistella Rodriguez
4595 Balsam St.
Wheat Ridge, CO 80033
Defendant

Judge Mari D. Parlad
Department A
601 North Pecos Rds.
Las Vegas, NV 89101

/s/ Tricia Lane

Tricia Lane

Heather S. Hume

CLERK OF THE COURT

EXPR

Emily McFarling, Esq.
Nevada Bar Number 8567
McFARLING LAW GROUP
6230 W. Desert Inn Road
Las Vegas, NV 89146
(702) 565-4335 phone
(702) 732-9385 fax
eservice@mcfarlinglaw.com
Attorney for Plaintiff, Steve Eggleston

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

STEVE EGGLESTON,

Plaintiff,

vs.

LAURA BATTISTELLA,

Defendant.

Case Number: D-15-508989-P

Department: ~~A~~ Q

EX PARTE AMENDED ORDER TO ALLOW ACCESS TO COURT RECORD

UPON review of Emily McFarling's Ex Parte Request to Allow Access to Court Record,
and good cause appearing therefrom,

IT IS HEREBY ORDERED that pursuant to NRS 126.211, the papers and records in this
case shall be unsealed on a limited basis as follows:

The following Parties may have access to and obtain copies of all of the papers and records
in this case:

- 1) Both Parties and their counsel of record in this case;
- 2) All Parties and their counsel of record in case A-16-748919-C;

3) Department VIII of the Clark County District Court (and any department case A-16-748919-C is reassigned to, if reassigned).

All of the papers and records in this case accessible to the listed Parties shall include:

- 1) All pleadings;
- 2) The confidential court file - including all unredacted Child Protective Services records.
- 3) All hearing videos.

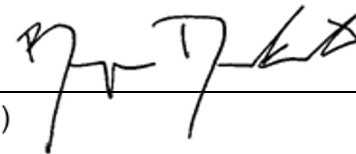
The records shall be maintained as confidential by anyone who obtains a copy of them.

They may be used as exhibits or attached to pleadings in case A-16-748919-C but must be filed under seal.

IT IS SO ORDERED

Dated this 20th day of June, 2023

(ND)



Submitted by:

McFARLING LAW GROUP

**0CD 232 B4EF CF4B
Bryce C. Duckworth
District Court Judge**

/s/Emily McFarling

Emily McFarling, Esq.
Nevada Bar Number 8567
6230 W. Desert Inn Road
Las Vegas, NV 89146
(702) 565-4335
Attorney for Plaintiff, Steve Eggleston

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In the Matter of the Petition by:	CASE NO: D-15-508989-P
Steve Eggleston, Petitioner.	DEPT. NO. Department Q

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

Mcfarling Law Group eservice@mcfarlinglaw.com

EXHIBIT “OO”


CLERK OF THE COURT

SUPP
Emily McFarling, Esq.
Nevada Bar Number 8567
McFARLING LAW GROUP
6230 W. Desert Inn Rd.
Las Vegas, NV 89146
(702) 565-4335 phone
(702) 732-9385 fax
eservice@mcfarlinglaw.com
Attorney for Plaintiff
Steven Eggleston

IN THE EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

STEVEN EGGLESTON,

Plaintiff,

vs.

LAURA BATTISTELLA,

Defendant.

)
) Case Number: D508989
) Dept. No: M

) **SUPPLEMENTAL EXHIBIT**
)
)
)
)
)

COMES NOW Plaintiff, Steven Eggleston, by and through his attorney, Emily
McFarling, Esq. of McFarling Law Group and hereby files the following supplemental
exhibit:

- 1) Steve Eggleston's information regarding licensed daycare provider(s) for the
children and regular work schedule as of June 25, 2015.

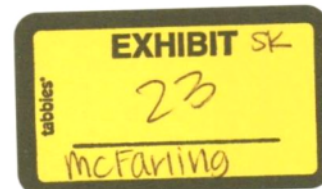
A. Work Schedule

Sanford Brown College (June 2015 term) – Adjunct Professor:

- Monday and Wednesday mornings, 9 a.m. – 1:00 p.m.
- Tuesday and Thursday evenings, 6:30 p.m. – 10:30 p.m.

The Art Institute of Las Vegas (starting 7/20/15)

- Tuesday afternoons 12:30 a.m. – 5:30 p.m.



1 Home Business: Monday – Friday – 8:30 a.m. – 5:00 p.m. (matching child care
2 hours)

3 B. Day Care/Preschool

4 Children's Learning Adventure Childcare Centers (Enrollment filed 5/27/15)

- 5
 - Schedule: Monday – Friday – 8:30 a.m. – 5:00 p.m.
 - Contact information: 11183 S Eastern Ave, Henderson, NV; (702) 269-0708

7 Certified Nanny from Care.com

- 8
 - Schedule: Tuesday and Thursday evenings, 6:30 p.m. – 10:30 p.m.
(conforming with night teaching)

9 DATED this 22nd day of December, 2015.

11 MCFARLING LAW GROUP

12 /s/Emily McFarling

13 Emily McFarling, Esq.
14 Nevada Bar No. 8567
15 6230 W. Desert Inn Rd.
16 Las Vegas, NV 89146
(702) 565-4335
Attorney for Plaintiff

Enrollment Registration Receipt

To Be Attached To Parent Inquiry Form

Enrollment Date: 5/27/15

Pre-Start Date: _____ mid June.

First Child Name: <u>Hunter</u>	Second Child Name: <u>Ryder</u>
Registration Fee: <u>\$</u>	Registration Fee: <u>\$</u>
1st Week's Tuition: <u>+ 200</u>	1st Week's Tuition: <u>+ 230</u>
Total: <u>\$ 200</u>	Sibling Discount (10%): <u>- 23</u>
	Total: <u>\$ 207</u>
Third Child Name: _____	Fourth Child Name: _____
Registration Fee: _____	Registration Fee: _____
1st Week's Tuition: <u>+</u>	1st Week's Tuition: <u>+</u>
Sibling Discount (10%): <u>-</u>	Sibling Discount (10%): <u>-</u>
Total: <u>\$</u>	Total: <u>\$</u>

Sibling discount is for full time enrollment only and is not applicable to Infant, Kindergarten or Schoolage programs

Registration Information

Grand Total: \$ 467

Amount Due: \$ _____

Check #: _____

CC (type/last 4 digits): _____

Comments: NO allergies

exp. 5 Ryder exp. 1 Hunter

☒ Enrolled
☐ Follow-Up

By signing this form I understand that all fees are non-refundable.

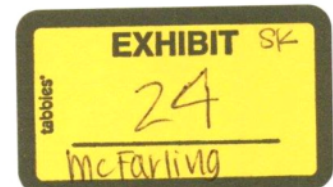
Parent Signature: _____ Printed Name: _____

E-mail Address: _____

Parent Signature: _____ Printed Name: _____

E-mail Address: _____

Staff member completed by: Jessica Moberg



EGGLESTON_000787

MSJ00403

EXHIBIT “QQ”

Law Offices of

OLSON CANNON GORMLEY & STOBERSKI

A Professional Corporation

9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
Telephone (702) 384-4012

James R. Olson
Walter R. Cannon
John E. Gormley
Michael E. Stoberski
Thomas D. Dillard, Jr.
Max E. Corrick, II
Felicia Galati
Michael A. Federico
Brandon P. Smith
Stephanie M. Zinna

Fax (702) 383-0701
Fax (702) 383-0723

www.ocgas.com

December 8, 2022

Paterno C. Jurani
Alexander Adrian
Ashley Olson
Jake A. Ordorica

Of Counsel

Richard E. Desruisseaux (Ret)
Stephanie A. Barker

WRITER'S EMAIL ADDRESS:
Fgalati@ocgas.com

Via Electronic Mail

Parmeni@ClarkHill.com

Paola M. Armeni, Esq.
CLARK HILL, LLP.
3800 Howard Hughes Parkway
Las Vegas, NV 89169a

**Re: Eggleston v. Clark County
Case No. A-16-748919-C**

Dear Counsel:

We are in receipt of Plaintiff's Responses to Clark County's Third Set of Interrogatories raising the following issues. Plaintiff's response to Interrogatory No. 35 is inadequate. Interrogatory No. 35 states:

State the name, address, telephone number, dates of treatment and treatment procedure of any and all health care providers and health care facilities with whom you treated and/or consulted **between 2009 to present**, other than the treaters you identified in your Response to Interrogatory No. 30, including treaters in located in Nevada, California and the United Kingdom where you resided, and/or regarding your high blood pressure identified in your Response to Interrogatory No. 31. (Emphasis added.)

MSJ00406

Paola M. Armeni, Esq.

December 8, 2022

Page 2

Plaintiff's Response identified treaters between February 12, 2022 to July 14, 2022 but did not provide any information regarding any **treaters between 2009 to before February 11, 2022**, including regarding Plaintiff's high blood pressure preceding the heart attack(s) and/or stroke(s). The requested information is necessary to defend this action and to allow the treaters to locate the requested records. Please supplement the response. Thank you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "F Galati". The signature is fluid and cursive, with a large initial "F" and a stylized "Galati".

Felicia Galati, Esq.

Felicia Galati

From: Schuller, William <wschuller@clarkhill.com>
Sent: Friday, December 9, 2022 1:40 PM
To: Felicia Galati; Ida Tajalli
Cc: Armeni, Paola M.; Bain, Tanya
Subject: FW: Notification of Service for Case: A-16-748919-C, Steve Eggleston, Plaintiff(s) vs. Georgina Stuart, Defendant(s) for filing Service Only, Envelope Number: 10973185

Good Afternoon Felicia:

We confirmed that there were no medical providers who treated Mr. Eggleston between 2009 and February 11, 2022. As such, there is no need for us to supplement our answer to Interrogatory No. 35.

Please let me know if you have any additional questions or concerns regarding our responses.

Bill Schuller

William D. Schuller

Senior Attorney

Clark Hill LLP

3800 Howard Hughes Parkway, Ste. 500, Las Vegas, NV 89169

(702) 697-7550 (office) | (702) 778-9709 (fax)

wschuller@clarkhill.com | www.clarkhill.com

From: no-reply@efilingmail.tylertech.cloud <no-reply@efilingmail.tylertech.cloud>
Sent: Thursday, December 8, 2022 5:04 PM
To: Schuller, William <wschuller@clarkhill.com>
Subject: Notification of Service for Case: A-16-748919-C, Steve Eggleston, Plaintiff(s) vs. Georgina Stuart, Defendant(s) for filing Service Only, Envelope Number: 10973185

[External Message]



Notification of Service

Case Number: A-16-748919-C
Case Style: Steve Eggleston,
Plaintiff(s) vs. Georgina Stuart, Defendant(s)
Envelope Number: 10973185

This is a notification of service for the filing listed. Please click the link below to retrieve the submitted document.

Filing Details	
Case Number	A-16-748919-C
Case Style	Steve Eggleston, Plaintiff(s) vs. Georgina Stuart, Defendant(s)
Date/Time Submitted	12/8/2022 5:03 PM PST

Filing Type	Service Only
Filing Description	Defendants' Correspondence to Plaintiff's Counsel Re: Discovery
Filed By	Ida Tajalli
Service Contacts	<p>Steve Eggleston:</p> <p>Steve Eggleston (theeggman411@gmail.com)</p> <p>Tanya Bain (tbain@clarkhill.com)</p> <p>Paola Armeni (parmeni@clarkhill.com)</p> <p>Steve Eggleston (steve@steveegglestonwrites.com)</p> <p>Judy Estrada (jestrada@clarkhill.com)</p> <p>William Schuller (wschuller@clarkhill.com)</p> <p>Georgina Stuart:</p> <p>Felicia Galati (fgalati@ocgas.com)</p> <p>Ida Tajalli (itajalli@ocgas.com)</p>

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Served Document	Download Document
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OMSJ

PAOLA M. ARMENI, ESQ.

Nevada Bar No. 8537

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Nevada Bar No. 11271

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1700 S. Pavilion Center Drive, Suite 500

Las Vegas, Nevada 89135

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Facsimile: (702) 778-9709

E-mail: parmeni@clarkhill.com
wschuller@clarkhill.com

Attorneys for Plaintiff,

STEVE EGGLESTON

DISTRICT COURT

CLARK COUNTY, NEVADA

* * *

STEVE EGGLESTON, an individual,

Plaintiff,

vs.

GEORGINA STUART; DEPARTMENT OF
FAMILY SERVICES, CHILD SUPPORT
SERVICES, CLARK COUNTY, NEVADA;
LISA CALLAHAN; BRIAN CALLAHAN; and
DOES 1 through 100, inclusive,

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.

Defendants Motion for Summary Judgment should be denied. Genuine issues of material 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.

27 ///

28 ///

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 identify 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 identify 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.

26 ///

27 ///

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-

20; and Ex.1, at 50:5-8. Prior to January 7, 2015, Stuart called Alexis and Lisa and informed them that the decision had been made that the minor children could not remain in the home with Laura and Mr. Eggleston. *See* Ex. 5 at 77:12-81:7; and Ex.1, at 61:7-64:12.

In January 2015, the Callahans lacked the resources to take care of the minor children. Their condo in Orland Hills, Illinois only had two bedrooms and two bathrooms. *See* Ex.5, at 99:8-10. The first night, the children slept on blow up mattresses and a pullout couch. Ex.5 at 100:4-7. K.R. and J.R. then went to stay with Lisa’s cousin, for several weeks. *Id.* at 100:7-21. The Callahans also had to immediately apply for government assistance, including food stamps and a monthly stipend, the latter of which they were still receiving as of March 2023. *Id.* at 31:21-32:25. Additionally, Stuart did not conduct any background investigation on the Callahans. *See* Ex. 7 at 208:7-209:15.

Stuart’s only two issues with Mr. Eggleston continuing to care for the Eggleston Boys were daycare and rent. *See* Ex.7 at 111:7-112:7. As part of her job duties, Stuart helps arrange for families in need to receive daycare and rental assistance (including \$2,000 that can be used for “anything to get the family stable”). *Id.* and 195:2-197:11.

On January 13, 2015, Lisa sends Stuart an email stating that she arrived back in Chicago with the minor children and advising that “[t]he school has requested a copy of a CPS report stating that the parents were deemed unfit so that they can provide services for after school care and for [H.E.] to be tested for any learning disabilities.” *See* Email Chain, **Exhibit 11**, CC001882-88. On January 23, 2015, Stuart replies to Lisa, stating that “case [1362581] will be substantiated at this time.” *Id.* However, on December 29, 2014, CPS’ findings of allegations of negligent treatment and/or inadequate supervision against Mr. Eggleston were “UNSUBSTANTIATED” as to all four minor children. *See* Motion at Ex. H (CPS Referral Summary at MSJ00045).

Mr. Eggleston was willing to leave Laura – i.e., move out with the Eggleston Boys – and told Stuart as much. *See* Ex. 2 at 106:3-107:1. The DFS record acknowledges this fact. *See* Motion at Ex. G (UNITY Notes at MSJ000031 (“The parents are not remaining together as a couple and wish to go their separate ways.”)) and Ex. S (Nevada Initial Assessment at MSJ00137 (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
Atteberry [sic], Sharon Savage and Clint Holder.

11 *See* Motion at Ex. G at MSJ00033. The emails produced during discovery³ shed some light on
12 the subject matter for the January 6 meeting. On January 5, 2015, Stuart advises McKay of her
13 plan for removal and the return of the check if that occurs. McKay then advises Stuart to staff this
14 and “come up with a better plan.” *Id.* at CC001854-56. In other email exchanges between
15 Atteberry, Stuart, McKay, Savage, Holder, there is discussion that the family is on board with
16 Mojave and Boystown services, that this is a good case for those programs and the in-home safety
17 plan needs to be solidified. There is further discussion about [Present Danger Assessment] and the
18 SPD [Safety Plan Determination] being done prior to the staffing meeting. *Id.* at CC001865-72.
19 Lastly, there are further emails that discuss the request for money to assist with rent and daycare.
20 *Id.* at CC001874-81. However, after the January 6th meeting, Stuart advises the money is no longer
21 needed “as the children will be removed from the home.” *Id.* at CC001874-81.

22 These emails demonstrate: 1) the County, including Atteberry, Stuart, McKay, and Savage,
23 were considering providing Mr. Eggleston’s family with in-home services through multiple
24 providers prior to the January 6 staff meeting; and 2) a decision was made during the January 6
25 staff meeting to not provide any services and instead, remove the minor children from the home
26 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**.

Neither the Mojave representative nor Clint Holder participated in the decision making process to remove. See Affidavit of Anne Marie Abruscato, a true and correct copy of which is attached hereto as **Ex. 13** at ¶ 8 and Holder Depo., **Ex. 14**, at 13:6-9; 42:9-43:11. Stuart testified that during the January 6 meeting that either Atteberry or McKay made the decision to remove the minor children from the home. See Ex.7 at 115:18-117:21. However, McKay was not at the meeting. Ex.7 at 116:22-25. While Atteberry had no recollection regarding the January 6 meeting, she also had no reason to believe it did not take place. See Atteberry Depo., **Ex.15**, at 49:10-59:17. Atteberry does remember discussing Mr. Eggleston and Laura Rodriguez with Stuart. *Id.* at 53:11-16. Importantly, Stuart is the person that provided the information and drafted the NIA. See Ex.7 at 112:18-19.

Pursuant to its website, CPS describes its focus as follows:

Child Protective Services (CPS) is the first step to ensure the safety and permanency of children who are reported as being abused or neglected. The focus of CPS is on protecting the child from harm or risk of harm and to make it safe for the child to live with the parent or caretaker. The CPS worker assesses 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

Given the complexity and multidimensional aspect of child abuse and neglect, “[a] **coordinated effort that involves a broad range of community agencies and professionals is essential for effective child protection.**”⁵ One common thread, however, is that when a parent has a case plan, the primary goal is always reunification with the parent(s) and, along those lines, family preservation is an important goal. See Ex. 15 at 113:1-19.

IV. LEGAL ARGUMENT

A. Legal Standard for Summary Judgment

“If a reasonable jury could find for the non-moving party, summary judgment is inappropriate.” *Borgerson v. Scanlon*, 117 Nev. 216, 220, 19 P.3d 236, 238 (2001) (citation omitted); see also *Witherow v. State Bd. of Parole Com'rs*, 123 Nev. 305, 308, 167 P.3d 408, 409

⁴ dcfs.nv.gov/Programs/CWS/CPS/CPS/ (last accessed October 17, 2023).

⁵ *Id.* (emphasis in original).

(2007) (“A genuine issue of material fact exists, precluding summary judgment, when a reasonable jury could return a verdict for the nonmoving party.”) (citation omitted). NRCP 56(c) establishes two basic substantive requirements for the entry of summary judgment: 1) there must be no genuine issue as to any material fact; and 2) the moving party must be entitled to judgment as a matter of law. *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005) (citation omitted); *Cromer v. Wilson*, 126 Nev. 106, 109, 225 P.3d 788, 790 (2010) *citing Wood*; *Delgado v. Am. Family Ins. Group*, 125 Nev. 564, 571, 217 P.3d 563, 568 (2009) *citing same*. When reviewing a motion for summary judgment, the evidence and all reasonable inferences drawn from it must be viewed in a light most favorable to the nonmoving party. *Allstate Ins. Co. v. Fackett*, 125 Nev. 132, 137, 206 P.3d 572, 575 (2009) *citing Wood v. Safeway, Inc.*, 121 Nev. 724, 732, 121 P.3d 1026, 1031 (2005) and NRCP 56(c); and *Waldman v. Maini*, 124 Nev. 1121, 1136, 195 P.3d 850, 860 (2008) (citations omitted). The pleadings play a limited role in summary judgment proceedings. *Dredge Corp. v. Husite Co.*, 78 Nev. 69, 89 n. 2, 369 P.2d 676, 687 n. 2 (1962).

As to a genuine issue of material fact, it is axiomatic that the presence of any such issue or dispute precludes the court from entering summary judgment. In such a case, a trial for the determination of that issue by the jury is required. NRCP 56(c); *see also Wood*, 121 Nev. at 730, 121 P.3d at 1030. Thus, to preclude summary judgment, the issue must be a question of *fact* rather than a question of *law*. *Springer v. Federated Church of Reno*, 71 Nev. 177, 179-80, 283 P.2d 1071, 1071-72 (1955). Nevada case law includes examples of what the Nevada Supreme Court considers an issue of fact. *See, e.g., Nelson v. City of Las Vegas*, 99 Nev. 548, 665 P.2d 1141 (1983) (what is *reasonable* is a question of fact that turns on the facts and circumstances of each particular case and should be resolved by a trier of fact); and *Kornton v. Conrad, Inc.*, 119 Nev. 123, 67 P.3d 316 (2003).

B. Legal Standard for Violation of 42 U.S.C. § 1983 - Fourteenth Amendment Due Process Interference with Parent/Child Relationship.

The elements of a cause of action for civil rights violation of 42 U.S.C. § 1983 are: 1) defendant deprived plaintiff of rights, privileges, or immunities secured by the Constitution or the

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 I. 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 i. Purpose to Harm Standard

4 The Supreme Court developed the purpose-to-harm standard in recognition that not every
5 harm caused by government officials gives rise to a Fourteenth Amendment claim. *See Lewis*, 523
6 U.S. at 848-49. For instance, situations requiring split-second decisions, where the officer did not
7 have a “practical” opportunity for “actual deliberation” cannot establish purposeful harm. *Lewis*,
8 523 U.S. at 851.

9 ii. Deliberate Indifference Standard

10 The deliberate indifference standard applies in situations where the officers who caused
11 the harm to the parent or child acted (or failed to act) in a situation when “actual deliberation is
12 practical.” *Lewis*, 523 U.S. at 851. When officials have “time to make unhurried judgments,” and
13 “extended opportunities to do better,” but unreasonably allow harm to occur, then their “protracted
14 failure even to care” can shock the conscience, thus giving rise to a substantive due process claim.
15 *Id.* “Actual deliberation” requires a longer period than “deliberation” as that term is used in
16 homicide law. *Id.* at 851 n.11. Because it shocks the conscience for officials to cause harm to a
17 parent with deliberate indifference, a substantive due process claim of impermissible interference
18 with familial association can arise in these circumstances. *Porter*, 546 F.3d at 1137.

19 **C. Defendants Are Not Entitled to Summary Adjudication on Eggleston’s Claims.**

20 *I. Civil Rights Violations: 42 U.S.C. § 1983*

21 Mr. Eggleston’s first cause of action is for a violation of his civil rights under 42 U.S.C. §
22 1983. *See* FAC at ¶¶ 27-31. The fundamental right to “bring up children” is encompassed within
23 the right to liberty, a core guarantee protected by the due process clause of the Fourteenth
24 Amendment. *Eggleston v. Stuart*, 137 Nev. 506, 511, 495 P.3d 482, 489 (2021) *citing Meyer v.*
25 *Nebraska*, 262 U.S. 390, 399, 43 S. Ct. 625, 626 (1923) The Motion argues that “[t]he FAC fails
26 to allege any specific constitutional Amendment or statutory right.” *Id.* at p. 13, l. 16. In fact, the
27 FAC repeatedly references “his fundamental parental rights” (*id.* at ¶ 29(e), (f), (k)) and his
28 “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
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.

25 She also confirmed that if he signed the guardianship papers, that they would
26 not file a petition, an abuse and neglect petition, against Steve and Laura, and
27 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 2. *Intentional Infliction of Emotional Distress*

9 Mr. Eggleston's third cause of action is for intentional infliction of emotional distress
10 (IIED). *See* FAC at ¶¶ 38-41. The elements of a cause of action for intentional infliction of
11 emotional distress are: 1) defendant's conduct was extreme or outrageous with either the intention
12 of, or reckless disregard for causing emotional distress to plaintiff; and 2) plaintiff suffered severe
13 or extreme emotional distress as the actual or proximate result of defendant's conduct. *Dillard*
14 *Dept. Stores, Inc. v. Beckwith*, 115 Nev. 372, 378, 989 P.2d 882, 886 (1999) (citation omitted);
15 and *Miller v. Jones*, 114 Nev. 1291, 1299-300, 970 P.2d 571, 577 (1998) (citations omitted). As
16 to defendant's conduct, extreme and outrageous conduct is that which is outside all possible
17 pounds of decency and is regarded as utterly intolerable in a civilized community. *Maduike v.*
18 *Agency Rent-A-Car*, 114 Nev. 1, 4, 953 P.2d 24, 26 (1998) (citation omitted). As the elements do
19 not require a physical injury, such an injury is not a prerequisite to establishing emotional distress.
20 *Sadler v. PacifiCare of Nev.*, 130 Nev. 990, 997, 340 P.3d 1264, 1268 (2014) (citation omitted).

21 In *Eggleston*, in the context of analyzing his § 1983 claim, the Nevada Supreme Court
22 found that as alleged in the FAC, Defendants' "actions 'shock the conscience' by removing the
23 possibility of reunification and by violating Eggleston's fundamental right to raise his children."
24 137 Nev. at 512, 495 P.3d at 489-90 (internal quotations altered). The standard required to defeat
25 summary judgment for an IIED claim is similar to the shock the conscience test for a substantive
26 due process claim. In order to shock the conscience of the court, a defendant's actions must go
27 beyond the "decencies of all civilized conduct." *Cnty. of Sacramento*, 523 U.S. at 846. Similarly,
28 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
has suffered shame, humiliation, intrusive thoughts, worry, depression,
hopelessness, and insomnia. ... Clearly, from his stroke, he has had difficulties
with memory loss and inability to process and synthesize information.

16 *See* Expert Rebuttal, **Ex. 17** at pp. 28-29. In short, Mr. Eggleston attributes his injury to
17 Defendants' actions; and Defendants dismissively attribute it to his health and family history.
18 Thus, there exists a genuine issue of material fact as to whether Defendants' alleged conduct was
19 the cause in fact of Mr. Eggleston's stroke and heart attack, precluding summary judgment on the
20 second element of IIED.

21 Third, Defendants argue that they have discretionary act immunity. *See* Motion at p. 21, ll.
22 1-19. Acts by state employees are entitled to discretionary-function immunity if they meet two
23 criteria: 1) the disputed act must be discretionary, in that it involves an element of judgment or
24 choice, and 2) even if an element of judgment or choice is involved, the court must determine if
25 the judgment is of the kind that the discretionary function exception was designed to shield, i.e.,
26

27 ⁸ Dr. Paglini's evaluation consisted of a mental status exam/behavioral observations, psychosocial
28 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 ¹¹ Notably, on May 26, 2023, District Judge James Wilson ordered the appeal hearing officer to
27 prepare “an amended appeal hearing decision that includes a concise and explicit statement of the
28 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
15 never see his children again. Taking these allegations as true, Eggleston could
16 prove that Stuart violated his civil rights and, therefore, **that Stuart was acting**
17 **in her individual capacity rather than her official capacity**. In turn, Eggleston
18 could be able to pursue punitive damages against Stuart.

19 *Eggleston*, 137 Nev. at 514, 495 P.3d at 491 (emphasis added). Thus, Defendants' argument that
20 Mr. Eggleston's claim for punitive damages against Stuart must be considered in her official
21 capacity is *res judicata*.

22 Defendants also argue that punitive damages against Stuart in her official capacity are
23 unavailable because there is no evidence of oppression, fraud, or malice. For purposes of NRS
24 42.005(1), *oppression* is a conscious disregard for the rights of others which constituted an act of
25 subjecting plaintiff to cruel and unjust hardship; *fraud* is an intentional misrepresentation,
26 deception, or concealment of a material fact known to the person with the intent to deprive another
27 person of his or her rights or property or to otherwise injure another person; and *malice* is conduct
28 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. *USF Ins. Co. v. Smith's Food & Drug Ctr., Inc.*, 921 F.
Supp. 2d 1082, 1098 (D. Nev. 2013), *as corrected* (Mar. 27, 2013) (citations omitted). The facts
demonstrate that a reasonable jury could find Stuart acted with oppression, fraud, and/or malice.

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