

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

\* \* \* \* \*

OLENA KARPENKO,

S.C. No.:

Electronically Filed  
Aug 09 2023 09:27 AM  
Elizabeth A. Brown  
81536/86537  
Clerk of Supreme Court

D.C. Case No.: D-21-628088-C

Appellant,

vs.

ENRIQUE SCHAERER,

Respondent.

**RESPONSE TO ORDER TO SHOW CAUSE**

**I. INTRODUCTION**

The *Order* appealed from established a back child support amount and set attorney's fees for already concluded proceedings relating to the establishment of

paternity; it follows a final order establishing paternity. The district court has determined it is a final order and that neither determination is to be revisited in any future proceedings in the district court.

As child support is always modifiable under NRS 125B.145(4), any order setting child support must be considered a final order unless it is expressly made retroactively modifiable, which is not the case here; the district court has made clear that it considers back support and prospective changes to child support based on current income figures to be distinct and separate matters, and only the prospective support (based on post-order changes in income) remains in contest in the district court.

Here, the Court did a look back and ordered past due child support on erroneous numbers. That support covered a period of just over one year. Based on Enrique's assertion that his income had changed, the district court issued a new

temporary order and has since scheduled an evidentiary hearing to establish a new permanent child support order. The subject matter of the current appeal is not to be considered at that hearing.

The original order setting arrears in support – which is a final order – is what is on appeal.<sup>1</sup>

## **POINTS AND AUTHORITIES**

### **II. FACTS**

Olena is an accomplished professional musician who entered the United States on a O-1 work visa (valid until April of 2021). On April 7, 2020, Olena became

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<sup>1</sup> The procedural context is peculiar and, as discussed below, perhaps we should have classified that order as a special order after final judgment attendant to the final order determining paternity, See *Order from February 21, 2023 Hearing*, filed March 31, 2023, and set out in Exhibit 1.

acquainted with Enrique and they began a romantic relationship. In June, Olena moved into Enrique's house as both his girlfriend and tenant; their romantic relationship intensified.<sup>2</sup>

In November 2020, Olena became pregnant with Enrique's child.<sup>3</sup> The conception took place in either California or Nevada as the parties traveled in both

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<sup>2</sup> See *Plaintiff's Motion*, filed August 5, 2021, set out in Exhibit 2, Bates Stamp No. AA 62.

<sup>3</sup> See *Amended Answer to Complaint*, filed on July 20, 2021 and set out in Exhibit 3, Bates Stamp No. AA 48 indicates the child was expected to be born around July 2021. Nine months before that date is November 2020. The child was actually born on July 28, 2021. See *Supplemental Exhibits to "Defendant's Motion to Reconsider, Set Aside, Alter or Amend the Order After Motion Hearing"*, filed on October 27, 2021 and set out in Exhibit 4, Bates Stamp Nos. AA 208 and AA 210.

states during that time.

Based on the impending birth of their child, Enrique and Olena married on December 26, 2020.<sup>4</sup> Enrique assisted Olena with her green card application by completing an affidavit of support and other standard forms.<sup>5</sup>

Enrique is a lawyer. Prior to the marriage, he forced Olena to sign a prenuptial agreement, on threat of not supporting her application for a green card, that provided Olena with absolutely no rights to either property or spousal support.<sup>6</sup>

Not long after the marriage and becoming disillusioned with their relationship,

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<sup>4</sup> See Exhibit 2, Bates Stamp No. AA 60.

<sup>5</sup> Enrique admits at Exhibit 2, Bates Stamp No. AA 62 that the parties discussed her petition for permanent residency. However, he fails to state that he retracted the affidavit of support for Olena. See *Defendant's Opposition*, filed September 3, 2021 and set out in Exhibit 5, Bates Stamp No. AA 86.

<sup>6</sup> See Exhibit 2, Bates Stamp Nos. AA 60 - AA 62.

Enrique became increasingly verbally abusive. Three weeks after the marriage, in January 2021, Enrique tried to throw Olena out of the marital home and told her the pregnancy was a “mistake,” making it clear that he would use any means possible to get rid of Olena and avoid supporting her or “the bastard” in any way. The marriage was irretrievably broken from that point on.

To force Olena’s hand, in March Enrique rescinded his affidavit of support for Olena’s application for permanent residency, requiring Olena to leave the country before her visa expired a few weeks thereafter.<sup>7</sup> She returned to her home country of Ukraine.

On June 11, Enrique had Olena served in Ukraine with his *Complaint for*

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<sup>7</sup> Contrary to Enrique’s claims that Olena “surreptitiously” left the country without his knowledge, she stayed in communication with his family until she left and Enrique himself personally drove her to the airport.

*Divorce*<sup>8</sup> and *Summons*.<sup>9</sup> The *Certificate of Service* was completed by one Vitaly Shevel.<sup>10</sup> The *Complaint* alleged that the minor child conceived during their relationship was not his child<sup>11</sup> so he owed no child support, and that the prenuptial agreement he forced Olena to sign meant that there was no community property and no spousal support was permitted.

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<sup>8</sup> See Exhibit 2, Bates Stamp No. AA 62.

<sup>9</sup> See *Summons*, issued June 1, 2021, set out in Exhibit 6.

<sup>10</sup> See *Declaration of Investigator Vitaly Shevel Regarding Service of Process on Defendant Olena Karpenko*, filed on June 16, 2021, set out in Exhibit 7. While Enrique has alleged throughout the litigation that every other legal process in Ukraine is “hopelessly corrupt,” Enrique has not complained about the legitimacy of the service of process he initiated.

<sup>11</sup> See *Complaint for Divorce*, filed on May 28, 2021, set out in Exhibit 8, Bates Stamp No. AA 2.

Litigation ensued as to paternity.<sup>12</sup> Due to the district court demanding that a DNA test be done in the United States – even though Olena had no way to get to the States due to the invasion of Ukraine by Russia – this litigation went on for over a year. We filed a writ petition in this Court based on the district court’s multiple denials of due process to Olena.<sup>13</sup>

When Enrique’s newly-substituted appellate counsel reviewed the writ and realized there was no real defense of the district court’s actions; she requested and we agreed to ask this Court to suspend briefing and refer the matter to an appellate settlement judge.<sup>14</sup>

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<sup>12</sup> Olena’s inexperienced first counsel filed an *Answer* with boilerplate admissions and denials, but did not directly and plainly assert Enrique’s paternity.

<sup>13</sup> Case No. 83997.

<sup>14</sup> *See Motion to Divert Matter to Supreme Court Settlement Program and to Suspend Briefing* filed on March 9, 2022.

Settlement Judge Lansford Levitt conducted a conference and the parties stipulated to the DNA testing protocol we had been asking the district court to implement for months (samples collected where the parties lived and sent to a lab in the U.S. for actual testing), and various related matters, making the writ moot.<sup>15</sup> We moved to dismiss the writ accordingly, which motion was granted.

Back in the district court, there were multiple additional hearings, and based on the stipulation of the parties the district court finally agreed that a sample could be taken in the Ukraine by an approved lab and sent to a lab in the United States for testing.

On October 18, 2022, *Notice of DNA Results* were filed with the district court

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<sup>15</sup> See *Stipulation and Order to Resolve Parent/Child Issues* filed May 13, 2022, attached as Exhibit 9; *Stipulation and Order* filed May 9, 2022, attached as Exhibit 10.

confirming that Respondent was the biological father of the minor child. The *Order* actually establishing paternity is the combination of the *Stipulation and Order* filed May 13, and the *Notice of DNA Test Results* filed October 18. From the time of those two filings, Enrique was the adjudicated father of A.K.

Over four months passed after the confirming DNA test, without Enrique providing any child support for the minor child. We requested Enrique provide proof of income to calculate child support and received his November 9, 2022, Financial Disclosure Form.<sup>16</sup>

Attempts were made to get some sort of child support paid with many letters being sent back and forth between counsel.

On December 20, we were served with “Plaintiff’s N.R.C.P. 16.2 Production - 3 and List of Witnesses.” Included in that disclosure was actual proof of Enrique’s

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<sup>16</sup> This was the first FDF filed by Enrique in the case.

income from 2021 and 2022.

We filed a *Motion for Enforcement of Child Support, Arrears, Unreimbursed Medical Expenses and Attorney's Fees* on January 13, 2023.<sup>17</sup>

A hearing was held on February 21 on the issue of child support, arrears and attorney's fees. The *Order* from that hearing was filed on March 31, 2023.<sup>18</sup>

There are three relevant findings in that *Order*:

THE COURT FURTHER FINDS on the child support issue itself, there seems to be a factual dispute as to what Plaintiff's actual income is. The Court has read Plaintiff's contract and understands it takes time to get the billing fees, get them billed, then collected. With regard to Plaintiff's income in 2021, just like overtime, the Court does not include

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<sup>17</sup> See *Defendant's Motion for Enforcement of Child Support, Arrears, Reimbursed Medical Expenses and Attorney's Fees*, filed January 13, 2023, set out in Exhibit 11.

<sup>18</sup> See Exhibit 1.

bonuses that are one-time extraordinary, so the Court finds that using the nine months before he got that, that Plaintiff's gross monthly income in 2021 was \$36,239.67, plus rental income, so gross monthly income for 2021 was \$40,086.67. That means child support was \$2,483.00 per month times six, totaling constructive arrears of \$14,898.00.

THE COURT FURTHER FINDS that in 2022, the Court used Plaintiff's normal gross monthly income of the first nine months, which was \$23,429.75, and added the rental income, results in a gross monthly income for child support purposes of \$27,276.75. This results in child support for 2022 of \$1,971.00 times 12 months, or constructive arrears for 2022 of \$23,652.00.

THE COURT FURTHER FINDS that there remains a factual in dispute as to what income the Court should be using for Plaintiff's current child support obligation. Plaintiff's income has gone down because he is definitely not getting the same amount of return on his billings under the new firm with the 40% contract, but the Court does not have enough evidence to make a final Order now. For temporary child support for purposes of 2023, the Court is going to impute that Plaintiff can make \$15,000.00 per month under his 40% contract scenario, plus his rental

income, and for purposes of setting a temporary support obligations for 2023, will set his gross income at \$18,847.00. That results in child support in the amount of \$1,634.00. This amount is subject to change based upon getting more data on what Plaintiff is actually making in 2023.

The *Order* also included an order adjudicating the pre-hearing child support arrears:

IT IS HEREBY ORDERED that Defendant is awarded from Plaintiff, \$38,500.00 in constructive child support arrears for 6 months in 2021 and all through December 31, 2022; less \$1,500.00, which Plaintiff has already paid to Defendant, making the amount of constructive child support arrears \$37,000.00, with legal interest dating back from October 18, 2022, this amount is reduced to Judgment collectible by all legal means.

Separately, the issue of attorney's fees for all litigation leading up to the paternity determination was heard in chambers and an *Order and Judgment for*

*Attorney's Fees and Costs* was filed on April 17.<sup>19</sup> Separate appeals were filed from the child support arrears and attorney's fees orders, which were consolidated by this Court.

The two orders relating to child support arrears and attorney's fees up to and including the finding of paternity are not modifiable and not subject to future proceedings in the district court; they are final orders.

### **III. ARGUMENT**

#### **A. Child Support Arrears**

NRAP 3A states in part:

(b) Appealable Determinations. An appeal may be taken from the following

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<sup>19</sup> See *Order and Judgment for Attorney's Fees and Costs*, filed on April 17, 2023, set out in Exhibit 12.

judgments and orders of a district court in a civil action:

(1) A final judgment entered in an action or proceeding commenced in the court in which the judgment is rendered.

.....

(8) A special order entered after final judgment . . . .

Here, the *Orders* being appealed from are final as to the arrearages in child support and the attorney's fees awarded in arguing the granting of those fees. The only issues remaining before the District Court are prospective child support and the fees necessary to adjudicate the same.

This Court's *Order to Show Cause* expressed doubt whether the orders appealed from were actually final orders *or* special orders after final judgment, since litigation continued regarding prospective support and this Court did not see a final judgment from to which a later order could relate.

The same issues were raised in the district court during the hearing of July 18,

when the district court tried to determine whether proceeding on establishing prospective child support was barred by the existence of this appeal. The district court found that it did have jurisdiction to deal with the claims for prospective support during the appeal, because the issues of child support arrears and attorney's fees leading up to the finding of paternity were final and not subject to continuing proceedings in the district court.<sup>20</sup> Neither counsel objected.

The issue of child support arrearages has nothing to do with prospective child support, which dispute relates to Enrique's claim that his income has decreased by more than the 20% necessary for the district court to alter support going forward; it has no impact on the existing orders for arrears or attorney's fees.<sup>21</sup>

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<sup>20</sup> See *Court Minutes re: Status Check*, issued July 18, 2023, set out in Exhibit 13.

<sup>21</sup> NRS 125B.145. It is undisputed that Enrique left his former employment

While the existing orders do not explicitly recite a reference to NRCP 54(b), that was the tenor of the discussion and decision on July 18 to proceed in the district court with prospective child support matters notwithstanding this appeal, because the court determined that there “there is no just reason for delay” in addressing the prospective modification which it is entirely separate from the final orders as to arrears and attorney’s fees that are before this Court in this appeal.

In other words, even though the district court has made temporary orders for prospective child support, the arrearages and attorney’s fees orders are final orders and should be appealable now. Nothing the district court will do in the future will affect those rulings, and any review sought in the future from the pending ruling on

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prior to the district court determining the child support arrears. Since his income had purportedly dropped, any prospective order for support would not affect the appealability of the prior *Orders*.

prospective support will have nothing to do with the orders now at issue in this appeal.

In *Valley Bank of Nevada*,<sup>22</sup> this Court held:

This court has consistently looked past labels in interpreting NRAP 3A(b)(1), and has instead taken a functional view of finality, which seeks to further the rule's main objective: promoting judicial economy by avoiding the specter of piecemeal appellate review.

Here, the child support arrearages and attorney's fees order for proceedings leading up to the determination of paternity are final orders of the district court as no

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<sup>22</sup> *Valley Bank of Nevada v. Ginsburg*, 110 Nev. 440, 445, 874 P.2d 729, 733 (1994), citing to *State, Taxicab Authority v. Greenspun*, 109 Nev. 1022, 1025, 862 P.2d 423, 425 (1993); *Hallicrafters Co. v. Moore*, 102 Nev. 526, 528-29, 728 P.2d 441, 443 (1986); and *Van Cauwenberghe v. Biard*, 486 U.S. 517, 521-22 n. 3, 108 S.Ct. 1945, 1949 n. 3, 100 L.Ed.2d 517 (1988).

further action in the district court on either issue will be made.

To take an opposing view would functionally make all child support orders unappealable, as they all are subject to prospective modification. In fact, NRS 125B.145 requires a district court to entertain a request for modification at least once every three years or if there is a change in income of 20 percent or more. This reality makes any child support order “temporary,” but it should not make child support or attorney’s fee orders functionally non-appealable.<sup>23</sup>

## **B. Attorney’s Fees**

As stated in the *Order to Show Cause* an award of attorney’s fees is appealable

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<sup>23</sup> This Court has previously noted the “anomalous status” of child custody and support orders, which can be and are “final orders” and yet may be prospectively modified. *See, e.g., Adams v. Adams*, 107 Nev. 790, 820 P.2d 752 (1991).

under NRAP 3A(b)(8) as a special order after final judgment.

As this Court has repeatedly held, an order awarding attorney fees and costs is substantively appealable as a special order after final judgment. Special orders after final judgment are appealable because they affect the rights of a party growing out of the final judgment.<sup>24</sup>

Respectfully, as detailed above, this Court's surmise that there was no final judgment to which the attorney's fees order relates is not correct. The *Stipulation and Order* and *Notice* constituted a final order adjudicating paternity of A.K. There will be no further orders adjudicating paternity, because it has been determined, and the attorney's fees judgment determined the rights of the parties growing out of that final judgment.

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<sup>24</sup> *Winston Products Inc. v. Deboer*, 122 Nev. 517, 134 P.3d 726 (2006).

#### IV. CONCLUSION

Based on the above, the *Orders* of the district court as to arrearages and attorney's fees for the litigation relating determination of paternity are appealable as they are not subject to further action by the lower court. There are no reserved issues that are on appeal and the *Orders* are final.

Additionally, we believe that the district court erred in its award of attorney's fees, which is appealable as a special order after final judgment.

**DATED** this 9th day of August, 2023.

WILLICK LAW GROUP

*/s/ Marshal S. Willick* \_\_\_\_\_  
MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 East Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
(702) 438-4100  
Attorney for Appellant

## CERTIFICATE OF SERVICE

Pursuant to NRAP 25(d), I certify that I am an employee of the WILLICK LAW GROUP and that on this 9th day of August, 2023, a document entitled *Response to Order to Show Cause* was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows, to the attorneys listed below at the address, email address, and/or facsimile number indicated below:

Racheal H. Mastel, Esq.  
Kainen Law Group  
3303 Novat Street Ste. 200  
Las Vegas, Nevada 89129  
[service@kainenlawgroup.com](mailto:service@kainenlawgroup.com)  
[racheal@kainenlawgroup.com](mailto:racheal@kainenlawgroup.com)  
*Attorney for Plaintiff/Respondent*

*/s/ Justin K. Johnson*

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An Employee of the Willick Law Group

## **EXHIBIT INDEX**

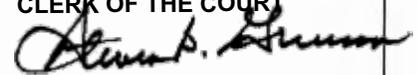
- Exhibit 1.** Notice of Entry of Order from February 21, 2023, Hearing  
**(Bates Stamp Nos. AA000968 - AA000980)**
- Exhibit 2.** Plaintiff’s Motion for Taking of Specimens for Genetic Identification and Testing in Clark County Pursuant to NRS 126.121(1); to Appoint Huadian Ad Litem for Minor Child; to Bifurcate and Enter Interlocutory Decree of Divorce (All Divorce Terms Resolved Pursuant to Parties’ Pleadings), and to Reserve Jurisdiction to Adjudicate Paternity Claims; and to Compel Defendant’s Provision of HIPAA Release.  
**(Bates Stamps Nos. AA000058 - AA000075)**
- Exhibit 3.** Amended Answer to Complaint.  
**(Bates Stamp Nos. AA000044 - AA000053)**
- Exhibit 4.** Supplemental Exhibits to “Defendant’s Motion to Reconsider, Set Aside, Alter or Amend the Order After Motion Hearing”.  
**(Bates Stamp Nos. AA000201 - AA000215)**
- Exhibit 5.** Defendant’s Opposition to Plaintiff’s Motion for Taking of Specimens for Genetic Identification and Testing in Clark County Pursuant to NRS 126.121(1); to Appoint Huadian Ad Litem for Minor Child; to Bifurcate and Enter Interlocutory Decree of Divorce (All Divorce Terms Resolved Pursuant to Parties’ Pleadings), and to Reserve Jurisdiction to Adjudicate Paternity Claims; and to Compel Defendant’s Provision of HIPAA Release and Countermotion to Stay Discovery Pending Results of Genetic Testing, for Genetic Testing to Occur in Ukraine, or in the Alternative for Genetic Testing to Be Coordinated by Testing Centers in United States and Ukraine to Accommodate the Current Circumstances, for Plaintiff to Be Ordered to File a Financial Disclosure Form Within Seven [7] Days of Hearing, for Child Support Pending Results of Genetic Testing and for Reimbursements of Medical Expenses Related to Child Birth, and for Enrique to Pay Costs of Genetic Testing/attorney’s Fees Related Solely to the Paternity Action.  
**(Bates Stamp Nos. AA000084 - AA000093)**

- Exhibit 6.** Summons.  
**(Bates Stamp No. AA000010)**
- Exhibit 7.** Declaration of Investigator Vitaly Shevel Regarding Service of Process on Defendant Olena Karpenko.  
**(Bates Stamp Nos. AA000011 - AA000014)**
- Exhibit 8.** Complaint for Divorce.  
**(Bates Stamp Nos. AA000001 - AA000006)**
- Exhibit 9.** Notice of Entry of Stipulation and Order to Resolve Parent/Child Issues.  
**(Bates Stamp Nos. AA000509 - AA000514)**
- Exhibit 10.** Notice of Entry of Stipulation and Order.  
**(Bates Stamp Nos. AA000501 - AA000508)**
- Exhibit 11.** Defendant's Motion for Enforcement of Child Support, Arrears, Reimbursed Medical Expenses and Attorney's Fees.  
**(Bates Stamp Nos. AA000532 - AA000548)**
- Exhibit 12.** Notice of Entry of Order.  
**(Bates Stamp Nos. AA000981 - AA000989)**
- Exhibit 13.** Court Minutes from hearing held July 18, 2023.  
**(Bates Stamp Nos. AA001120 - AA001121)**

**EXHIBIT “1”**

**EXHIBIT “1”**

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1 **NOE**  
2 RACHEAL H. MASTEL, ESQ.  
3 Nevada Bar No. #11646  
4 KAINEN LAW GROUP, PLLC  
5 3303 Novat Street, Suite 200  
6 Las Vegas, Nevada 89129  
7 PH: (702) 823-4900  
8 FX: (702) 823-4488  
9 Service@KainenLawGroup.com  
10 Attorneys for Plaintiff

7 DISTRICT COURT, FAMILY DIVISION  
8 CLARK COUNTY, NEVADA

9 ENRIQUE SCHAERER,  
10  
11 Plaintiff,

12 vs.

13 OLENA KARPENKO.  
14  
15 Defendant.

CASE NO. D-21-628088-D  
DEPT. U

Date of Hearing: 2/21/2023  
Time of Hearing: 10:30 a.m.

17 **NOTICE OF ENTRY OF ORDER FROM FEBRUARY 21, 2023 HEARING**

18 TO: OLENA KARPENKO, Defendant; and

19 TO: MARSHAL WILLICK, ESQ., Attorney for Defendant:

20 PLEASE TAKE NOTICE that on the 31<sup>st</sup> day of March, 2023, the  
21 Honorable Dawn R. Throne entered an *Order from February 21, 2023 Hearing*, a copy  
22 of which is attached hereto.

23 DATED this 3 day of April, 2023.

24 KAINEN LAW GROUP, PLLC

25 By: 

26 RACHEAL H. MASTEL, ESQ.  
27 Nevada Bar No. #11646  
28 3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
Attorneys for Plaintiff

KAINEN LAW GROUP, PLLC  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com

**KAINEN LAW GROUP, PLLC**  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 3<sup>RD</sup> day of April, 2023, I caused to be served the *Notice of Entry of Order from February 21, 2023 Hearing* to all interested parties as follows:

\_\_\_ BY MAIL: Pursuant to NRCP 5(b), I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, postage fully prepaid thereon, addressed as follows:

\_\_\_ BY CERTIFIED MAIL: I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, certified mail, return receipt requested, postage fully paid thereon, addressed as follows:

\_\_\_ BY FACSIMILE: Pursuant to EDCR 7.26, I caused a true copy thereof to be transmitted, via facsimile, to the following number(s):

X BY ELECTRONIC MAIL: Pursuant to EDCR 7.26 and NEFCR Rule 9, I caused a true copy thereof to be served via electronic mail, via Wiznet, to the following e-mail address(es):

- [marshal@willicklawgroup.com](mailto:marshal@willicklawgroup.com)
- [victoria@willicklawgroup.com](mailto:victoria@willicklawgroup.com)
- [email@willicklawgroup.com](mailto:email@willicklawgroup.com)

  
An Employee of  
KAINEN LAW GROUP, PLLC

*Alanna J. Jamin*  
CLERK OF THE COURT

1 **ORDR**  
2 RACHEAL MASTEL, ESQ.  
3 Nevada Bar No. 11646  
4 KAINEN LAW GROUP, PLLC  
5 3303 Novat Street, Suite 200  
6 Las Vegas, Nevada 89129  
7 PH: (702) 823-4900  
8 FX: (702) 823-4488  
9 Service@KainenLawGroup.com  
10 Attorney for Plaintiff

11 **EIGHTH JUDICIAL DISTRICT COURT, FAMILY DIVISION**  
12 **CLARK COUNTY, NEVADA**

13 ENRIQUE SCHAERER,

14 Plaintiff,

15 vs.

16 OLENA KARPENKO,

17 Defendant.

CASE NO. D-21-628088-D  
DEPT. U

Date of Hearing: 2-21-2023  
Time of Hearing: 10:30 a.m.

18 **ORDER FROM FEBRUARY 21, 2023 HEARING**

19  
20 This matter having come before the Court via Bluejeans for a hearing on  
21 Defendant's Motion for Enforcement Of Child Support, Arrears, Reimbursed  
22 Medical Expenses And Attorney's Fees and Plaintiff's Countermotion to Enforce  
23 the Requirement For Mediation; and Plaintiff ENRIQUE SCHAERER (hereinafter  
24 "Plaintiff") appearing via BlueJeans, and his attorney RACHEAL MASTEL, ESQ.,  
25 of the KAINEN LAW GROUP, PLLC, appearing via BlueJeans, and Defendant,  
26 OLENA KARPENKO (hereinafter "Defendant") appearing via BlueJeans, and her  
27 attorneys, MARSHAL WILLICK, ESQ., of WILLICK LAW GROUP, appearing  
28

KAINEN LAW GROUP, PLLC  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
T: 702.823.4900 F: 702.823.4488  
www.KainenLawGroup.com





1 via BlueJeans; and the Court having reviewed all of the pleadings on file herein, and  
2 having entertained argument by Counsel, hereby makes the following Findings and  
3 Orders:

4 **THE COURT HEREBY FINDS** there is no reason why it should not enforce  
5 the Stipulation and Order entered on May 13, 2022. It is very clear that the parties  
6 agreed to do private mediation regarding child custody and child support but agrees  
7 with Mr. Willick that it doesn't mean it's the same mediation. In terms of the  
8 mediation relating to custody, this Court has no jurisdiction over custody matters.  
9 The only Court with any jurisdiction to enter any orders relating to custody of this  
10 child is in Ukraine.

11 **THE COURT FURTHER FINDS** that the Court is inclined to enforce the  
12 Stipulation and Order because the child custody and visitation and contact costs are  
13 directly related to the Child Support. The Court can't enter a final child support  
14 Order if it doesn't know how much either parent is going to be spending to facilitate  
15 visitation.

16 **THE COURT FURTHER FINDS** that it can enter a temporary Order, which  
17 it is inclined to do, and set a temporary child support obligation and require the  
18 Defendant to participate in the private mediation. The Court believes that Plaintiff  
19 is going to have to retain an attorney in the Ukraine and see if things resolve through  
20 mediation.

21 **THE COURT FURTHER FINDS** on the child support issue itself, there  
22 seems to be a factual dispute as to what Plaintiff's actual income is. The Court has  
23 read Plaintiff's contract and understands it takes time to get the billing fees, get them  
24 billed, then collected. With regard to Plaintiff's income in 2021, just like overtime,  
25 the Court does not include bonuses that are one-time extraordinary, so the Court  
26 finds that using the nine months before he got that, that Plaintiff's gross monthly  
27 income in 2021 was \$36,239.67, plus rental income, so gross monthly income for  
28



1 2021 was \$40,086.67. That means child support was \$2,483.00 per month times six,  
2 totaling constructive arrears of \$14,898.00.

3 **THE COURT FURTHER FINDS** that in 2022, the Court used Plaintiff's  
4 normal gross monthly income of the first nine months, which was \$23,429.75, and  
5 added the rental income, results in a gross monthly income for child support  
6 purposes of \$27,276.75. This results in child support for 2022 of \$1,971.00 times 12  
7 months, or constructive arrears for 2022 of \$23,652.00.

8 **THE COURT FURTHER FINDS** that there remains a factual in dispute as  
9 to what income the Court should be using for Plaintiff's current child support  
10 obligation. Plaintiff's income has gone down because he is definitely not getting the  
11 same amount of return on his billings under the new firm with the 40% contract, but  
12 the Court does not have enough evidence to make a final Order now. For temporary  
13 child support for purposes of 2023, the Court is going to impute that Plaintiff can  
14 make \$15,000.00 per month under his 40% contract scenario, plus his rental income,  
15 and for purposes of setting a temporary support obligations for 2023, will set his  
16 gross income at \$18,847.00. That results in child support in the amount of  
17 \$1,634.00. This amount is subject to change based upon getting more data on what  
18 Plaintiff is actually making in 2023.

19 **THE COURT FURTHER FINDS** with regard to the birthing costs, Plaintiff  
20 has offered to pay half of the total amount and Defendant has requested the Plaintiff  
21 pay the entire amount. The statute as written is unconstitutional and the Court would  
22 only make Plaintiff pay half, as there is no basis to make a father only pay the entire  
23 amount when parents are equal, what if it's a case where the child has two mothers,  
24 then nobody has to pay the birthing expenses? As written, it's not constitutional and  
25 therefore Plaintiff should pay half of those expenses. Both parties are responsible  
26 for the costs of having their child born. The birthing costs are be reduced to

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1 Judgment, with interest from October 18, 2022 based on the date the DNA test  
2 results were received.

3 **THE COURT FURTHER FINDS** that the \$37,000.00 in child support  
4 arrears through December 31, 2022 are reduced to Judgment, and start the legal  
5 interest rate today.

6 **THE COURT FURTHER FINDS** that the ongoing child support of  
7 \$1,634.00 shall begin for February 2023, payable before the end of the month. It  
8 really is a matter of whether the Court is going to adjust that going forward, subject  
9 to getting more information regarding what Plaintiff's income really is this year, and  
10 the Court can modify, January, February, March up or down, or based upon what the  
11 evidence shows.

12 **THE COURT FURTHER FINDS** that Defendant is the prevailing party, so  
13 she is entitled to reasonable fees and costs as to the paternity issue, not on the divorce  
14 fees. The Court has received billing statements from Mr. Willick to be able to  
15 calculate that amount, but will allow Mr. Willick to submit a formal Memo, if  
16 Defendant wants to do that, and include this time for today.

17 **THE COURT FURTHER FINDS** that it will Order as ongoing, because his  
18 income is in-flux because of the change of jobs, for Plaintiff to provide a copy of his  
19 2023 W-2 and what his net rental income was for 2023, by February 15, 2024.

20 **THE COURT FURTHER FINDS** that if Plaintiff ever has visitation  
21 expenses, that will be a change of circumstances, subject to modification, because  
22 that is a downward adjustment that the Court can consider. The Court has no idea  
23 how much that would be, both in terms of costs of actual travel between here and  
24 there and how often, and all of those things. There is no way to address a downward  
25 adjustment this time.

26 **THE COURT FURTHER FINDS** that on the issue of discovery and  
27 Plaintiff's assets and debts, that it is not relevant, so long as Plaintiff complies with  
28



1 the Court's orders regarding child support arrears, ongoing child support and  
2 birthing expenses. If Plaintiff does not satisfy the arrears, and satisfy the award of  
3 attorney's fees, then it becomes a Judgment-Debtor issue and then the Court would  
4 believe that the Defendant and counsel are entitled to know exactly where his bank  
5 accounts are, and how much are in them.

6 **THE COURT FURTHER FINDS** that as long as Plaintiff has provided the  
7 tax returns showing whatever dividend income he has coming in, interest income,  
8 Schedule E on rental income or if he has them in an LLC, then the K-1's for those  
9 LLC's. As long as Plaintiff has produced all of the documents regarding his income  
10 and sources of income, his assets and debts themselves are not really relevant, until  
11 it comes to collection.

12 **THE COURT FURTHER FINDS** that the parties stipulated on the record to  
13 bifurcate the due dates of the child support arrears and the prenatal and delivery costs  
14 from the attorney's fees.

15 **THE COURT FURTHER FINDS** that it will be \$37,000.00 for child  
16 support arrears through December 31, 2022, which gives the Plaintiff credit for the  
17 \$1500.00, which all parties agree that he has already paid, that will bear interest from  
18 October 18, 2022, until paid in full.

19 **THE COURT FURTHER FINDS** that Defendant will have until March 7,  
20 2023 to file their Memorandum of Fees and Costs with supporting documents, and  
21 March 21, 2023 for Plaintiff's response to the Memorandum of Fees and Costs. The  
22 Court will schedule a Chambers Hearing for March 22, 2023.

23 **THE COURT FURTHER FINDS** to be clear, the 2023 support for January,  
24 February and going forward, the Court is setting a temporary support of \$1,634.00.

25 **THE COURT FURTHER FINDS** that the child support would be due at the  
26 end of the month. Plaintiff can pay partial payments twice per month if he wants.

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**THE COURT FURTHER FINDS** that it will set a status check for July 18, 2023, at 11:00 a.m. regarding Plaintiff's income, temporary child support and outcome of mediation.

**NOW THEREFORE,**

**IT IS HEREBY ORDERED** that Defendant is awarded from Plaintiff, \$38,500.00 in constructive child support arrears for 6 months in 2021 and all through December 31, 2022; less \$1,500.00, which Plaintiff has already paid to Defendant, making the amount of constructive child support arrears \$37,000.00, with legal interest dating back from October 18, 2022, this amount is reduced to Judgment collectible by all legal means.

**IT IS FURTHER ORDERED** that Plaintiff shall pay to the Defendant, temporary child support in the amount of \$1,634.00 per month, commencing the end of February 2023 and every month thereafter, said amount is set without prejudice and is retroactively modifiable, subject to change based upon getting more data on what Plaintiff is making in 2023. Plaintiff may pay the child support amount in two installments if he chooses, with the total paid by the end of each month.

**IT IS FURTHER ORDERED** that the parties are put on notice of the following statutory notices:

NOTICE IS HEREBY GIVEN that the parent having the child support obligation is subject to NAC 425.025 and NRS 31A.010 through 31A.350, inclusive, regarding the immediate withholding or assignment of wages, commissions or bonuses for payment of child support, whether current or delinquent.

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NOTICE IS HEREBY GIVEN that pursuant to NRS 125B.145 and NAC 425.170, either party may request that the Court review the child support obligation every three years or upon changed circumstances.

NOTICE IS HEREBY GIVEN that pursuant to NAC 425.165 and NRS425.620, if the order pertains to more than one child and does not allocate a specific amount of the total child support obligation to each child, and if you want to adjust the amount of child support established in this order, you MUST file a motion to modify the order with or submit a stipulation to the court. If a motion to modify the order is not filed or a stipulation is not submitted, the child support obligation established in this order will continue until such time as all children who are the subject of this order reach 18 years of age or, if the youngest child who is subject to this order is still in high school when he or she reaches 18 years of age, when the child graduates from high school or reaches 19 years of age, whichever comes first. Unless the parties agree otherwise in a stipulation, any modification made pursuant to a motion to modify the order will be effective as of the date the motion was filed.

**IT IS FURTHER ORDERED** that Plaintiff is to provide a copy of his 2023 W-2 and what his net rental income was for 2023 by February 15, 2024.

**IT IS FURTHER ORDERED** that Defendant is the prevailing party and is entitled to reasonable fees and costs as to the paternity issue, not divorce fees and costs.



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**IT IS FURTHER ORDERED** that Plaintiff's assets and debts are not relevant, so long as Plaintiff can satisfy the arrears and attorney's fees quickly to avoid it becoming a Judgment-Debtor issue. There is to be no additional discovery as to Plaintiff's assets and debts at this time.

**IT IS FURTHER ORDERED** that Plaintiff is to produce documents regarding his income and sources of income for 2023 as referenced earlier in this Order.

**IT IS FURTHER ORDERED** that Plaintiff shall pay half of the birthing expenses, together with legal interest dating back from October 18, 2022, this amount is reduced to Judgment collectible by all legal means.

**IT IS FURTHER ORDERED** that Defendant has until March 7, 2023 to file her Memorandum of Fees and Costs together with supporting documents. Plaintiff's response to Defendant's Memorandum of Fees and Costs is due March 21, 2023. The Court is scheduling a Chamber's hearing for March 22, 2023, on its decision on Defendant's attorney's fees and costs.

**IT IS FURTHER ORDERED** that the Court is enforcing the Stipulation and Order regarding mediation as it is written.

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**IT IS FURTHER ORDERED** that a status check is set for July 18, 2023, at 11:00 a.m. on the outcome of mediation, Plaintiff's income and child support.

**IT IS FURTHER ORDERED** that Ms. Mastel prepare the Order for today.  
Dated this 31st day of March, 2023

  
MLQ

128 AF4 8B9F 572B  
Dawn R. Throne  
District Court Judge

Respectfully submitted by:  
KAINEN LAW GROUP, PLLC

Approved as to form and content:  
WILLICK LAW GROUP



RACHEAL MASTEL, ESQ.  
Nevada Bar No. 11646  
3303 Novat Street, Ste. 200  
Las Vegas, Nevada 89129  
Attorneys for Plaintiff

/s/ Richard Crane, Esq.  
MARSHAL WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road  
Las Vegas, Nevada 89110  
Attorney for Defendant

KAINEN LAW GROUP, PLLC  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
T: 702.823.4900 F: 702.823.4488  
www.KainenLawGroup.com



**Kolin L. Niday**

---

**From:** Richard Crane <richard@willicklawgroup.com>  
**Sent:** Wednesday, March 29, 2023 3:32 PM  
**To:** Racheal Mastel  
**Cc:** Marshal Willick; Victoria Javiel; Kolin L. Niday  
**Subject:** RE: Schaerer

Racheal,

Please esign the Order with my name. Bar no. 9536.

On the attorney's fees, I think we need to wait for an actual Order to be entered rather than acting on the minute Order. Are you drafting that Order? Let me know.

BR



**Rick Crane, Esq.**  
**Willick Law Group**  
A Domestic Relations & Family Law Firm  
3591 East Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
Phone: (702) 438-4100, ext. 115  
Fax: (702) 438-5311  
Web: [www.willicklawgroup.com](http://www.willicklawgroup.com)  
[View Our Newsletters](#)



1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA

4  
5  
6 Enrique Schaerer, Plaintiff

CASE NO: D-21-628088-D

7 vs.

DEPT. NO. Department U

8 Olena Karpenko, Defendant.

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

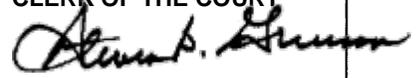
14 Service Date: 3/31/2023

15 Racheal Mastel	racheal@kainenlawgroup.com
16 Katherine Provost	katherine@kainenlawgroup.com
17 Service KLG	service@kainenlawgroup.com
18 Marshal Willick	marshal@willicklawgroup.com
19 Reception Reception	email@willicklawgroup.com
20 Victoria Javiel	victoria@willicklawgroup.com
21 Kolin Niday	kolin@kainenlawgroup.com
22 Richard Crane	richard@willicklawgroup.com
23 Dana Taylor	dana@kainenlawgroup.com

**EXHIBIT “2”**

**EXHIBIT “2”**

**EXHIBIT “2”**



1 **MOT**  
2 **Paul A. Lemcke, Esq.**  
3 Nevada Bar No. 003466  
4 PECOS LAW GROUP  
5 8925 South Pecos Road, Suite 14A  
6 Henderson, Nevada 89074  
7 Telephone: (702) 388-1851  
8 Facsimile: (702) 388-7406  
9 Email: Paul@pecoslawgroup.com  
10 Attorneys for Plaintiff

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

11 **Enrique Schaerer,**

12 Plaintiff,

13 vs.

14 **Olena Karpenko,**

15 Defendant.

Case No. **D-21-628088-D**

Dept. No. **U**

**ORAL ARGUMENT  
REQUESTED: YES**

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

21 **PLAINTIFF'S MOTION FOR TAKING OF SPECIMENS FOR GENETIC**  
22 **IDENTIFICATION AND TESTING IN CLARK COUNTY PURSUANT TO NRS**  
23 **126.121(1); TO APPOINT GUARDIAN AD LITEM FOR MINOR CHILD; TO**  
24 **BIFURCATE AND ENTER INTERLOCUTORY DECREE OF DIVORCE (ALL DIVORCE**  
25 **TERMS RESOLVED PURSUANT TO PARTIES' PLEADINGS), AND TO RESERVE**  
26 **JURISDICTION TO ADJUDICATE PATERNITY CLAIMS; AND TO COMPEL**  
**DEFENDANT'S PROVISION OF HIPAA RELEASE**

1 Plaintiff, **Enrique Schaerer**, by and through his attorney, **Paul A. Lemcke**,  
2 **Esq.** of PECOS LAW GROUP, moves this Court for the following relief:

3 1. For an order directing Plaintiff, Defendant, and the minor child to appear  
4 and submit to the taking of DNA specimens for genetic identification and testing  
5 in Clark County, Nevada, with ARCpoint Labs, 3365 East Flamingo Road, #4,  
6 Las Vegas, Nevada, within a reasonable period of time coincident with the minor  
7 child's ability to travel for that purpose (90 to 120 days).

8  
9 2. For an order appointing an independent guardian *ad litem* for the minor  
10 child, to assure that the adjudication of paternity is fully conclusive as to that  
11 child.

12  
13 3. For an order bifurcating the divorce claim from the discrete issue of  
14 paternity, and entering an interlocutory Decree of Divorce consistent with the  
15 resolution of all issues regarding property, debt, spousal support/alimony, and  
16 attorneys' fees and costs acknowledged in the parties' pleadings, while expressly  
17 reserving jurisdiction to adjudicate all paternity claims.

18  
19 4. For an order compelling Defendant to provide a fully executed HIPAA  
20 release related to her treatment with her Las Vegas OB/GYN at any and all times  
21 in 2020 and 2021, which was formally requested by letter dated July 28, 2021.

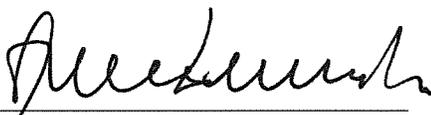
22 5. For such other and further relief as the Court may deem just and proper.  
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This motion is made and based upon all the papers and pleadings on file herein, the attached Points and Authorities, and any other evidence and argument as may be adduced at the hearing of this matter.

DATED this 5 day of August, 2021.

PECOS LAW GROUP  
  
**Paul A. Lemcke, Esq.**  
Nevada Bar No. 003466  
PECOS LAW GROUP  
8925 South Pecos Road, Suite 14A  
Henderson, Nevada 89074  
Attorney for Plaintiff

**POINTS AND AUTHORITIES**

**I. FACTS**

Plaintiff Enrique Schaerer (“Enrique”) and Defendant Olena Karpenko (“Olena”) were married on December 26, 2020. Prior to their marriage, on December 21, 2020, the parties entered into a Premarital Agreement. Enrique’s Complaint for Divorce in this action alleges – and Olena’s Amended Answer to Complaint admits – the following material facts:

- The Premarital Agreement is valid, binding, and legally enforceable.

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- The terms and conditions of the Premarital Agreement should be acknowledged, approved, and enforced by the Court in this divorce action.
- Enrique and Olena have not accumulated, nor do they own, any community property or joint property whatsoever.
- Enrique and Olena have not accumulated, nor do they own, any community or joint debts whatsoever.
- Enrique and Olena each have certain separate property and debts (as defined by the Premarital Agreement), and that separate property and debt should be confirmed to each of the parties consistent with the Premarital Agreement.
- Enrique and Olena entered into a mutual waiver of spousal support, alimony, preliminary allowances, and attorney’s fees, as specified in paragraphs 16.2 and 16.3 of the Premarital Agreement.
- Neither Enrique or Olena should pay spousal support or alimony to the other party.
- Enrique and Olena should bear their respective attorney’s fees and costs of suit in finalizing this divorce in accordance with the Premarital Agreement.
- Enrique and Olena are permanently incompatible in marriage.

In short, the parties’ respective pleadings in this case resolve *all* issues of property, debt, spousal support/alimony, and attorneys’ fees and costs that would

1 otherwise be at issue in this divorce. The only remaining unresolved issue in this  
2 action is the paternity of a minor child.

3 *i. Paternity Action.*

4 Olena is a Ukrainian national who was a continuous resident and  
5 domiciliary of Nevada from June 2020 through and including April 8, 2021.  
6 *Amended Answer* at ¶ 5 (admitted fact). During that period, the parties pursued a  
7 romantic relationship. In November 2020, Olena informed Enrique that she was  
8 pregnant with a child. The parties married approximately one month later. The  
9 timing of Olena's conception in relation to her Nevada residency thereby submits  
10 her to the jurisdiction of a Nevada court with respect to a paternity action filed  
11 pursuant to NRS Chapter 126. NRS 126.091(1).

12  
13 In March 2021, in the midst of the parties' disagreements over whether  
14 Enrique should petition on behalf of Olena, whether she should petition on her  
15 own behalf, or whether she could secure an employer to petition on her behalf, to  
16 obtain a more permanent U.S. immigration status for her, Olena secretly and  
17 unilaterally made flight arrangements to return to the Ukraine. Despite pleas from  
18 Enrique to stay in Las Vegas, Olena subsequently returned to the Ukraine on April  
19 8, 2021, where she has since remained. Enrique is informed and believes, and  
20 thereon alleges, that Olena's motivations in seeking his cooperation in her U.S.  
21 immigration processes were fraudulent and undertaken in bad faith.

22  
23 Given the parties' marital status, Enrique will be presumed to be the natural  
24 father of Olena's child if the child is born during the parties' marriage, or within  
25

1 285 days of the entry of the parties' divorce. NRS 126.051(1)(a). That legal  
2 presumption is rebuttable. NRS 126.051(3). Enrique's Complaint for Divorce  
3 alleges that he is not the natural father of Olena's child, and requests that the Court  
4 formally adjudicate the existence or non-existence of the father and child  
5 relationship. *Complaint for Divorce* at ¶ 6.

6  
7 One other significant fact bears emphasis: nowhere in Olena's Amended  
8 Answer to Complaint and Counterclaim for Divorce, filed July 20, 2021, does  
9 she make any affirmative allegation that Enrique is the natural father of her  
10 unborn child. Through counsel, Enrique requested that Olena provide a more  
11 definite statement as to paternity in her Amended Complaint and Counterclaim,  
12 but Olena did not do so. Notably, she has generally denied his specific allegation  
13 of non-paternity only on the ground that she is without sufficient knowledge or  
14 belief to admit or deny the allegations of non-paternity.

15  
16 Enrique is informed and believes, and thereon alleges, that Olena was  
17 scheduled to give birth to her child sometime between July 25 and August 3, 2021.  
18 By letter sent by Enrique's counsel to Olena's counsel on July 22, 2021, and again  
19 on July 28, 2021, Enrique requested notification of the date and place of birth of  
20 Olena's child as soon as possible after it occurs, as well as the full name of the  
21 child. *See* Exhibit "1" to Plaintiff's Appendix. No response has since been  
22 forthcoming.<sup>1</sup>

23  
24  
25 <sup>1</sup> Under Nevada law, all paternity proceedings under NRS Chapter 126 must be stayed until after the  
26 birth, except service of process and the taking of depositions to perpetuate testimony. NRS 126.071(2).  
*Schaerer v Karpenko* 4 Motion

1 On July 28, 2021, Enrique's counsel also made a letter request that Olena  
2 execute a HIPAA release related to her medical records while treating with her  
3 Las Vegas Ob/Gyn, Tammy Reynolds, M.D., at any and all times in 2020 and  
4 2021, and return the same within seven (7) days, so that a subpoena duces tecum  
5 for these materials could be processed promptly once discovery opened in the  
6 paternity action. See Exhibit "2" to Plaintiff's Appendix. No response has since  
7 been forthcoming. This motion ensues.  
8

## 9 II. LEGAL ARGUMENT

### 10 A. THE COURT SHOULD ORDER THE PARTIES AND THE MINOR 11 CHILD TO APPEAR AND SUBMIT TO THE TAKING OF DNA 12 SPECIMENS FOR GENETIC IDENTIFICATION AND TESTING 13 AT ARCPOINT LABS IN LAS VEGAS, WITHIN A REASONABLE 14 TIME COINCIDENT WITH THE MINOR CHILD'S ABILITY TO 15 TRAVEL FOR THAT PURPOSE.

16 NRS 126.121(1) provides, in pertinent part:

17 The Court may, and shall upon motion of a party, order the mother,  
18 child, alleged father or any other person so involved to submit to one  
19 or more tests for the typing of blood or taking of specimens for  
20 genetic identification to be made by a designated person, by qualified  
21 physicians or by other qualified persons, under such restrictions and  
22 directions as the court or judge deems proper. Whenever such a test is  
23 ordered and made, the results of the test must be received in evidence  
24 and must be made available to a judge, master, or referee conducting  
25 hearing pursuant to NRS 126.111. The results of the test and any  
26 sample or specimen taken may be used only for the purpose specified  
in this chapter. Unless a party files a written objection to the result of  
a test at least 30 days before the hearing at which the result is to be  
received in evidence, the result is admissible as evidence of paternity  
without foundational testimony or other proof of authenticity or  
accuracy.

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NRS 126.121(4) further provides:

In all cases, the court shall determine the number and qualifications of the experts and laboratories.

Enrique moves for an order directing both parties and the minor child to appear and submit to the taking of DNA specimens for genetic identification in Clark County, with ARCpoint Labs, 3365 East Flamingo Road, #4, Las Vegas, Nevada, within a reasonable time coincident with the minor child’s ability to travel for that purpose. The purpose of the testing shall be to genetically determine the existence or non-existence of Enrique’s putative paternity of the minor child. ARCpoint Labs is widely regarded one of the gold standards in Las Vegas for court-admissible DNA testing, the integrity of which is assured by a careful chain of custody and testing protocol. ARCpoint Labs’ website (<https://www.arcpointlabs.com/las-vegas/>) describes the company as “...a full-service national third party provider/administrator of accurate, reliable, and confidential diagnostic testing.”

It is undeniable from Olena’s past presence in Nevada and the admissions in her pleadings that she has submitted herself to the jurisdiction of the Nevada court with respect to the adjudication of the paternity of her child. The Court is also reminded that Olena’s hasty relocation to Ukraine and her ongoing residence in that country were both secretive and unilateral decisions made by Olena, without regard for Enrique or his legal status vis-à-vis Olena or the minor child. In

1 proposing that ARCpoint Labs collect DNA specimens and administer the testing,  
2 it is of paramount importance to Enrique that the DNA collection and paternity  
3 testing in this case be accurate, reliable, and demonstrably compliant with chain-  
4 of-custody protocols dictated by law. In view of these facts, Olena should be  
5 compelled to appear with the minor child in Las Vegas, Nevada for the taking of  
6 DNA specimens for genetic identification. Enrique proposes that this travel be  
7 ordered to occur in approximately ninety (90) to one hundred twenty (120 days),  
8 when the child's immune system is better developed and the child is then able to  
9 fly. In the event that Olena proposes substituted testing protocols within the  
10 territorial boundaries of Ukraine as being more "convenient" to her and the child,  
11 those alternatives are unacceptable and should be categorically rejected as  
12 unreliable, given both her submission to the jurisdiction of the Nevada court as  
13 well as the broad societal, political, and judicial corruption that exists within  
14 Ukraine.  
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- 18 1. Corruption is institutionally widespread in Ukrainian society,  
19 and it is "a component of [the country's] social traditions."  
20 Ukraine is not a suitable or objectively reliable situs for either  
21 DNA collection or paternity testing.

22 Ukraine is a former republic of the Soviet Union, which achieved national  
23 independence after the 1991 dissolution of the U.S.S.R. In 2015, *The Guardian*  
24 newspaper called Ukraine "the most corrupt nation in Europe."<sup>2</sup> A 2017 poll of

25 <sup>2</sup> Bullough, "Welcome to Ukraine, the most corrupt nation in Europe," *The Guardian* (February 6, 2015).

1 experts conducted by the accounting firm of Ernst & Young found that Ukraine  
2 was considered to be the 9<sup>th</sup> most corrupt nation in the world.<sup>3</sup> Moreover, in 2020,  
3 the public service organization Transparency International calculated their  
4 Corruption Perception Index, and it found that Ukraine ranked 117<sup>th</sup> out of 180  
5 countries, which was second lowest in Europe, just behind Russia.<sup>4</sup>

7 Equally alarming is the fact that Transparency International found that 23%  
8 of public service users in Ukraine paid a bribe within the previous 12 months.<sup>5</sup>  
9 Bribery in Ukraine is a rampant and accepted social phenomenon. The United  
10 States Agency for International Development (USAID) attributes the main causes  
11 of corruption in Ukraine to a weak justice system and an over-controlling, non-  
12 transparent government, combined with business-political ties and a weak civil  
13 society.<sup>6</sup> The U.S. State Department's current online bilateral relations fact sheet  
14 on U.S. relations with Ukraine notes that one of the U.S. diplomatic missions in  
15 Ukraine is to "fight corruption."<sup>7</sup>

18 Ukraine's wide-ranging corruption disqualifies it as a suitable or objectively  
19 reliable situs for either DNA collection or paternity testing. One rational and  
20

---

21 <sup>3</sup> Ernst & Young Fraud Survey (November 7, 2018).

22 <sup>4</sup> "Corruptions Perceptions Index for 2020 for Ukraine," (<https://transparency.org/en/cpi/2020/ukr>)

23 <sup>5</sup> *Id.*

24 <sup>6</sup> "Corruption Assessment: Ukraine," USAID (February 10, 2006).

25 <sup>7</sup> "U.S. Relations with Ukraine: Bilateral Fact Sheet," (December 18, 2020).

1 entirely foreseeable fear of a Ukrainian society that tolerates bribes as a regular  
2 function of “getting things done” is that DNA collection and/or paternity testing in  
3 that nation is ripe for transactional fraud. Enrique’s serious concerns on that front  
4 are heightened by the fact that Olena’s father is a fetal cell biologist, and he must  
5 be assumed to have a variety of contacts and personal relationships in both the  
6 natural and assisted reproductive technology space in Ukraine. Plainly, this  
7 Court has no jurisdiction nor control over bribes or testing protocols within  
8 Ukraine. As such, accuracy, integrity, and reliability demand that the DNA  
9 collection and paternity testing in this case occur in Las Vegas, using true and  
10 verifiable protocols that will assure a judicially reliable result in this action.  
11  
12

13 **B. THE COURT SHOULD APPOINT AN INDEPENDENT GUARDIAN**  
14 **AD LITEM FOR THE MINOR CHILD.**

15 Enrique moves for an order appointing a guardian *ad litem* for the minor  
16 child pursuant to NRS 126.101(1), simply out of an abundance of caution in  
17 reaching a fully conclusive and binding adjudication of the issue of paternity as to  
18 both the parties *and* the minor child. While an adjudication incident to the entry  
19 of a Decree of Divorce concerning the paternity of a minor child is *res judicata* as  
20 to the husband and wife in any subsequent proceeding, the issue is not as legally  
21 definitive as regards the rights of the minor child. *See generally Harris v. Harris,*  
22 *95 Nev. 214, 591 P.2d 1147 (1979); Love v. Love, 114 Nev. 572, 959 P.2d 523*  
23 *(1998).*  
24

1           **C. THE COURT SHOULD ORDER THE BIFURCATION OF THE**  
2           **DIVORCE CLAIM FROM THE DISCRETE PATERNITY CLAIM,**  
3           **AND ENTER AN INTERLOCUTORY DECREE OF DIVORCE**  
4           **CONSISTENT WITH THE PARTIES' PLEADINGS, WHILE**  
5           **EXPRESSLY RESERVING JURISDICTION TO ADJUDICATE THE**  
6           **MINOR CHILD'S PATERNITY IN A FINAL DECREE.**

7           As of the date of this filing, Enrique and Olena have been married only for  
8 approximately 7 ½ months, and they have a valid and binding Premarital  
9 Agreement. As previously stated, the allegations and confirming admissions in  
10 the parties' respective pleadings effectively resolve all issues as to property, debt,  
11 spousal support/alimony, and attorneys' fees and costs otherwise at issue in the  
12 parties' divorce.

13           The only remaining unresolved issue in this action is the paternity of a  
14 minor child. The disposition of the paternity issue, however, is almost certain to  
15 be delayed due to the travel constraints imposed by virtue of the newborn child.  
16 Since Enrique has requested that Olena and the minor child appear for DNA  
17 collection and paternity testing in Las Vegas in ninety (90) to one hundred twenty  
18 (120) days, it is clear that the adjudication of the paternity issue will unavoidably  
19 be deferred for some undetermined length of time. The particular circumstances  
20 of this case are therefore unique from a timing perspective. The built-in delay in  
21 the resolution of paternity should not prevent the entry of an interlocutory Decree  
22 of Divorce.

23           Generally, a district court is without jurisdiction to enter a Decree of  
24 Divorce without contemporaneously disposing of the community property of the  
25

1 parties. Gojack v. Second Judicial Dist. Court, 95 Nev. 443, 445, 596 P.2d 237,  
2 239 (1979). The latter task is entirely obviated under the unique circumstances of  
3 this case, whereby all such issues have already been resolved by the parties'  
4 pleadings. In Gojack, the Nevada Supreme Court's identification of problems  
5 "inevitably flowing" from interlocutory divorce decrees all focused on the  
6 possible effect of that interim decree on the post-entry characterization of the  
7 parties' property, including the ongoing accrual of community property. None of  
8 those issues exist in this case, where the parties have already acknowledged that  
9 their property rights are fixed by their Premarital Agreement.  
10

11 Moreover, Nevada case law has continued to hold a bifurcated,  
12 interlocutory Decree of Divorce appropriate and within a court's sound discretion  
13 as long as the bifurcation is not rendered *sua sponte*, but by consent of the parties.  
14 Ellett v. Ellett, 94 Nev. 34, 38, 573 P.2d 1179, 1181 (1978) (trial court's entry of  
15 an interlocutory Decree affirmed where the parties stipulated to separate trials on  
16 the issues and the court expressly reserved jurisdiction to later adjudicate and  
17 make a final distribution of community property through the entry of a final  
18 judgment); *see also* Smith v. Smith, 100 Nev. 610, 613, 691 P.2d 428, 430-31  
19 (1984) (affirmed a bifurcation based on an initial agreement and subsequent  
20 failure to object to same, while observing in a trailing footnote that bifurcations  
21 are disfavored and should generally be avoided). By letter dated July 7, 2021,  
22 Enrique's counsel asked Olena's counsel if Olena would stipulate to bifurcation  
23  
24

1 and the entry of an interlocutory Decree of Divorce. To date, no response has  
2 been forthcoming.

3 The circumstances of this case are such that the broad issues already  
4 resolved by the pleadings – and the issue still unresolved (paternity) – are  
5 irrefutably different and distinct. Given the built-in delays to the resolution of  
6 the unresolved paternity issue, Enrique moves for the bifurcation of the divorce  
7 claim from the remaining paternity claim, and the entry of an interlocutory Decree  
8 of Divorce consistent with the parties' pleadings, while expressly reserving  
9 jurisdiction to adjudicate the minor child's paternity in a final Decree of Divorce.  
10

11 **D. THE COURT SHOULD COMPEL OLENA TO PROVIDE THE**  
12 **FULLY EXECUTED HIPAA RELEASE RELATED TO HER**  
13 **TREATMENT WITH HER LAS VEGAS OB/GYN IN 2020 AND 2021,**  
14 **WHICH WAS FORMALLY REQUESTED BY LETTER TO HER**  
15 **COUNSEL DATED JULY 28, 2021.**

16 On July 28, 2021, Enrique's counsel made a letter request that Olena  
17 execute a HIPAA release related to her medical records while treating with her  
18 Las Vegas Ob/Gyn, Tammy Reynolds, M.D., at any and all times in 2020 and  
19 2021, and return same within seven (7) days, so that a subpoena duces tecum for  
20 these materials could be processed promptly once discovery opened in the  
21 paternity action. *See* Exhibit "2" to Plaintiff's Appendix. No response has since  
22 been forthcoming.

23 NRS 126.111, pertaining to pretrial hearings and testimony in paternity  
24 actions, provides that "testimony of a physician concerning the medical  
25 circumstances of the pregnancy and the condition and characteristics of the child

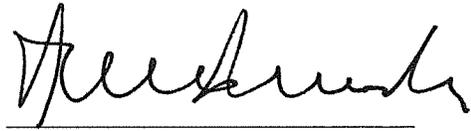
1 upon birth is not privileged.” NRS 126.111(4). The documentation sought  
2 through the submitted HIPAA release is relevant, discoverable, and potentially  
3 probative of facts central to this paternity case. Olena should be compelled to  
4 provide the fully executed HIPAA release.

5  
6 **III. CONCLUSION**

7 WHEREFORE, Enrique respectfully requests that the foregoing relief be  
8 granted.

9 DATED this 5 day of August, 2021.

10 PECOS LAW GROUP

11 

12  
13 **Paul A. Lemcke, Esq.**  
14 Nevada Bar No. 003466  
15 PECOS LAW GROUP  
16 8925 South Pecos Road, Suite 14A  
17 Henderson, Nevada 89074  
18 Attorney for Plaintiff

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**DECLARATION OF ENRIQUE SCHAEERER**

I, **Enrique Schaerer**, am the Plaintiff in the above-entitled action. I make this declaration in support of my foregoing “*MOTION FOR TAKING OF SPECIMENS FOR GENETIC IDENTIFICATION AND TESTING IN CLARK COUNTY PURSUANT TO NRS 126.121(1); TO APPOINT GUARDIAN AD LITEM FOR MINOR CHILD; TO BIFURCATE AND ENTER INTERLOCUTORY DECREE OF DIVORCE (ALL DIVORCE TERMS RESOLVED PURSUANT TO PARTIES’ PLEADINGS), AND TO RESERVE JURISDICTION TO ADJUDICATE PATERNITY CLAIMS; AND TO COMPEL DEFENDANT’S PROVISION OF HIPAA RELEASE.*” I am over the age of eighteen years and, if called upon to testify, would and could competently testify to the following.

I have read the Motion and hereby certify that the facts set forth in the Points and Authorities attached thereto are true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters, I believe them to be true. I further incorporate these facts into this Declaration as though fully set forth herein.

I declare under penalty of perjury that the contents of this Declaration are true and correct to the best of my knowledge.

DATED 8/5/2021

DocuSigned by:  
*Enrique Schaerer*  
C5B8F689130F412...  
**Enrique Schaerer**

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I hereby certify that the foregoing "PLAINTIFF'S  
3 MOTION FOR TAKING OF SPECIMENS FOR GENETIC IDENTIFICATION  
4 AND TESTING IN CLARK COUNTY PURSUANT TO NRS 126.121(1); TO  
5 APPOINT GUARDIAN AD LITEM FOR MINOR CHILD; TO BIFURCATE  
6 AND ENTER INTERLOCUTORY DECREE OF DIVORCE (ALL DIVORCE  
7 TERMS RESOLVED PURSUANT TO PARTIES' PLEADINGS), AND TO  
8 RESERVE JURISDICTION TO ADJUDICATE PATERNITY CLAIMS; AND  
9 TO COMPEL DEFENDANT'S PROVISION OF HIPAA RELEASE" in the  
10 above-captioned case was served this date as follows:

11  pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP (b)(2)(D) and  
12 Administrative Order 14-2 Captioned "In the Administrative  
13 Matter of Mandatory Electronic Service in the Eighth Judicial  
14 District Court," by mandatory electronic service through the  
15 Eighth Judicial District Court's electronic filing system;

16  by placing the same to be deposited for mailing in the United  
17 States Mail, in a sealed envelope upon which first class postage was  
18 prepaid in Las Vegas, Nevada;

19  pursuant to EDCR 7.26 to be sent via **facsimile**, by duly executed  
20 consent for service by electronic means;

21  by hand-delivery with signed Receipt of Copy.

22 To attorney(s)/person(s) listed below at the address:

23 [asiana@hwanglawgroup.com](mailto:asiana@hwanglawgroup.com)  
24 [tin@hwanglawgroup.com](mailto:tin@hwanglawgroup.com)  
25 [linda@hwanglawgroup.com](mailto:linda@hwanglawgroup.com)

26 DATED this 5<sup>th</sup> day of August 2021.



**Allan Brown,**  
An Employee of PECOS LAW GROUP

MOFI

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

ENRIQUE SCHAEFER  
Plaintiff/Petitioner  
v. OLENA KARPENKO  
Defendant/Respondent

Case No. 0-21-628084-17  
Dept. U

MOTION/OPPOSITION  
FEE INFORMATION SHEET

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

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

\$25 The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.  
-OR-  
 \$0 The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:

- The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
- The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
- The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on \_\_\_\_\_.
- Other Excluded Motion (must specify) \_\_\_\_\_

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

\$0 The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:

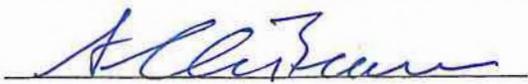
- The Motion/Opposition is being filed in a case that was not initiated by joint petition.
- The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.

-OR-  
 \$129 The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.  
-OR-  
 \$57 The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

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

The total filing fee for the motion/opposition I am filing with this form is:  
 \$0  \$25  \$57  \$82  \$129  \$154

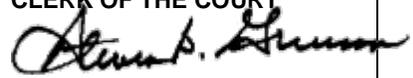
Party filing Motion/Opposition: ENRIQUE SCHAEFER Date 8/15/21

Signature of Party or Preparer 

**EXHIBIT “3”**

**EXHIBIT “3”**

**EXHIBIT “3”**



1 **CCAN**  
2 LINDA LAY, ESQ.  
Nevada Bar No. 12990  
3 TIN HWANG, ESQ.  
4 Nevada Bar No. 14063  
**HWANG LAW GROUP LLC.**  
5 2880 S. Jones Blvd., Suite 2  
6 Las Vegas, Nevada 89146  
7 Tel: (702) 820-0888  
8 Fax: (702) 919-6376  
9 E-mail: tin@hwanglawgroup.com  
*Attorneys for Defendant,*  
10 **OLENA KARPENKO**

11 **EIGHTH JUDICIAL DISTRICT COURT, FAMILY DIVISION**  
12 **CLARK COUNTY, NEVADA**

13 ENRIQUE SCHAEERER,

14 Plaintiff,

15 vs.

16 OLENA KARPENKO,

17 Defendant.

Case No. D-21-628088-D  
18 Dept. U

19  
20 **AMENDED ANSWER TO COMPLAINT**

21 COMES NOW the Defendant, OLENA KARPENKO (hereinafter  
22 "Defendant"), by and through her attorneys, Tin Hwang, Esq. and Linda Lay,  
23 Esq., of the HWANG LAW GROUP LLC., and hereby files her AMENDED  
24 ANSWER TO COMPLAINT to the Complaint for Divorce filed by the Plaintiff,  
25 ENRIQUE SCHAEERER (hereinafter "Plaintiff"), and Defendant now responds to  
26  
27  
28 Plaintiff's allegations as follows:

1           1. Defendant admits the allegations contained in Paragraph 1 of the  
2 Complaint for Divorce.

3  
4           2. Defendant admits the allegations contained in Paragraph 2 of the  
5 Complaint for Divorce.

6  
7           3. Defendant admits the allegations contained in Paragraph 3 of the  
8 Complaint for Divorce.

9           4. Defendant admits the allegations contained in Paragraph 4 of the  
10 Complaint for Divorce.

11  
12           5. Defendant admits the allegations contained in Paragraph 5 of the  
13 Complaint for Divorce.

14           6. Defendant is without sufficient knowledge to answer to the allegations  
15 contained in Paragraph 6 of the Complaint for Divorce; and therefore denies the  
16 same.  
17

18           7. Defendant admits the allegations contained in Paragraph 7 of the  
19 Complaint for Divorce.  
20

21           8. Defendant admits the allegations contained in Paragraph 8 of the  
22 Complaint for Divorce.  
23

24           9. Defendant admits the allegations contained in Paragraph 9 of the  
25 Complaint for Divorce.  
26

27 ///  
28

1 10. Defendant admits the allegations contained in Paragraph 10 of the  
2 Complaint for Divorce.

3  
4 11. Defendant admits the allegations contained in Paragraph 11 of the  
5 Complaint for Divorce.

6  
7 12. Defendant admits the allegations contained in Paragraph 12 of the  
8 Complaint for Divorce.

9  
10 13. Defendant admits the allegations contained in Paragraph 13 of the  
11 Complaint for Divorce.

12  
13 14. Defendant admits the allegations contained in Paragraph 14 of the  
14 Complaint for Divorce.

15  
16 15. Defendant admits the allegations contained in Paragraph 15 of the  
17 Complaint for Divorce.

18  
19 16. Defendant admits the allegations contained in Paragraph 16 of the  
20 Complaint for Divorce.

21 **AFFIRMATIVE DEFENSES**

22 **First Affirmative Defense  
(Failure to State a Claim)**

23 17. Plaintiff has failed to state a claim upon which relief may be granted.

24 **Second Affirmative Defense  
(Waiver)**

25  
26 18. Plaintiff has waived, and/or is estopped from pursuing his claims  
27 against Defendant.  
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**Third Affirmative Defense  
(Unclean Hands)**

19. Plaintiff is barred from pursuing his claims against Defendant by the doctrine of unclean hands.

**Fourth Affirmative Defense  
(Unconscionability)**

20. Plaintiff is barred from pursuing his claims against Defendant by the doctrine of unconscionability.

**Fifth Affirmative Defense  
(Doctrine of Laches)**

21. Plaintiff is barred from pursuing his claims against Defendant by the doctrine of laches.

**Sixth Affirmative Defense  
(Misrepresentation)**

22. Plaintiff is barred from pursuing his claim against Defendant because of material misrepresentation(s) of facts made by Plaintiff to Defendant.

**Seventh Affirmative Defense**

23. Pursuant to NRCP 11, as amended, all possible affirmative defenses may not have been stated herein, insofar as insufficient facts were not available after reasonable inquiry upon the filing of Defendant's Answer, and therefore, this answering Defendant reserves the right to amend her answer to allege additional affirmative defenses if subsequent investigation so warrants.

**COUNTERCLAIM FOR DIVORCE**

COMES NOW the Defendant/Counterclaimant, OLENA KARPENKO (hereinafter "OLENA" and "Defendant/Counterclaimant"), by and through her attorneys, Tin Hwang, Esq., and Linda Lay, Esq., of the HWANG LAW GROUP

1 LLC., and hereby files her Counterclaim for Divorce against the Plaintiff/Counter-  
2 Defendant, ENRIQUE SCHAEERER (“ENRIQUE” and “Plaintiff/Counter-  
3 Defendant”), alleging as follows:  
4

5 1. That upon information and belief, for a period longer than six weeks  
6 prior to the date of verification of this Complaint, ENRIQUE has been a bona fide  
7 and actual resident and domiciliary of the State of Nevada.  
8

9 2. That the Parties were duly and lawfully married in Las Vegas, Nevada,  
10 on or about December 26, 2020, and are now and have ever since been husband and  
11 wife.  
12

13 3. That there are no minor children born the issue of this marriage. That  
14 OLENA is currently pregnant and the expected birth is on or around July of 2021;  
15 that there are no adopted minor children.  
16

17 4. That the Parties entered into the *Premarital Agreement* on December 21,  
18 2020, and said agreement is intended to bind the Petitioners as to the distribution of  
19 their community and separate properties in accordance with NRS 123.070 and NRS  
20 123.080(2).  
21

22 5. That there is separately owned property of the  
23 Defendant/Counterclaimant, the full extent of the Defendant’s/Counterclaimant’s  
24 property is unknown to her at this time, and she prays leave of the Court to amend  
25 this Complaint to insert the same when they have become known to her or at the time  
26  
27  
28

1 of trial in this matter. Defendant/Counterclaimant requests that this Court confirm all  
2 of her separate property assets upon Defendant/Counterclaimant.

3  
4 6. That there may be separately owned property of the Plaintiff/Counter-  
5 Defendant, the full extent of the Plaintiff's/Counter-Defendant's property is unknown  
6 to Defendant/Counterclaimant at this time, and she prays leave of the Court to amend  
7 this Complaint to insert the same when they have become known to her or at the time  
8 of trial in this matter. Defendant/Counterclaimant requests that this Court confirm all  
9 of Plaintiff's/Counter-Defendant's separate property assets upon Plaintiff/Counter-  
10 Defendant.  
11

12  
13 7. That no alimony / spousal support should be awarded to either Parties  
14 pursuant to the Premarital Agreement entered between the Parties.

15  
16 8. That a name change is not necessary in this matter.

17  
18 9. That each Party should be responsible for their own attorney's fees and  
19 costs pursuant to the Premarital Agreement entered between the Parties.

20  
21 10. During the course of said marriage, the tastes, mental disposition, views,  
22 likes and dislikes of Plaintiff and Defendant have become so widely divergent that  
23 the Parties have become incompatible in marriage to such an extent that it is  
24 impossible for them to live together as husband and wife; that the incompatibility  
25 between the Plaintiff and Defendant is so great that there is no possibility of  
26 reconciliation.  
27

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**WHEREFORE**, the Defendant/Counterclaimant, OLENA KARPENKO,  
prays for judgment against Plaintiff, ENRIQUE SCHAERER, as follows:

1. That the contract of marriage now and therefore existing between the Parties be dissolved and that Defendant be granted an absolute Decree of Divorce and that each of the Parties hereto be restored to the status of single, unmarried person;

2. That the Court grant the relief requested in this Counterclaim for Divorce; and

3. For such other relief this Court may deem just and proper in the premises.

DATED this 20th day of July, 2021.

*Respectfully Submitted by:*  
**HWANG LAW GROUP LLC.**

*/s/ Tin Hwang, Esq.*  
TIN HWANG, ESQ.  
Nevada Bar No. 14063  
2880 S. Jones Blvd., Suite 2  
Las Vegas, NV 89146  
Tel: (702) 820-0888  
Fax: (702) 919-6376  
Email: tin@hwanglawgroup.com  
*Attorney for Defendant/Counterclaimant,*  
**OLENA KARPENKO**





This document was signed by:

Vinesign

A handwritten signature in black ink, appearing to read "Mahmoud", is positioned in the center of the page.

Date

Phone

IP Address

Confirmation

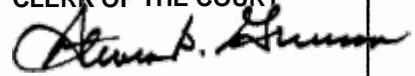


VINESIGN.COM

**EXHIBIT “4”**

**EXHIBIT “4”**

**EXHIBIT “4”**



1 **SUPP**  
2 **WILICK LAW GROUP**  
3 **MARSHAL S. WILICK, ESQ.**  
4 Nevada Bar No. 2515  
5 3591 E. Bonanza Road, Suite 200  
6 Las Vegas, NV 89110-2101  
7 Phone (702) 438-4100; Fax (702) 438-5311  
8 email@willicklawgroup.com  
9 Attorneys for Defendant

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

10 **ENRIQUE SCHAEERER,**  
11 **Plaintiff,**

12 vs.

13 **OLENA KARPENKO,**  
14 **Defendant.**

CASE NO: D-21-628088-D  
DEPT. NO: U

DATE OF HEARING: 11/10/2021  
TIME OF HEARING: 10:30 a.m.

15  
16 **SUPPLEMENTAL EXHIBITS TO**  
17 **“DEFENDANT’S MOTION TO RECONSIDER, SET ASIDE, ALTER**  
18 **OR AMEND THE ORDER AFTER MOTION HEARING”**

19 Defendant, Olena Karpenko, by and through her attorneys, the Willick Law  
20 Group, hereby submits the following supplemental exhibits to her “*Motion to*  
21 *Reconsider, Set Aside, Alter or Amend the Order After Motion Hearing,*” filed on  
22 October 4<sup>th</sup>, 2021.

- 23 • Exhibit M-Email communications from the US embassy regarding  
24 emergency visitor’s visa on September 24, 2021; Bates Stamp  
25 Nos.000040OK-000041OK.

26 \*\*\*\*\*

27 \*\*\*\*\*

28 \*\*\*\*\*

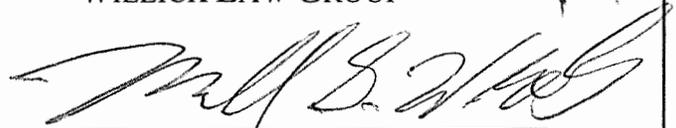
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- Exhibit N-DNA test results for baby Andrii completed September 17, 2021, in Ukraine; Bates Stamp Nos. 000042OK-000049OK.

DATED this 27th day of October, 2021.

Respectfully Submitted By:

WILLICK LAW GROUP



MARSHALL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, Nevada 89110-2101  
(702) 438-4100  
Attorney for Defendant

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW  
3 GROUP and that on this \_\_\_\_\_ day of October, 2021, I caused the foregoing entitled  
4 document *Supplemental Exhibits to "Defendant's Motion to Reconsider, Set Aside,*  
5 *Alter, or Amend the Order After Motion Hearing,*" to be served as follows:

- 6 [ x ] Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and  
7 Administrative Order 14-2 captioned "In the Administrative Matter of  
8 Mandatory Electronic Service in the Eighth Judicial District Court," by  
9 mandatory electronic service through the Eighth Judicial District Court's  
10 electronic filing system.
- 11 [ ] By placing same to be deposited for mailing in the United States Mail,  
12 in a sealed envelope upon which first class postage was prepaid in Las  
13 Vegas, Nevada.
- 14 [ ] Pursuant to EDCR 7.26, to be sent via facsimile, by duly executed  
15 consent for service by electronic means.
- 16 [ ] Pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for  
17 service by electronic means.
- 18 [ ] By hand delivery with signed Receipt of Copy.
- 19 [ ] By First Class, Certified U.S. Mail.
- 20 [ ] By placing same to be deposited for mailing in the United States Mail,  
21 Certified, Return Receipt Requested, in a sealed envelope upon which  
22 first class postage was prepaid in Las Vegas, Nevada;

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

24 Paul A. Lemcke, Esq.  
25 Pecos Law Group  
26 8925 South Pecos Road, Suite 14A  
27 [paul@pecoslawgroup.com](mailto:paul@pecoslawgroup.com)  
28 Attorney for Plaintiff

*/s/ Victoria Javiel*  
An Employee of the WILLICK LAW GROUP

P:\wp19\KARPENKO, O\DRAFTS\00528570.WPD/vj

**EXHIBIT “M”**

**EXHIBIT “M”**

**EXHIBIT “M”**



Olena Karpenko &lt;solomia.mail@gmail.com&gt;

## Your ustraveldocs.com inquiry Case-2021- 09-24-015590510 Has Been Closed

support@ustraveldocs.com <support@ustraveldocs.com>  
To: "solomia.mail@gmail.com" <solomia.mail@gmail.com>

Wed, Oct 13, 2021 at 8:23 AM

Ваше дело было обновлено. Пожалуйста, войдите в Вашу учетную запись для просмотра более подробной информации.

Date/Time Case Opened:	9/24/2021 2:57 PM
Description:	<p>Hello,</p> <p>My name is Olena Karpenko, I'm a citizen of Ukraine. My husband is an American citizen residing in the USA.</p> <p>According to the preliminary order in our divorce case held in Nevada, I should bring my baby (who is 1,5 months old now) to the USA for DNA testing.</p> <p>May I ask if we - my baby and I - are eligible for expedited service to get visitor's visas?</p> <p>If yes - please, let me know what steps should I take to follow the Court order.</p> <p>If not - what's the approximate nearest time to have our visas issued?</p> <p>Thank you.</p> <p>Respectfully, Olena Karpenko</p>
Origin:	Portal
Case Reason:	Any other query
Public Response:	<p>Dear Applicant,</p> <p>Thank you for writing to the U.S. Visa Service Desk.</p> <p>We understand that you are looking to request an urgent interview.</p> <p>If you have an emergency and need an urgent trip, please follow the instructions at <a href="https://www.ustraveldocs.com/ua_ua/ua-niv-expeditedappointment.asp">https://www.ustraveldocs.com/ua_ua/ua-niv-expeditedappointment.asp</a>. The Consular Section will only approve an expedited appointment for an interview in the event of a medical or humanitarian emergency.</p> <p>If you have an urgent matter and need to travel immediately, please follow the guidance provided at <a href="https://www.ustraveldocs.com/ua/ua-niv-expeditedappointment.asp">https://www.ustraveldocs.com/ua/ua-niv-expeditedappointment.asp</a> (for B1/B2, students, and petition-based visas) or email <a href="mailto:KyivIV@state.gov">KyivIV@state.gov</a> (for K visas) to request an emergency appointment. Please note that a request for an expedited visa appointment will only be considered in the event of a serious humanitarian emergency, and only for citizens and permanent residents of Ukraine.</p> <p>We hope this information is helpful to you.</p> <p>Please visit <a href="https://www.surveymonkey.com/s/gss_ukraine">https://www.surveymonkey.com/s/gss_ukraine</a> to share feedback on the services we provide.</p> <p>Sincerely,</p> <p>U.S. Visa Service Desk</p>

VOLUME I

0000410K  
AA000206

**EXHIBIT “N”**

**EXHIBIT “N”**

**EXHIBIT “N”**



## Results of genotyposcopic testing

Date of report: **17.09.2021**

Report ID: **32585**

This research was performed on the basis of the order of **Karpenko Olena** by method of DNA testing.



**Donor**

Full name: **Karpenko Andrii**

Date of birth: **28.07.2021**

Provided document: Birth Certificate Series I-БК № 785675 issued on 07.08.2021 in Ukraine

Sample: **Buccal swabs**

Collection: employee of medical center - Diana Androshchuk, with person identification by document and photo

Date of collection: **13.09.2021**

ID number of testing object: **32585-d**

Reliability and correctness of the information are provided by the customer.

The organization of the genotyposcopic testing was made by the medical genetic center «MAMA PAPA» as follows: DNA extraction, typing using the polymerase chain reaction method for microsatellite loci, fractionation of amplification products by electrophoresis, statistical calculation of probability, analysis of the obtained data, forming the conclusion of the genotyposcopic report.

**PROTOCOL OF BIOLOGICAL SAMPLES COLLECTION**  
**ПРОТОКОЛ ЗАБОРУ ЗРАЗКІВ БІОЛОГІЧНОГО МАТЕРІАЛУ**

Дата забору *Date of collection*: **13.09.21** Час забору *Time of collection*: **16:00** Номер дог. *Order #*: **32585**  
За адресою *At the address*: **м. Київ, вул. Льва Толстого, 21** *Kyiv, street L. Tolstoy, 21*  
Відібрані зразки букального епітелію для проведення молекулярно-генетичного дослідження у осіб:  
*samples of buccal epithelium were collected from the following persons:*

1. ПІБ *Full name*: **Карпенко Андрій Олександрович - Karpenko Andrii**  
Дата народження *Date of birth*: **28.07.21** Стать *Gender*: **Чоловіча - Male**  
Спорідненість *Relationship*: **Донор - Donor**  
Документ *ID document*: **Свідоцтво про народження Серія І-БК № 785675 видав Печерський відділ державної реєстрації актів цивільного стану у місті Києві Центрального міжрегіонального управління Міністерства юстиції (м. Київ) 07.08.2021 - Birth Certificate Series I-BK № 785675 issued on 07.08.2021 in Ukraine**

Після відбирання зразки букального епітелію упаковані та опечатані. Упаковки завірені підписами громадян та особою, що проводила ідентифікацію та відбір зразків.

*After collection, samples of buccal epithelium are packed and sealed. The packages have been sealed by the signatures of the participant (or his guardian) and the collector.*

Заперечень щодо методик проведення дослідження не маю.

*I have no objections to the methods of his research.*

Несу особисто відповідальність за надані на дослідження зразки біологічного матеріалу. Дозволю під час проведення дослідження витрачання зразків. Відповідно до Закону України "Про захист персональних даних" від 01.06.2010 №2291-VI, надаю дозвіл на обробку моїх персональних даних.

*I am personally responsible for the samples of biological material provided for research. I allow expenditure of samples during the research. In accordance with the Law of Ukraine "Of protection of personal data" #2291-VI dated 01.06.2010, I permit to process my personal data.*

**Акт прочитаний, інформація записана вірно. Зауважень щодо процедури відбору зразків та їх пакування не поступило.**

*The act has been read, the information is written correctly. There were no objections regarding the samples collection and packaging procedure.*

1. ПІБ *Full name*: **Карпенко Андрій Олександрович - Karpenko Andrii** Підпис *Signature*: 

Забір зразків біологічного матеріалу зробив: *Samples were collected by:*

ПІБ *Full name*: **Андрощук Діана Віталіївна - Diana Androshchuk**

Підпис *Signature*: 

УКРАЇНА



## СВІДОЦТВО ПРО НАРОДЖЕННЯ

Прізвище **Карпенко**  
ім'я **Андрій** по батькові **Олексійович**  
народився (лаєн) **28 липня 2021 року**  
(число, місяць і рік)  
**двадцять восьмого липня дві тисячі двадцять першого року**  
(цифрами та словами)

Місце народження **Україна**  
(державу)  
область

**Місто Київ**  
(місто, район (году))  
про що **07** числа **серпня** місяці **2021** року складено  
відповідний актовий запис № **3614**

Батьки **Карпенко**  
(прізвище)  
**Олексій Вікторович**  
(ім'я та по батькові)  
Громадянин України

Мати **Карпенко**  
(прізвище)  
**Олена Олексіївна**  
(ім'я та по батькові)  
Громадянка України

Місце державної реєстрації **Печерський відділ державної реєстрації актів цивільного**  
(назва органу державної реєстрації)  
стану у місті Києві **Центрального мікрорегіонального управління Міністерства**  
(реєстрації актів цивільного стану)  
**Юстиції (м. Київ)** реєстрації актів цивільного стану, що видав свідоцтво  
**Печерський відділ державної реєстрації актів цивільного стану у місті Києві**  
(назва органу державної реєстрації)  
**Центрального мікрорегіонального управління Міністерства юстиції (м. Київ)**  
(реєстрації актів цивільного стану)

Дата видачі **07** **серпня** **2021** року

М.П. **УНЗР** **РНОКПП**

Керівник органу державної реєстрації актів цивільного стану **В.А. Калішон**  
(підпис) (підпис та прізвище)

Серія І-БК № **785675**





МЕДИКО-ГЕНЕАЛОГІЧНИЙ  
ЦЕНТР  
**МАМА  
ПАПА**

Номер  
аналізу

32585

Примітка

Case ref.

Note

(заповнює співробітник центру)

1. ПІБ учасника:  
Name

Кащенко Андрій

2. Аналіз:  
Test

Батьківство  
Paternity

Інший (Other)

3. Спорідненість:  
Relationship

Батько  
Alleged Father

Дитина  
Child

Мати  
Mother

Інша (Other)  
генер/доноз

4. Зразок:  
Sample

Мазок з рота  
Buccal swabs

Нігті  
Nails

Пляма крові  
Blood stain

Інший (Other)

5. Раса:  
Race

Європейська  
Caucasian

Азіатська  
Asian

Африканська  
African

Інша (Other)

Заповнюється тільки для юридичних аналізів:

6. Дата народження учасника: 28, 07, 2021  
Date of birth of participant dd mm yyyy
7. Підпис учасника [Signature]  
Signature of participant
8. ПІБ відповідального за забір Андрашук Д.В.  
Collector's name
9. Дата забору матеріалу: 13, 09, 2024  
Date of collection dd mm yyyy
10. Підпис відповідального за забір [Signature]  
Collector's signature

**DNA profile**

Donor: Karpenko Andrii

Locus	Allele size
Amelogenin	X, Y
D3S1358	16, 19
vWA	18, 18
D16S539	11, 13
CSF1PO	11, 13
TPOX	8, 11
D8S1179	12, 13
D21S11	28, 29
D18S51	17, 18
D2S441	11, 11
D19S433	13, 14
TH01	8, 9
FGA	20, 21
D22S1045	11, 14
D5S818	11, 13
D13S317	8, 9
D7S820	8, 10
SE33	18, 29.2
D10S1248	14, 15
D1S1656	12, 17
D2S1338	24, 25
D12S391	21, 22
Yindel	2
D6S1043	12, 19
DYS391	10

Date: 17.09.2021

Head of the laboratory Vikhreva M.A.



Director Saveliev D.L.






**МІНІСТЕРСТВО ОХОРОНИ ЗДОРОВ'Я УКРАЇНИ**  
**(МОЗ України)**

вул. М. Грушевського, 7, м. Київ, 01601, тел. (044) 253-61-94, E-mail: moz@moz.gov.ua,  
web: <http://www.moz.gov.ua>, код ЄДРПОУ 00012925

**\*В И Т Я Г**

відомостей з бази даних Ліцензійного реєстру МОЗ України суб'єктів господарювання, які провадять господарську діяльність з медичної практики

Реквізити ліцензіата	
<b>ТОВАРИСТВО З ОБМЕЖЕНОЮ ВІДПОВІДАЛЬНІСТЮ "МАМА ПАПА"</b>	Місцезнаходження: м.Київ, вул. Тарасівська, буд. 2/21 Ідентифікаційний код: 40652411  Рішення про видачу ліцензії від 03.11.2016 № 1168
м.Київ, вул. Тарасівська, буд. 2/21 (медичний центр)	спеціальності: організація і управління охороною здоров'я, дерматовенерологія, терапія, генетика медична, ревматологія, кардіологія, ендокринологія, неврологія, клінічна лабораторна діагностика; спеціальність молодших спеціалістів з медичною освітою: сестринська справа

*\*інформація про ліцензіата сформована з урахуванням повідомлення № 5948/0/14-20*

Директор Департаменту контролю якості надання медичної допомоги



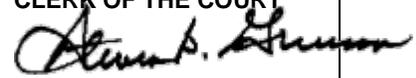
Ігор СЛОНЕЦЬКИЙ



**EXHIBIT “5”**

**EXHIBIT “5”**

**EXHIBIT “5”**



1 OPPC  
2 ROBBINS & ONELLO, LLP  
3 Kenneth M. Robbins, Esq.  
4 Nevada Bar No. 13572  
5 Jason Onello, Esq.  
6 Nevada Bar No. 14411  
7 9205 W. Russel Rd., Suite 240  
8 Las Vegas, Nevada 89148  
9 (702) 608-2331 (Phone)  
10 (702) 442-9971 (Fax)  
11 eservice@robbinsandonellolaw.com  
12 Attorneys for *Defendant*

DISTRICT COURT

CLARK COUNTY, NEVADA

12 ENRIQUE SCHAEERER ,

13 Plaintiff,

14 v.

15 OLENA KARPENKO,

16 Defendant.

Case No.: D-21-628088-D

Dept. No.: U

Hearing Date: September 7, 2021

Hearing Time: 2:00 PM

18  
19 DEFENDANT’S OPPOSITION TO PLAINTIFF’S MOTION FOR TAKING OF SPECIMENS FOR  
20 GENETIC IDENTIFICATION AND TESTING IN CLARK COUNTY PURSUANT TO NRS  
21 126.121(1)<sup>1</sup>; TO APPOINT GUARDIAN AD LITEM FOR MINOR CHILD; TO BIFURCATE AND  
22 ENTER INTERLOCUTORY DECREE OF DIVORCE (ALL DIVORCE TERMS RESOLVED  
23 PURSUANT TO PARTIES’ PLEADINGS), AND TO RESERVE JURISDICTION TO ADJUDICATE  
24 PATERNITY CLAIMS; AND TO COMPEL DEFENDANT’S PROVISION OF HIPAA RELEASE  
25 AND  
26 COUNTERMOTION TO STAY DISCOVERY PENDING RESULTS OF GENETIC TESTING, FOR  
27 GENETIC TESTING TO OCCUR IN UKRAINE, OR IN THE ALTERNATIVE FOR GENETIC  
28 TESTING TO BE COORDINATED BY TESTING CENTERS IN UNITED STATES AND UKRAINE  
TO ACCOMMODATE THE CURRENT CIRCUMSTANCES,<sup>2</sup> FOR PLAINTIFF TO BE ORDERED  
TO FILE A FINANCIAL DISCLOSURE FORM WITHIN SEVEN [7] DAYS OF HEARING; FOR

<sup>1</sup> Plaintiff must amend his pleading; the minor child is an indispensable party; *See* NRS 126.101(1); *See* also Schwob v. Hemsath, 98 Nev. 293, 294, 646 P.2d 1212 (1982); Johnson v. Johnson, 93 Nev. 655, 656, 572 P.2d 925, 926 (1977) [“[f]ailure to join an indispensable party is fatal to a judgment.”]

<sup>2</sup> Counsel should meet and confer regarding testing centers that offer such services.

1 CHILD SUPPORT PENDING RESULTS OF GENETIC TESTING AND FOR REIMBURSEMENT OF  
2 MEDICAL EXPENSES RELATED TO CHILD-BIRTH, AND FOR ENRIQUE TO PAY COSTS OF  
3 GENETIC TESTING / ATTORNEY FEES RELATED SOLELY TO THE PATERNITY ACTION.

4 COMES NOW, OLENA KARPENKO (“Ms. Karpenko”), by and through her attorney JASON  
5 ONELLO, ESQ. of ROBBINS AND ONELLO, LLP, and submits this Opposition and Counter-motion.

6 This motion is made and based upon the pleadings on file herein, together with the attached  
7 Points and Authorities, as well as oral arguments of counsel to be heard at the time of hearing.

8 DATED this 3<sup>rd</sup> of September 2021.

9 ROBBINS & ONELLO, LLP

10 /s/ Jason Onello, Esq.

11 Jason Onello, Esq.

12 Nevada Bar No. 14411

13 9205 W. Russell Rd., Suite 240

14 Las Vegas, Nevada 89148

15 (702) 608-2331 (Phone)

16 (702) 442-9971 (Fax)

17 [eservice@robbinsandonellolaw.com](mailto:eservice@robbinsandonellolaw.com)

18 *Attorney for Defendant*

19 **I. FACTS**

20 Plaintiff, Enrique Schaerer (“Enrique”) filed an action for Divorce, on or about  
21 May 28, 2021. This matter primarily regards allegations related to a minor child that was  
22 born in Ukraine; this Court does not have custody jurisdiction. Enrique does not request  
23 genetic testing to occur for 90 to 120, yet when a one-week request for time to file an  
24 Opposition is requested (and to discuss potential resolution), Enrique is apparently in  
25 some sort of hurry to go nowhere; maybe he should go to Ukraine instead. Enrique is  
26 more concerned about his bifurcation request than he is about paternity; as explained  
27 below, Enrique’s request is more about controlling / harassing Olena for returning to  
28 Ukraine than it is about paternity.

1 Defendant, Olena Karpenko (“Olena”) has actively participated in these  
2 proceedings while residing in Ukraine, despite logistical complications, recovering from  
3 giving birth and nursing her newborn child.<sup>3</sup> Olena is in Ukraine currently because  
4 Enrique refused to cooperate for purposes of Olena applying for a green card via marriage,  
5 which he agreed to do only if Olena signed a Premarital Agreement; Olena was in the  
6 United States on a 2001 Visa that expired April 30, 2021; Enrique dangled the green card  
7 like a carrot and then failed to hold up his end of the bargain when it mattered most,  
8 resulting in Olena moving back to Ukraine. The US Embassy in Ukraine limited its visa  
9 operations due to COVID-19 and there is currently no set date to return to normal  
10 operations.<sup>4</sup> Enrique’s request is not just impractical; it is impossible.  
11  
12

13 Enrique is now before the court requesting that a newborn child be brought back  
14 to the United States [with his mother] for purposes of genetic testing *during a pandemic*  
15 and while *Ukraine is in a state of emergency*; Enrique also knows that Olena cannot return  
16 to the United States anyways;<sup>5</sup> this is the epitome of an unreasonable request. Given the  
17 nature of Enrique’s discovery, Enrique has requested information that is not relevant to  
18 paternity and intended to child custody jurisdiction, which Nevada does not have.  
19 Therefore, he makes an impossible request, rather than to travel to Ukraine for purposes  
20 of testing. Enrique does not really want to know; he just wants to protect his property.  
21  
22  
23  
24

25 \_\_\_\_\_  
26 <sup>3</sup> Ukraine is ten (10) hours ahead of Nevada (Carson City), which has presented some difficulties for purposes of  
coordinating timely substitution of counsel.

27 <sup>4</sup> <https://ua.usembassy.gov/visas/> - “Due to the COVID-19 pandemic, the United States Embassy in Ukraine has not  
yet returned to normal visa operations. However, we are currently opening as many appointments as resources and  
safety allow.”

28 <sup>5</sup> Ukraine is also in a state of emergency through October 1, 2021 due to Covid-19. *See*  
<https://www.reuters.com/world/europe/ukraine-extend-covid-19-restrictions-until-oct-1-2021-08-11/>

1           Regarding Olena’s Opposition - Olena had to change counsel on or about August  
2 26, 2021; the undersigned counsel reached out for a conference to discuss the matter and  
3 requested an extension to file an Opposition; that request was rejected on / about that  
4 same day and Enrique instead filed a Notice of Non-Opposition to take advantage of the  
5 change in counsel. At that time, the hearing was set for September 15, 2021. After the  
6 filing of the Notice of Non-Opposition, the Court moved the hearing date up to September  
7 7, 2021, likely because it assumed that no Opposition would be filed. Olena’s  
8 undersigned counsel substituted into the matter on August 31, 2021 and immediately,  
9 from Enrique’s counsel, requested to push the hearing back a week (or to the original  
10 date) so that the parties can fully brief the issues and discuss rational options for genetic  
11 testing. That request was rejected, even though Enrique does not request any immediate  
12 relief related to paternity; how odd indeed.

16           Enrique already knows where Olena lives; Enrique’s family has already requested  
17 [directly to Olena] to visit the newborn child. Enrique’s argument that “Ukraine is  
18 corrupt” is simple pretext and the argument takes a huge leap of logic. Somehow “corrupt  
19 politicians” is imputed upon a private paternity testing center, some of which have  
20 international operations that include the United States. Enrique’s argument regarding  
21 corrupt government [in theory] could be imputed upon the Courts in Ukraine, but this  
22 theory cannot logically be imputed upon a private entity that also operates in the United  
23 States. Are the testing centers in the United States Corrupt because corruption occurs in  
24 somewhere in the United States government? Enrique is also extremely wealthy and has  
25 connections in Ukraine; if anyone were to be able to “bribe an official,” it’s him. Enrique  
26  
27  
28

1 has nothing limiting him from traveling to Ukraine for purposes of a paternity test; he just  
2 wants Olena to return to the United States; with a newborn; during a pandemic; while  
3 recovering from childbirth; without a Visa; while Olena’s country is in a state of  
4 emergency; when Enrique could just book a flight. Really?

6 **II. LEGAL ARGUMENT**

- 7  
8 i. THE COURT SHOULD DENY THE REQUEST FOR THE EXECUTED HIPAA  
9 RELEASE AND STAY DISCOVERY; IF POSITIVE, THE GENETIC TEST WOULD  
10 GENERATE A “CONCLUSIVE PRESUMPTION” PURSUANT TO NRS  
11 126.051(2), RENDERING THIS OVERLY INTRUSIVE REQUEST  
12 UNNECESSARY.

13 A conclusive presumption that a man is the natural father of a child is established  
14 if tests for the typing of blood or tests for genetic identification made pursuant to NRS  
15 126.121 show a probability of 99 percent or more that he is the father except that the  
16 presumption may be rebutted if he establishes that he has an identical sibling who may be  
17 the father. NRS 126.051(2).

18 Parties may obtain discovery regarding any nonprivileged matter that is relevant  
19 to any party’s claims or defenses and *proportional to the needs of the case*, considering  
20 the importance of the issues at stake in the action, the amount in controversy, the parties’  
21 relative access to relevant information, the parties’ resources, the importance of the  
22 discovery in resolving the issues, and whether the burden or expense of the proposed  
23 discovery outweighs its likely benefit. Information within this scope of discovery need  
24 not be admissible in evidence to be discoverable. NRCP 26(1)  
25

26  
27 Enrique requested genetic testing, which [if positive] would provide a “conclusive  
28 presumption” as to paternity. The HIPAA request is overly invasive and unnecessary if

1 Enrique's request for genetic testing is granted and Olena does not oppose genetic testing.  
2 This test would also render Enrique's invasive and harassing discovery requests  
3 unnecessary and reduce the costs of litigation, which would benefit both parties. If  
4 Enrique insists on discovery, he needs to file a Financial Disclosure Form so the Court  
5 can determine appropriate attorney fees pursuant to NRS 126.171, which is not prohibited  
6 by a Premarital Agreement.  
7

8  
9 ii. ENRIQUE MUST FILE A FINANCIAL DISCLOSURE FORM UPON RECEIPT OF  
10 GENETIC TESTING RESULTS; IF GENETIC TESTING IS POSITIVE; ENRIQUE  
11 MUST PAY CHILD SUPPORT, CHILD SUPPORT ARREARS, AND REIMBURSE  
12 OLENA FOR-CHILD BIRTH EXPENSES.

13 After an action is set for trial pursuant to NRS 126.141, the judge, master or referee  
14 shall, upon the motion of a party, issue an order providing for the temporary support of  
15 the child pending the resolution of the trial if the judge, master or referee determines that  
16 there is clear and convincing evidence that the party against whom the order is issued is  
17 the father of the child.

18 The court may order reasonable fees of counsel, experts and the child's guardian  
19 ad litem, and other costs of the action and pretrial proceedings, including blood tests or  
20 tests for genetic identification, to be paid by the parties in proportions and at times  
21 determined by the court. NRS 126.171  
22

23 The genetic testing will provide a conclusive presumption, if positive. The Court  
24 should order Enrique to immediately file a Financial Disclosure Form so Olena can do  
25 discovery on Enrique's finances [if necessary] pending the result of genetic testing. Olena  
26 reserves her statutory right to request child support arrears and reimbursement of costs  
27 related to birth of the minor child.  
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**III. CONCLUSION**

The Court should deny Plaintiff’s motion and stay discovery pending the results of genetic testing; Enrique should be ordered to book a flight to Ukraine immediately, or do a little research to find labs that have partner labs in Ukraine.

Dated this 3<sup>rd</sup> day of September 2021

Respectfully submitted,  
  
ROBBINS & ONELLO, LLP  
  
/s/ Jason Onello, Esq.  
Nevada Bar No. 14411  
Kenneth Robbins, Esq.  
Nevada Bar No. 13572  
9205 W. Russell Rd., Suite 240  
Las Vegas, Nevada 89148  
(702) 608-2331 (Phone)  
(702) 442-9971 (Fax)  
eservice@robbinsandonellolaw.com  
Attorney for Defendant



## eSignature Details

---

**Signer ID:** gfHedVEDqYFCnVSdzGRLR8qt  
**Signed by:** Olena Karpenko  
**Sent to email:** solomia.mail@gmail.com  
**IP Address:** 93.73.8.113  
**Signed at:** Sep 3 2021, 11:11 am PDT

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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing document:

DEFENDANT’S OPPOSITION TO PLAINTIFF’S MOTION FOR TAKING OF SPECIMENS FOR GENETIC IDENTIFICATION AND TESTING IN CLARK COUNTY PURSUANT TO NRS 126.121(1); TO APPOINT GUARDIAN AD LITEM FOR MINOR CHILD; TO BIFURCATE AND ENTER INTERLOCUTORY DECREE OF DIVORCE (ALL DIVORCE TERMS RESOLVED PURSUANT TO PARTIES’ PLEADINGS), AND TO RESERVE JURISDICTION TO ADJUDICATE PATERNITY CLAIMS; AND TO COMPEL DEFENDANT’S PROVISION OF HIPAA RELEASE

AND

COUNTERMOTION TO STAY DISCOVERY PENDING RESULTS OF GENETIC TESTING, FOR GENETIC TESTING TO OCCUR IN UKRAINE, OR IN THE ALTERNATIVE FOR GENETIC TESTING TO BE COORDINATED BY TESTING CENTERS IN UNITED STATES AND UKRAINE TO ACCOMMODATE THE CURRENT CIRCUMSTANCES, FOR PLAINTIFF TO BE ORDERED TO FILE A FINANCIAL DISCLOSURE FORM WITHIN SEVEN [7] DAYS OF HEARING; FOR CHILD SUPPORT PENDING RESULTS OF GENETIC TESTING AND FOR REIMBURSEMENT OF MEDICAL EXPENSES RELATED TO CHILD-BIRTH, AND FOR ENRIQUE TO PAY COSTS OF GENETIC TESTING / ATTORNEY FEES RELATED SOLELY TO THE PATERNITY ACTION.

was made this 3<sup>rd</sup> day of September 2021 by:

depositing a copy of the same in the U.S. Mails at Las Vegas, Nevada, postage prepaid, addressed to:

facsimile to the party, or counsel for party at the following facsimile address:

electronic filing on the date hereof and service through the Notice of Electronic Filing automatically generated by the Court’s facilities to those parties listed on the Master Calendar Service List as follows:

Paul Lemcke – paul@pecoslawgroup.com

Admin Email – email@pecoslawgroup.com

Allan Brown – allan@pecoslawgroup.com

\_\_\_\_\_/s/ Nicole Fasulo\_\_\_\_\_  
An Employee of ROBBINS & ONELLO

**EXHIBIT “6”**

**EXHIBIT “6”**

**EXHIBIT “6”**

DISTRICT COURT  
CLARK COUNTY, NEVADA

Enrique Schaeerer,  
  
Plaintiff,  
  
vs.  
  
Olana Karpenko,  
  
Defendant.

Case No. D-21-628088-D

Dept. No. U

SUMMONS

NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 21 DAYS. READ THE INFORMATION BELOW.

TO THE DEFENDANT: A civil Complaint has been filed by the plaintiff against you for the relief set forth in the Complaint. Note: This is an action for divorce.

1. If you intend to defend this lawsuit, within 21 days after this Summons is served on you exclusive of the day of service, you must do the following:

- a. File with the clerk of this Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court.
- b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the plaintiff and this Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

Issued at direction of  


Paul A. Lemcke, Esq.  
Nevada Bar No. 003466  
PECOS LAW GROUP  
8925 South Pecos Road, Suite 14A  
Henderson, Nevada 89074  
(702) 388-1851  
Attorney for Plaintiff

By:   
Mel Coscolluela

DEPUTY CLERK  
601 North Pecos Road  
Las Vegas, Nevada 89101-2417

Electronically Issued  
6/1/2021

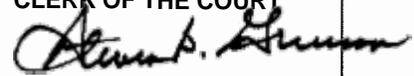
Date

NOTE: When service is by publication, add a brief statement of the object of the action.  
See Rules of Civil Procedure, Rule 4(b)

**EXHIBIT “7”**

**EXHIBIT “7”**

**EXHIBIT “7”**



1 **DECL**  
2 **Paul A. Lemcke, Esq.**  
3 Nevada Bar No. 003466  
4 PECOS LAW GROUP  
5 8925 South Pecos Road, Suite 14A  
6 Henderson, Nevada 89074  
7 Telephone: (702) 388-1851  
8 Facsimile: (702) 388-7406  
9 Email: [Paul@pecoslawgroup.com](mailto:Paul@pecoslawgroup.com)  
10 Attorney for Plaintiff

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

11 **Enrique Schaerer,**

12 Plaintiff,

13 vs.

14 **Olena Karpenko,**

15 Defendant.  
16

Case No. **D-21-628088-D**

Dept No. **U**

17 **DECLARATION OF INVESTIGATOR VITALY SHEVEL**  
18 **REGARDING SERVICE OF PROCESS ON DEFENDANT OLENA KARPENKO**

19 I, **VITALY SHEVEL**, declare as follows:

20 1. I am an investigator based in Kyiv, Ukraine affiliated with, and  
21 working for, the company known as GCS Ukraine with its registered office  
22 located at Ukraine, 03150, Kyiv, 31 Kazymyra Malevycha Str.  
23

24 2. I was retained by Pecos Law Group of Las Vegas, Nevada to hand-  
25 deliver legal process in this action on behalf of Plaintiff Enrique Schaerer. I am a  
26 citizen of Ukraine, am over the age of 21, and I am neither a party to this action

1 nor am I an attorney for any party to this action. I make this declaration of my  
2 personal knowledge, and if called as a witness, would testify competently to each  
3 of the following facts.

4  
5 3. On June 4, 2021, I received from attorney Paul A. Lemcke, Esq. of  
6 Pecos Law Group both a physical description and address information in Ukraine  
7 for Defendant Olena Karpenko, along with copies of a Summons issued and a  
8 Complaint for Divorce filed in this legal action. Mr. Lemcke also provided me  
9 with two photographs of Ms. Karpenko for identification purposes. Mr. Lemcke  
10 requested that I take steps to serve the Summons and Complaint for Divorce on  
11 Ms. Karpenko at the address provided.

12  
13 4. The physical description that Mr. Lemcke provided for Ms. Karpenko  
14 was for a 39-year-old woman, 5'6" inches in height, 127 pounds (but now 7 to 8  
15 months pregnant), average build, with gray eyes and strawberry blonde to reddish  
16 orange hair.

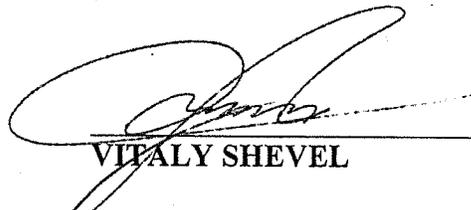
17  
18 5. The service address provided for Ms. Karpenko was 78 Naberezhna  
19 Str., Petrushivka, Ichniansky rajon, Chernihivska oblast, Ukraine. This address is  
20 in a rural village a considerable distance away from Kyiv proper.

21  
22 6. On June 11, 2021, I personally visited the village of Petrushivka, and  
23 located the house at 78 Neberezhna Str. I encountered a man outside the home,  
24 and on confirming the address with him, I explained that I needed to deliver  
25 documents to Olena Karpenko. He entered the house and another older man came  
26 out, who proposed that he take the documents for Ms. Karpenko. I again

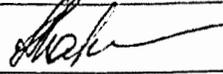
1 explained that I needed to make a hand-to-hand delivery of documents directly to  
2 Ms. Karpenko. The older man re-entered the house, and approximately two  
3 minutes later, a woman exited the home and stepped outside the fence door where  
4 I was standing to accept the documents. The woman matched the one depicted in  
5 the physical description and the photographs received from Mr. Lemcke, and she  
6 also appeared pregnant. In addition, the woman affirmatively displayed a  
7 Ukrainian national passport in the name of Olena Karpenko. I in turn handed the  
8 Summons and Complaint for Divorce to Ms. Karpenko, and after I wrote in the  
9 service date of June 11, 2021, and the service time of 12:39 p.m., Ms. Karpenko  
10 then signed a "Receipt of Delivery" for the documents. A true and correct copy of  
11 the Receipt for Delivery is attached to this Declaration.  
12  
13

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

16 Executed this 16 day of June, 2021.

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VITALY SHEVEL

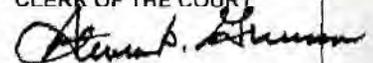
RECEIPT OF DELIVERY  
ЗВІТ ПРО ВРУЧЕННЯ КОРЕСПОНДЕНЦІЇ

Відправник Sender	Paul A. Lemcke, Esq. Pecos Law Group	Одержувач Recipient	Olena Karpenko
Адреса відправника Address of sender	8925 South Pecos Road, Suite 14A Henderson, Nevada, 89074 +1 702 388 1851	Адреса одержувача Address of recipient	78 Naberezhna Str., Petrushivka, Ichniansky rajon, Chernihivska oblast, Ukraine +380 67 736 8397
		Підпис одержувача Recipient signature	
		Дата вручення Date of delivery	12:39 11.06.21
Опис кореспонденції Package details	Compalint Summons		

**EXHIBIT “8”**

**EXHIBIT “8”**

**EXHIBIT “8”**



1 **COMD**  
2 **Paul A. Lemcke, Esq.**  
3 Nevada Bar No. 003466  
4 **PECOS LAW GROUP**  
5 8925 South Pecos Road, Suite 14A  
6 Henderson, Nevada 89074  
7 Telephone: (702) 388-1851  
8 Facsimile: (702) 388-7406  
9 Email: [Paul@pecoslawgroup.com](mailto:Paul@pecoslawgroup.com)  
10 Attorney for Plaintiff

CASE NO: D-21-628088-D  
Department: To be determined

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10  
11 **Enrique Schaerer,**  
12 Plaintiff,  
13  
14 vs.  
15 **Olena Karpenko,**  
16 Defendant.

Case No.  
Dept No.

17 **COMPLAINT FOR DIVORCE**

18 COMES NOW Plaintiff, **Enrique Schaerer** ("Enrique"), by and through  
19 his attorney, **Paul A. Lemcke, Esq.**, of PECOS LAW GROUP, and for his cause of  
20 action for divorce, complains and alleges as follows:

21  
22 1. For more than six (6) weeks immediately preceding the  
23 commencement of this action, Enrique has been and now is a bona fide and actual  
24 resident and domiciliary of the State of Nevada, County of Clark, and has been  
25  
26

1 actually and corporeally present in said State and County for more than six (6)  
2 weeks prior to the commencement of this action.

3           2. Defendant Olena Karpenko ("Olena") is a Ukrainian national who  
4 was a continuous resident and domiciliary of the State of Nevada, Clark County,  
5 Nevada from June 2020 through and including April 8, 2021.

6           3. Enrique and Olena were married on the 26<sup>th</sup> day of December, 2020,  
7 in Las Vegas, Nevada, and ever since have been and now are husband and wife.

8           4. There are no minor children born the issue of this marriage, and the  
9 parties have not legally adopted any children.

10           5. Olena is currently pregnant with a child. Given the parties' marital  
11 status, Enrique will be presumed to be the natural father of the child if the child is  
12 born during the marriage, or within 285 days of the entry of the parties' divorce.

13           6. Enrique is informed and believes, and thereon alleges, that he is not  
14 the natural father of Olena's unborn child. This Court should adjudicate the  
15 existence or nonexistence of the father and child relationship. On the birth of the  
16 child, Enrique requests that the Court order the taking of specimens for genetic  
17 identification in Nevada pursuant to NRS 126.121, and that the Court determine  
18 the qualifications of the experts and laboratories to be employed in the genetic  
19 sampling and testing.

20           7. On December 21, 2020, the parties entered into a Premarital  
21 Agreement (hereinafter the "Premarital Agreement") in Las Vegas. The Premarital  
22 Agreement is valid, binding, and legally enforceable.

23 . . .  
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1           8.     The terms and conditions of the Premarital Agreement should be  
2 acknowledged, approved, and enforced by the Court in this divorce action.

3           9.     Enrique and Olena have not accumulated, nor do they own, any  
4 community property or joint property whatsoever.

5           10.    Enrique and Olena have not accumulated, nor do they own, any  
6 community or joint debts whatsoever.

7           11.    Enrique and Olena each have certain separate property and debts (as  
8 defined by the Premarital Agreement), and that separate property and debt should  
9 be confirmed to each of the parties consistent with the Premarital Agreement.  
10

11          12.    Enrique and Olena entered into a mutual waiver of spousal support,  
12 alimony, preliminary allowances, and attorney's fees as specified in paragraphs  
13 16.2 and 16.3 of the Premarital Agreement.

14          13.    Neither Enrique or Olena should pay spousal support or alimony to  
15 the other party.

16          14.    The tastes, mental dispositions, views and likes and dislikes of  
17 Enrique and Olena have become so widely separated and divergent that the parties  
18 are incompatible to such an extent that it is impossible for them to live together as  
19 husband and wife, and there is no possibility of reconciliation between them.  
20

21          15.    Each party should bear their attorney's fees and costs of suit in  
22 finalizing this divorce in accordance with the Premarital Agreement.

23          16.    Pursuant to paragraph 19.13 of the Premarital Agreement, in the  
24 event either party seeks to litigate the Premarital Agreement, or to otherwise  
25 contest, impair, or invalidate the Premarital Agreement, or any provision thereof,  
26

1 or seeks declaratory or other relief, then the prevailing party in any such action  
2 must be awarded his or her reasonable attorney's fees and costs.

3 **WHEREFORE**, Enrique prays for judgment as follows:

4 1. That the bonds of matrimony now and heretofore existing between  
5 Enrique and Olena be dissolved, that Enrique be granted an absolute Decree of  
6 Divorce, and that each of the parties be restored to the status of a single,  
7 unmarried person;

8  
9 2. That this Court should adjudicate the existence or nonexistence of  
10 Enrique's father and child relationship on the birth of Olena's child;

11 3. That on the birth of Olena's child, this Court order the taking of  
12 specimens for genetic identification in Nevada pursuant to NRS 126.121, and that  
13 the Court determine the qualifications of the experts and laboratories to be  
14 employed in the genetic sampling and testing;

15  
16 4. That the terms and conditions of the Premarital Agreement be  
17 acknowledged, approved, and enforced in this divorce action;

18 5. That the parties' separate property and separate debts be confirmed to  
19 each of them, respectively, on divorce;

20 6. That neither Enrique nor Olena should pay spousal support or  
21 alimony to the other;

22  
23 7. That each party bear their own attorney's fees and costs of suit in  
24 finalizing this divorce;

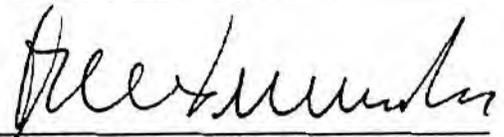
25 8. That to the extent Olena seeks to litigate the Premarital Agreement,  
26 or to otherwise contest, impair, or invalidate the Premarital Agreement, or any

1 provision thereof, or seeks declaratory or other relief, then the prevailing party in  
2 any such action be awarded his or her reasonable attorney's fees and costs; and

3 9. For such other and further relief as the court may deem just and  
4 proper in the premises.

5 DATED this 28 day of May, 2021.

7 PECOS LAW GROUP

8 

9 **Paul A. Lemcke, Esq.**  
10 Nevada Bar No. 003466  
11 8925 South Pecos Road, Suite 14A  
12 Henderson, Nevada 89074  
13 Attorney for Plaintiff

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VERIFICATION

STATE OF FLORIDA        )  
                                  : ss.  
COUNTY OF SUMTER     )

I, **Enrique Schaerer**, under penalties of perjury, declare that I am the Plaintiff in the above-entitled action; that I have read the foregoing "Complaint for Divorce" and know the contents thereof; that the same is true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters, I believe them to be true.

Pursuant to NRS 53.045 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

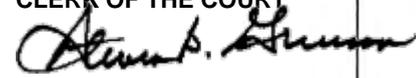
5/27/2021  
DATED this \_\_\_\_ day of May, 2021.

DocuSigned by:  
*Enrique Schaerer*  
CS88F88130F412  
**ENRIQUE SCHAEERER**

**EXHIBIT “9”**

**EXHIBIT “9”**

**EXHIBIT “9”**



1 **NTSO**  
2 RACHEAL H. MASTEL, ESQ.  
3 Nevada Bar No. 11646  
4 KAINEN LAW GROUP, PLLC  
5 3303 Novat Street, Suite 200  
6 Las Vegas, Nevada 89129-8714  
7 Telephone (702) 823-4900  
8 Facsimile (702) 823-4488  
9 Service@KainenLawGroup.com  
10 Attorneys for Plaintiff

11 EIGHTH JUDICIAL DISTRICT COURT – FAMILY DIVISION  
12 COUNTY OF CLARK, STATE OF NEVADA

13 ENRIQUE SCHAEERER,  
14  
15 Plaintiff,

CASE NO. D-21-628088-D  
DEPT. U

16 vs.

Date of Hearing: N/A  
Time of Hearing: N/A

17 OLENA KARPENKO,  
18  
19 Defendant.

20 **NOTICE OF ENTRY OF STIPULATION AND ORDER TO RESOLVE**  
21 **PARENT/CHILD ISSUES**

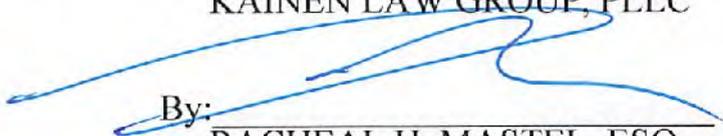
22 TO: OLENA KARPENKO, Defendant; and

23 TO: MARSHAL WILLICK, ESQ., Attorney for Defendant:

24 PLEASE TAKE NOTICE that on the 13<sup>th</sup> day of May, 2022, the Honorable  
25 Dawn Throne entered a *Stipulation and Order to Resolve Parent/Child Issues*, a copy of  
26 which is attached hereto.

27 DATED this 17 day of May, 2022.

28 KAINEN LAW GROUP, PLLC

By: 

RACHEAL H. MASTEL, ESQ.  
Nevada Bar No. 11646  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
Attorneys for Plaintiff

KAINEN LAW GROUP, PLLC  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com





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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 17 day of May, 2022, I caused to be served the *Notice of Entry of Stipulation and Order to Resolve Parent/Child Issues* to all interested parties as follows:

\_\_\_\_ BY MAIL: Pursuant to NRCP 5(b), I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, postage fully prepaid thereon, addressed as follows:

\_\_\_\_ BY CERTIFIED MAIL: I caused a true copy thereof to be placed in the U.S. Mail, enclosed in a sealed envelope, certified mail, return receipt requested, postage fully paid thereon, addressed as follows:

\_\_\_\_ BY FACSIMILE: Pursuant to EDCR 7.26, I caused a true copy thereof to be transmitted, via facsimile, to the following number(s):

X  BY ELECTRONIC MAIL: Pursuant to EDCR 7.26 and N.E.F.C.R. Rule 9, I caused a true copy thereof to be served via electronic mail, via Odyssey eFileNV, to the following e-mail address(es):

- [Victoria@willicklawgroup.com](mailto:Victoria@willicklawgroup.com)
- [Email@willicklawgroup.com](mailto:Email@willicklawgroup.com)
- [Marshal@willicklawgroup.com](mailto:Marshal@willicklawgroup.com)

*Henderson*

\_\_\_\_\_  
Employee at the  
KAINEN LAW GROUP, PLLC

*Alvin S. Amin*

CLERK OF THE COURT

1 **SAO**  
2 RACHEAL H. MASTEL, ESQ.  
3 Nevada Bar No. 11646  
4 KAINEN LAW GROUP, PLLC  
5 3303 Novat Street, Suite 200  
6 Las Vegas, Nevada 89129-8714  
7 PH: (702) 823-4900  
8 FX: (702) 823-4488  
9 Service@KainenLawGroup.com  
10 Attorney for Plaintiff

7 EIGHTH JUDICIAL DISTRICT COURT - FAMILY DIVISION  
8 COUNTY OF CLARK, STATE OF NEVADA

9 ENRIQUE SCHAERER,  
10  
11 Plaintiff,

CASE NO. D-21-628088-D  
DEPT. NO: U

12 vs.

Date of Hearing: n/a  
Time of Hearing: n/a

13 OLENA KARPENKO,  
14  
15 Defendant.

16 **STIPULATION AND ORDER TO RESOLVE PARENT/CHILD ISSUES**

17 COME NOW, the Plaintiff, ENRIQUE SCHAERER ("Enrique"), by and  
18 through his attorneys, EDWARD L. KAINEN, ESQ., and RACHEAL H. MASTEL,  
19 ESQ., of the KAINEN LAW GROUP, PLLC, and Defendant, OELNA KARPENKO  
20 ("Olena"), by and through her attorney MARSHAL WILLICK, ESQ., of the WILLICK  
21 LAW GROUP and hereby stipulate and agree as follows:

22 WHEREAS the parties are presently involved in paternity litigation in this  
23 matter related to a minor child born during the parties' marriage.

24 WHEREAS Olena filed a *Writ* with the Nevada Supreme Court on  
25 December 29, 2021.

26 WHEREAS on April 20, 2021, the parties stipulated to, and participated in,  
27 mediation with a Supreme Court mediator to address the issues in this matter.

28 ...

KAINEN LAW GROUP, PLLC  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com



KAINEN LAW GROUP, PLLC  
3303 Noval Street, Suite 200  
Las Vegas, Nevada 89129  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com



1           WHEREAS the parties have agreed to the following terms related to this  
2 present matter.

3           Therefore,

4           IT IS HEREBY STIPULATED and AGREED that the parties have agreed  
5 to the broad terms for paternity testing. The parties acknowledge that Enrique's counsel,  
6 Racheal Mastel, Esq., has provided requested changes to the Stipulation prepared by  
7 Olena's counsel, Marshal Willick, Esq. The changes were briefly discussed and it is  
8 anticipated that a final draft of the Stipulation addressing the Paternity testing will be  
9 circulated and signed within one week of the mediation date.

10           IT IS FURTHER STIPULATED and AGREED that Enrique will provide  
11 to Olena the amount of \$500 per month for a period of three months (a total of \$1,500).  
12 Said payment is not an admission by either party as to the paternity of the minor child,  
13 nor is it meant to as evidence of an agreement to the presumptions set forth in the statute.  
14 The payment is without prejudice to either party.

15           IT IS FURTHER STIPULATED and AGREED that should the paternity  
16 testing prove that Enrique is the father of the minor child (including any potential retests  
17 as set forth in the Stipulation addressing the testing), the parties agree they will engage  
18 in private mediation to attempt in good faith to resolve custody provisions and child  
19 support. The parties recognize that child custody jurisdiction resides in the Ukraine and  
20 that any agreement the parties reach related to custody will be a private contract until it  
21 is entered as an Order in that Court. If paternity is established with Enrique as the father,  
22 the aforementioned \$1,500 payment will serve as a credit against any subsequent child  
23 support award arrearage.

24           IT IS FURTHER STIPULATED and AGREED that Olena will dismiss her  
25 *Writ* upon entry of this Stipulation and Order.

26 ...  
27 ...  
28 ...

1 IT IS FURTHER STIPULATED and AGREED that this Stipulation and  
2 Order shall be submitted to the Court upon the signing and submission of the Outstanding  
3 Hearing Order and the Stipulation related to Paternity Testing.

4  
5 STIPULATED and AGREED to  
6 this 13 day of May, 2022.

STIPULATED and AGREED to  
this 12<sup>th</sup> day of May, 2022.

7 KAINEN LAW GROUP, PLLC

WILLICK LAW GROUP

8  
9 By: 

By: 

10 RACHEAL H. MASTEL, ESQ,  
11 Nevada Bar No. 11646  
12 3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129-8714  
Attorney for Plaintiff

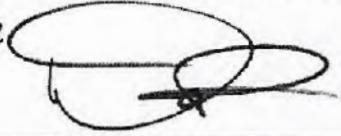
MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Rd., Suite 200  
Las Vegas, Nevada 89110-2101  
Attorney for Defendant

13 **ORDER**

14 Based upon the foregoing Stipulation of the parties, good cause appearing,  
15 IT IS HEREBY ORDERED that the terms and conditions set forth in the  
16 Stipulation and Order above, are hereby ratified, approved, and confirmed, as though  
17 fully set forth herein.

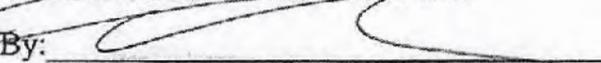
Dated this 13th day of May, 2022

18 DATED this \_\_\_ day of May, 2022

  
19  
20  
21 **03B 26A 1D68 EA57**  
**Dawn R. Throne**  
**District Court Judge**

22 Respectfully submitted by:

KAINEN LAW GROUP, PLLC

23 By: 

24 RACHEAL H. MASTEL, ESQ., #11646  
25 3303 Novat Street, Ste. 200  
26 Las Vegas, Nevada 89129  
27 Attorneys for Plaintiff  
28



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CSERV

DISTRICT COURT  
CLARK COUNTY, NEVADA

Enrique Schaerer, Plaintiff	CASE NO: D-21-628088-D
vs.	DEPT. NO. Department U
Olena Karpenko, Defendant.	

**AUTOMATED CERTIFICATE OF SERVICE**

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Stipulation and 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:

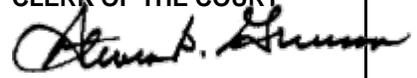
Service Date: 5/13/2022

- |                     |                              |
|---------------------|------------------------------|
| Racheal Mastel      | racheal@kainenlawgroup.com   |
| Service KLG         | service@kainenlawgroup.com   |
| Marshal Willick     | marshal@willicklawgroup.com  |
| Reception Reception | email@willicklawgroup.com    |
| Victoria Javiel     | victoria@willicklawgroup.com |
| Kolin Niday         | kolin@kainenlawgroup.com     |

**EXHIBIT “10”**

**EXHIBIT “10”**

**EXHIBIT “10”**



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

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

ENRIQUE SCHAERER,  
Plaintiff,  
vs.  
OLENA KARPENKO,  
Defendant.

CASE NO: D-21-628088-D  
DEPT. NO: U

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

**NOTICE OF ENTRY OF STIPULATION AND ORDER**

TO: ENRIQUE SCHAERER, Plaintiff.

TO: RACHEAL H. MASTEL, ESQ. Attorney for Plaintiff.

PLEASE TAKE NOTICE that the *Stipulation and Order*, was duly entered in the above action on the 9<sup>th</sup> day of May, 2022, a true and correct copy of which is

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attached.

DATED this 9<sup>th</sup> day of May, 2022

WILLICK LAW GROUP

/s/ Marshal S. Willick, Esq.  
MARSHAL S. WILLICK, ESQ.  
Nevada Bar No. 2515  
3591 E. Bonanza Road, Suite 200  
Las Vegas, NV 89110-2101  
(702) 438-4100  
Attorney for Defendant



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

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

ENRIQUE SCHAEERER,  
Plaintiff,

vs.

OLENA KARPENKO,  
Defendant,

CASE NO: D-21-628088-D  
DEPT. NO: U

DATE OF HEARING: 2/22/2022  
TIME OF HEARING: 3:30 P.M.

**STIPULATION AND ORDER**

In accordance with the in-court discussions between counsel, the parties and the Court, which were placed on the record during the hearing conducted on February 22, during which Defendant, Olena Karpenko was represented by and through her attorneys of the WILLICK LAW GROUP, and Plaintiff, Enrique Schaerer, was represented by and through his then-attorney, Paul Lemcke, Esq., of PECOS LAW GROUP, the parties have come to an agreement as to the terms of the DNA paternity testing. This written Stipulation and Order memorializes the terms agreed to as follows:

**IT IS HEREBY STIPULATED AND AGREED** that the parties have agreed to have DNA Diagnostics Center (DDC) laboratory, 1 DDC Way, Fairfield, OH 45014; (513) 881-4049, conduct the paternity testing in this matter.

**IT IS FURTHER STIPULATED AND AGREED** that this Stipulation and Order will be provided to the administrators of both sample collection locations and

1 the testing lab in advance to ensure their agreement in advance that the protocols set  
2 out here will be followed.

3 **IT IS FURTHER STIPULATED AND AGREED** that Enrique will have his  
4 sample collected at a pre-approved laboratory in Nevada and Olena will have her  
5 sample, as well as the minor child's sample, collected at a laboratory located in the  
6 Ukraine or in another Western Europe country (e.g. Germany, Switzerland, or  
7 Belgium), that is pre-approved by DDC or the parties jointly. If Olena and the minor  
8 child can travel to an authorized laboratory in another Western European nation,  
9 counsel shall be notified, and the laboratory shall be pre-approved by DDC or the  
10 parties. Sample collection will occur only at laboratories which have been pre-  
11 approved by DDC laboratory (i.e., DDC's sister laboratory in Ukraine or an  
12 authorized laboratory in a Western European nation). The parties may jointly  
13 approve a laboratory if DDC does not have an approved laboratory. Once the  
14 laboratory selection is made, DDC will send a sample collection kit to that laboratory,  
15 if selected laboratory does not already have the appropriate and pre-approved  
16 collection kit.

17 **IT IS FURTHER STIPULATED AND AGREED** that the parties are to  
18 notify the other party of the DNA sample collection appointment location, date, and  
19 time no less than one week prior to the appointment so the opposing party may  
20 arrange for a representative to be physically present to observe during the  
21 identification verification and testing, and to conduct the other steps set out in this  
22 Stipulation and Order.<sup>1</sup>

23 **IT IS FURTHER STIPULATED AND AGREED** that each party's  
24 representative or the laboratory itself, will provide that party, their agent, and/or their  
25 counsel with real-time electronic monitoring of the identity confirmation and sample  
26

---

27 <sup>1</sup> Both parties acknowledge that at the time of entry of this stipulate and order, Ukraine is  
28 under attack by Russian armed forces, and it is unclear how long it may take for the appointment for  
Olena and the child to be made in a safe manner.

1 collection by use of Zoom, Facetime, or similar audio-visual method to observe the  
2 entirety of the identity verification and sample collection conducted by the other  
3 party. Said monitoring shall include the identity verification, sample collection, and  
4 the securing of the sample for sending the same to the testing laboratory.

5 **IT IS FURTHER STIPULATED AND AGREED** that the protocol to be  
6 followed is that a representative of each party will be allowed to be at the accredited  
7 lab taking samples of the other party, to verify the identity of the person appearing for  
8 the sample collection and to set up audio/video monitoring for the other party and his  
9 or her counsel. The representative will observe the samples (presumably a cheek  
10 swab) being taken. Two samples are to be taken; one is to be retained by the  
11 collection lab taking the sample, and the other is to be immediately put in a sealed  
12 delivery envelope and sent directly by that collection lab to DNA Diagnostics Center  
13 (DDC) laboratory, 1 DDC Way, Fairfield, OH 45014; (513) 881-4049. Both parties  
14 are free to have the second sample sent to an accredited lab of their choice in the  
15 United States, or any agreed upon country in Western Europe for retesting. Any labs  
16 conducting testing will test all samples and report results to both parties, who will  
17 report those results to the Court.

18 **IT IS FURTHER STIPULATED AND AGREED** that any laboratory which  
19 conducts testing will also sequence each sample and conduct additional testing to  
20 verify the validity of the samples, to confirm maternity as well as paternity of the  
21 minor child, and confirm that no tampering of any sample has occurred.

22 **IT IS FURTHER STIPULATED AND AGREED** that each respective party  
23 will pay their fee, subject to retaxation by the Court, to the testing lab taking the  
24 sample and doing the collection.<sup>2</sup>

25 **IT IS FURTHER STIPULATED AND AGREED** once paternity test results  
26 are established, any party may re-notice the matter for further hearing.

27 \_\_\_\_\_  
28 <sup>2</sup> Olena reserves her rights to request reimbursement consistent with the Order from  
September 23, 2021.

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**IT IS FURTHER STIPULATED AND AGREED** that both parties reserve their right to conduct a second testing, in United States or an agreed upon Western Europe country, if necessary, by filing a notice request with the Court when conditions for such re-testing are practicable.

**IT IS FURTHER STIPULATED AND AGREED** that the request for DNA testing is made in good faith and not meant to delay adjudication of any matters pending before the Court.

**IT IS HEREBY ORDERED** that the above stipulated terms are entered as an order of this Court.

Dated this 9th day of May, 2022



**B5B 8CA 2FEC 7F98**

**Dawn R. Throne**

**District Court Judge** of May, 2022.

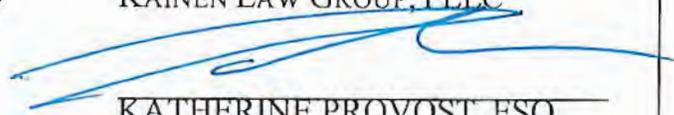
**KAINEN LAW GROUP, PLLC**

DATED this 7<sup>th</sup> day of May, 2022

WILLICK LAW GROUP



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



KATHERINE PROVOST, ESQ.  
Nevada Bar No. 8414  
RACHEAL H. MASTEL, ESQ.  
Nevada Bar No. 11646  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
(702) 823-4900  
[Service@kainenlawgroup.com](mailto:Service@kainenlawgroup.com)  
Attorneys for Plaintiff

P:\wp19\KARPENKO\O DRAFTS\0548850.WPD.VJ

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Enrique Schaerer, Plaintiff

CASE NO: D-21-628088-D

7 vs.

DEPT. NO. Department U

8 Olena Karpenko, Defendant.

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/9/2022

15 Racheal Mastel

racheal@kainenlawgroup.com

16 Service KLG

service@kainenlawgroup.com

17 Marshal Willick

marshal@willicklawgroup.com

18 Reception Reception

email@willicklawgroup.com

19 Victoria Javiel

victoria@willicklawgroup.com

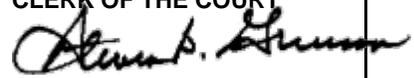
20 Kolin Niday

kolin@kainenlawgroup.com

**EXHIBIT “11”**

**EXHIBIT “11”**

**EXHIBIT “11”**



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

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

ENRIQUE SCHAERER,  
  
Plaintiff,  
  
vs.  
  
OLENA KARPENKO,  
  
Defendant.

CASE NO: D-21-628088-D  
DEPT. NO: U

DATE OF HEARING:  
TIME OF HEARING:

ORAL ARGUMENT Yes X No     

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

**DEFENDANT’S MOTION FOR ENFORCEMENT OF CHILD  
SUPPORT, ARREARS, REIMBURSED MEDICAL EXPENSES AND  
ATTORNEY’S FEES**

Olena filed her FDF on January 13, 2023 concurrently with this *Motion*.

Defendant, Olena Karpenko through her attorneys of record, Marshal S. Willick, and Richard L. Crane, Esq., of the WILICK LAW GROUP, hereby files her

1 *Motion for Child Support, Child Support Arrears, Repayment of Medical Expenses,*  
2 *and for Attorney's Fees and Costs.*

3 **I. INTRODUCTION**

4 As this Court is aware, contrary to the continued claims by Enrique, paternity  
5 has been established. He is the father of the minor child that he forced to be born in  
6 the Ukraine where a war rages on.

7 Since paternity has been established, the only issues remaining before this  
8 Court are child support and attorney's fees. As this Court already observed, and the  
9 relevant statute makes clear, only Ukraine has child custody jurisdiction.<sup>1</sup>

10 This parties stipulated to a \$1,500 child support award to be paid in \$500  
11 increments over three months. Enrique paid that, but even though it has been  
12 determined he is the father, he has paid nothing further.

13 In accordance with the *Stipulation and Order* filed with this Court, we tried to  
14 resolve the child support issue with opposing counsel at length, to no avail.<sup>2</sup> We now  
15 must seek the aid of the Court.

16 As such, Olena is requesting the Court issue the following orders:

17 (1) Enrique be ordered to pay \$1,843.84 each month for the minor child going  
18 forward.

19 (2) Child Support arrears be confirmed, and promptly paid.

20 (3) Prenatal and delivery costs for the minor child be established and paid.

21 (4) Award of Attorney Fees be made and enforced.

22  
23 **POINTS AND AUTHORITIES**

24 **II. FACTS**

25 The facts relating to this motion are well known to this Court.

26  
27 

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<sup>1</sup> NRS 125A.085.

28 <sup>2</sup> EDCR 5.501.

1 The parties entered into a *Stipulation and Order* on May 13, 2022, that paused  
2 litigation. That *Stipulation and Order* said:

3 IT IS FURTHER STIPULATED and AGREED that should the paternity  
4 testing prove that Enrique is the father of the minor child...the parties agree  
5 they will engage in private mediation to attempt in good faith to resolve  
6 custody provisions and child support. The parties recognize that child custody  
jurisdiction resides in the Ukraine and that any agreement the parties reach  
related to custody will be a private contract until it is entered as an Order in  
that Court.

7 On October 18, 2022, *Notice of DNA results* were filed with this Court  
8 confirming that the Plaintiff is the biological father of the minor child.

9 Since this time, nearly four months after the confirming DNA test, Enrique has  
10 not provided any child support for the minor child. Not a penny.

11 We requested Enrique provide proof of income to calculate child support and  
12 received his November 9, 2022, Financial Disclosure Form.

13 On November 17, Ms. Mastel sent us a letter stating that using Enrique's FDF,  
14 the child support should be \$1,107.76 per month.<sup>3</sup>

15 On November 28, we responded pointing out that the FDF that was filed was  
16 suspect as he had "conveniently" gone from a \$36,000 per month job to a meager  
17 \$4,000 a month job. We asked for proof of income.<sup>4</sup>

18 On December 9, we sent another letter to Ms. Mastel with our calculations of  
19 what legal expenses and medical expenses we considered owed by Enrique along  
20 with the proof of those expenditures.<sup>5</sup>

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26 <sup>3</sup> See Exhibit A, letter from Ms. Mastel to our office on November 17, 2022.

27 <sup>4</sup> See Exhibit B, letter from our office to Ms. Mastel dated November 28, 2022.

28 <sup>5</sup> See Exhibit C, copy of letter from our office to Ms. Mastel dated December 9, 2022.

1 On December 20, we were served with “Plaintiff’s N.R.C.P. 16.2 Production -  
2 3 and List of Witnesses.” Included in that disclosure was actual proof of Enrique’s  
3 income from 2021 and 2022.<sup>6</sup>

4 On December 23, we sent another letter to Ms. Mastel explaining how, to our  
5 knowledge, every court in Nevada performs a child support calculation. We also  
6 made a demand that Enrique pay for Olena’s prior attorney’s fees (i.e., not including  
7 ours).<sup>7</sup>

8 On December 30, Ms. Mastel responded claiming that we were not calculating  
9 support correctly. This letter also indicated Enrique was seeking a “global  
10 settlement.” It also misrepresented the *Stipulation and Order* that was filed in this  
11 case on May 13, 2022, and stated that we should not insist on dealing with the  
12 support issues (here) without dealing with custody (which can only be actually  
13 resolved in Ukraine).<sup>8</sup>

14 On January 3, 2023, we responded to Ms. Mastel’s letter asking for any legal  
15 authority that would allow a child support calculation to be done as she describes.  
16 It also again requested that a child support amount of \$1,717.64 per month begin  
17 immediately.<sup>9</sup> We pointed out in that letter that “good faith mediation” on child  
18 custody would take place in Ukraine and in accordance with Ukrainian child custody  
19 law as that is the only place with jurisdiction to actually enter any mediated resolution  
20 as a child custody order.

21 On January 9, we had the occasion to speak to Ms. Mastel concerning this case.  
22 She did not provide any authority suggesting that her novel proposed method of  
23

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24 <sup>6</sup> See Exhibit D, Select pages of Enrique’s pay stubs that show income from 2021 through  
25 November 2022.

26 <sup>7</sup> See Exhibit E, copy of letter from our office to Ms. Mastel dated December 23, 2022.

27 <sup>8</sup> See Exhibit F, letter from Ms. Mastel to our office dated December 30, 2022.

28 <sup>9</sup> See Exhibit G, letter from our office to Ms. Mastel dated January 3, 2023.

1 calculating support was correct. This phone call was in accordance with EDCR 5.501  
2 as at the end, we agreed to disagree on how the child support was to be calculated.

3 We do not believe that mediation on how child support regulations in Nevada  
4 are calculated could possibly assist in this matter; any further such attempts given the  
5 positions of the parties would necessarily be “futile” and a waste of time and money  
6 on all sides.

7 This *Motion* follows.

### 8 9 **III. LEGAL ARGUMENT**

#### 10 **A. Court to Apply Nevada Child Support Regulations**

11 As this Court is aware, Nevada has transitioned from child support statutes to  
12 child support regulations which are codified under NAC 425 *et seq.* Enrique is  
13 maintaining that the Court should not take into consideration his annual income, but  
14 only look to his greatly-reduced income following the birth of the child.

15 NAC 425.025 states in part:

16 1. “Gross income” includes, without limitation:

17 (a) Salary and wages, including, without limitation, money earned from  
18 overtime pay if such overtime pay is substantial, consistent and can be  
19 accurately determined.

20 (b) Interest and investment income, not including the principal.

21 . . .  
22 (n) Except as otherwise provided in subsection 2, all other income of a  
23 party, regardless of whether such income is taxable.

24 This means that any payment, including one time bonuses, that are paid are to  
25 be considered when calculating child support. Every published, unpublished, and  
26 trial-level case known to us, when considering the income of a party whose income  
27 is not regular month to month, has averaged that party’s income for the year in  
28 question, and then divided by twelve.<sup>10</sup>

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<sup>10</sup> See, e.g., *Rodriguez v. Rodriguez*, 116 Nev. 993, 13 P.3d 415 (2000) (looking to annual income for someone whose income was concentrated in 9 months of the year); *Buchanan v. Buchanan*, 90 Nev. 209, 523 P.2d 1 (1974) (evaluating “average income” over a three-year history); *Rogers v. Rogers*, Nos. 76173 & 76758, Order Affirming in Part, Reversing in Part and Remanding

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NAC 425.100 states in part:

1. Any order must be based on the obligor's earnings, income and other evidence of ability to pay.

For the Court to make that determination, it must look at Enrique's total income, not just a small snapshot in time.

Finally, NAC 425.120 states:

- 1. The monthly gross income of each obligor must be determined by:
  - (a) Stipulation of the parties; or
  - (b) The court, after considering all financial or other information relevant to the earning capacity of the obligor.
- 2. In determining the monthly gross income of each obligor, the court may direct either party to furnish financial information or other records, including, without limitation, any income tax returns.

This means to determine the actual income of an obligor, the Court can and should look to the annual pay of the obligor to include a review of tax returns. This will allow the Court to actually determine not only the average monthly income, but the obligor's earning capacity.

Here, Enrique's position that we are to only look at his income for 2021 from the date of the child's birth forward does not meet the requirements of the child support regulations. Following his line of thinking would artificially lower his income by 95% from six figures monthly to a meager \$5,416.66 per month for 2021, and \$4,333.33 per month in 2022.

This Court is required to use the Nevada regulation to calculate the support and there is no known Nevada authority that would support Enrique's position.

**B. Child Support Arrears Should be Based on Enrique's Income in the Year it was Due**

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(Unpublished Disposition, March 26, 2020) (discussing calculation steps) (we realize that under current rules this is not citeable authority, but we have been informed by the Nevada Supreme Court that the rule is about to be changed, and the citation here is only to show that the discussion of calculation methodology is present in multiple unpublished decisions that are unlikely to be resolved differently in this case).

1 Based on the above, the Court should look at Enrique's total income for the  
2 years that child support was due and calculate the support using those numbers.

3 Here, Enrique's total income for 2021 was \$1,390,637.<sup>11</sup> This amount included  
4 his monthly salary and bonuses paid out throughout the year. His average monthly  
5 gross income was \$115,886.42.<sup>12</sup> Plugging this information into the child support  
6 calculator results in a child support amount of \$5,515.44 per month for 2021.<sup>13</sup>

7 Enrique decided to change jobs in 2022 and reduce his income by about 95%.  
8 Looking at his last pay stub from his previous employer, his income that year was  
9 \$281,157.<sup>14</sup> This is added to his income from his new position through November 30,  
10 of \$8,000,<sup>15</sup> making his 2022 income through the end of November \$289,157. The  
11 average income over this period was \$24,096.42 per month.<sup>16</sup> Plugging this  
12 information into the child support calculator results in a child support amount of  
13 \$1,843.84 per month for 2022 through November.<sup>17</sup>

14 Placing all of this into an MLAW arrearage Calculation – and taking into  
15 account the \$1,500 paid by Enrique – results in an arrearage of \$50,921.35.<sup>18</sup> This  
16 amount should be reduced to judgment collectible by all lawful means. Any future  
17 missed payments – he has already missed January – should be added to this arrearage.

18 Additionally, Enrique should pay an absolute minimum of \$1,843.84 in  
19 ongoing support, based on the income figures he claims. If, as we believe it should,

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20  
21 <sup>11</sup> See Exhibit D, Bates stamp 169OK-174OK.

22 <sup>12</sup>  $\$1,390,637.00/12=\$115,886.42$ .

23 <sup>13</sup> See Exhibit H, printout from the child support calculator.

24 <sup>14</sup> See Exhibit D, Bates stamp 169OK-174OK.

25 <sup>15</sup> See Exhibit D, Bates stamp 169OK-174OK .

26 <sup>16</sup>  $\$289,157/12=\$24,096.42$ .

27 <sup>17</sup> See Exhibit I, printout from the child support calculator.

28 <sup>18</sup> See Exhibit J-MLAW arrearage calculation.

1 the Court holds him to his obvious earning capacity based on his historical earnings,  
2 the child support payable should remain at \$5,515 for all periods. *If* this Court is  
3 unwilling to hold him to his income capacity, but allow him to grossly reduce his  
4 income and pay support based only on that reduced sum, then because his income is  
5 so variable, child support should be adjusted annually based on his total gross income  
6 from the previous year.

7 NAC 425.150 states:

8 1. Any child support obligation may be adjusted by the court in accordance  
9 with the specific needs of the child and the economic circumstances of the  
10 parties based upon the following factors and specific findings of fact:

- 11 (a) Any special educational needs of the child;
- 12 (b) The legal responsibility of the parties for the support of others;
- 13 (c) The value of services contributed by either party;
- 14 (d) Any public assistance paid to support the child;
- 15 (e) The cost of transportation of the child to and from visitation;
- 16 (f) The relative income of both households, so long as the adjustment does  
17 not exceed the total obligation of the other party;
- 18 (g) Any other necessary expenses for the benefit of the child; and
- 19 (h) The obligor's ability to pay.

20 2. The court may include benefits received by a child pursuant to 42 U.S.C. §  
21 402(d) based on a parent's entitlement to federal disability or old-age insurance  
22 benefits pursuant to 42 U.S.C. §§ 401 to 433, inclusive, in the parent's gross  
23 income and adjust an obligor's child support obligation by subtracting the  
24 amount of the child's benefit. In no case may this adjustment require an obligee  
25 to reimburse an obligor for any portion of the child's benefit.

26 Here, Enrique's income varies drastically from month to month. An annual  
27 review and establishment of support meets the criteria established in 425.150.  
28 Additionally, NRS 125B.145(4) states:

An order for the support of a child may be reviewed at any time on the basis  
of changed circumstances. For the purposes of this subsection, a change of 20  
percent or more in the gross monthly income of a person who is subject to an  
order for the support of a child shall be deemed to constitute changed  
circumstances requiring a review for modification of the order for the support  
of a child.

It is clear from Enrique's historical income that his pay can – and does – vary  
by an amount greater than 20 percent in any given year. Unfortunately, Olena does  
not have the ability to track this information from Ukraine and thus the Court can  
require him to produce his federal income tax forms each year to determine if a  
change is warranted.

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**C. Reimburse for Medical Expenses Relating to Prenatal and Delivery Costs of Minor Child**

Our office provided back up information for Olena’s medical bills relating to the birth of the minor child on December 9, 2022.<sup>19</sup> As of this writing, neither Ms. Mastel or Enrique has responded on how he will pay Olena these costs.

NRS 125B.020 states:

- 1. The parents of a child (in this chapter referred to as “the child”) have a duty to provide the child necessary maintenance, health care, education and support.
- 2. They are also liable, in the event of the child’s death, for its funeral expenses.
- 3. The father is also liable to pay the expenses of the mother’s pregnancy and confinement.
- 4. The obligation of the parent to support the child under the laws for the support of poor relatives applies to children born out of wedlock.

Enrique is responsible for the medical costs incurred by Olena during the pregnancy. This amount should be reduced to judgment collectible by all lawful means. The total reported is \$3,664.08 plus statutory interest from the date of the birth of the child.

**D. Request for Attorney’s Fees and Costs From Previous Counsel**

Here, Olena was required to defend the accusations of Enrique from across the globe. We made the request for the fees she has incurred by her previous Nevada lawyer and for the lawyer she has needed in Ukraine. We have had no response to the request for fees. The total owed was presented in the December 23, letter and was \$8,887 as of October 18, 2021.<sup>20</sup>

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<sup>19</sup> See Exhibit C, letter to Ms. Mastel dated December 9, 2022.

<sup>20</sup> See Exhibit E, letter to Ms. Mastel dated December 23, 2022. The detailed billing was included in Exhibit C, letter dated December 9.

1 This is certainly a *Sargeant*<sup>21</sup> case and Olena should be allowed to meet  
2 Enrique – a proven millionaire – in Court on an equal footing.<sup>22</sup> Additionally, Olena  
3 has prevailed on the paternity action and is entitled to fees under NRS 18.010 as the  
4 prevailing party.

5 As to any analysis under *Brunzell*, *Miller*, or *Wright*, we ask the Court to see  
6 below where we justify our fees and costs. We ask that the amount of \$8,887 for  
7 prior counsel’s fees be reduced to judgment as of October 18, 2021, collectible by all  
8 lawful means.

9  
10 **E. Our Attorney’s Fees and Costs**

11 “[I]t is well established in Nevada that attorney’s fees are not recoverable  
12 unless allowed by express or implied agreement or when authorized by statute or  
13 rule.” Attorney’s fees may be awarded in a pre- or post-divorce motion/opposition  
14 under NRS 125.150. In addition, and because Olena has been the prevailing party in  
15 this matter, she should receive an award of attorney’s fees and costs pursuant to NRS  
16 18.010(2). Additionally, this Court can award attorney’s fees under EDCR 5.219  
17 (Sanctionable conduct):

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

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

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

25  
26 <sup>21</sup> *Sargeant v. Sargeant*, 88 Nev. 223, 495 P.2d 618 (1972).

27 <sup>22</sup> We do not think he will deny it, although he has chosen to file an FDF showing only  
28 income and not his millions of dollars in real estate and other holdings. Presumably he will hide  
behind the fig leaf that “only” paternity and child support are still remaining in issue – but on the  
face of the rules, this is a *divorce* case and a full FDF should have been filed by the potential obligor.

- (c) Failing to prepare for a proceeding;
- (d) Failing to appear for a proceeding;
- (e) Failing or refusing to comply with these rules; or
- (f) Failing or refusing to comply with any order or directive of the court.

Here, Enrique took an unsupported position that he was not the child’s father, and grossly extended and multiplied proceedings, including a trip through the appellate courts, rounds of mediation, and months and months of fruitless negotiations and correspondence. He produced no proof at any time that any actions by Olena would put into question his paternity. In fact, he was the presumed father as the pregnancy occurred while the parties were cohabiting *and* were married. His position was entirely frivolous, as we pointed out years ago.

### 1. Disparity in Income

The Court must also consider the disparity in the parties’ incomes pursuant to *Miller*<sup>23</sup> and *Wright v. Osburn*.<sup>24</sup> Therefore, parties seeking attorney fees in family law cases must support their fee request with affidavits or other evidence that meets the factors in *Brunzell*<sup>25</sup> and *Wright*.<sup>26</sup> We provide the *Brunzell* analysis below. As to *Wright*, the holding is minimal:

The disparity in income is also a factor to be considered in the award of attorney fees. It is not clear that the district court took that factor into consideration.<sup>27</sup>

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

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

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

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

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

1 The Court did not hold that the decision of the award of attorney’s fees hinged on a  
2 disparity in income. Only that it is one of the many factors that must be considered.  
3 Here, however, we have proof that Enrique’s income dwarf’s Olena’s. In fact, his  
4 income per *day* since the child was born was three times what Olena makes in a  
5 *month*.

6  
7 **1. Brunzell Factors**

8 With specific reference to Family Law matters, the Court has adopted  
9 “well-known basic elements,” which in addition to hourly time schedules kept by the  
10 attorney, are to be considered in determining the reasonable value of an attorney’s  
11 services qualities, commonly referred to as the *Brunzell*<sup>28</sup> factors:

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

22 Each of these factors should be given consideration, and no one element should  
23 predominate or be given undue weight.<sup>29</sup> Additional guidance is provided by  
24 reviewing the “attorney’s fees” cases most often cited in Family Law.<sup>30</sup>

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25 <sup>28</sup> 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

26 <sup>29</sup> *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

27 <sup>30</sup> Discretionary Awards: Awards of fees are neither automatic nor compulsory, but within  
28 the sound discretion of the Court, and evidence must support the request. *Fletcher v. Fletcher*, 89  
Nev. 540, 516 P.2d 103 (1973); *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980); *Hybarger v.*  
*Hybarger*, 103 Nev. 255, 737 P.2d 889 (1987).

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

4 First, respectfully, we suggest that the supervising counsel is A/V rated, a  
5 peer-reviewed and certified (and re-certified) Fellow of the American Academy of  
6 Matrimonial Lawyers, and a Certified Specialist in Family Law.<sup>31</sup>

7 Marshal S. Willick, Esq., the attorney primarily responsible for litigating this  
8 case, has practiced exclusively in the field of family law, and has substantial  
9 experience dealing with complex family law cases.

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

14 The fees charged by paralegal staff are reasonable, and compensable, as well.  
15 The tasks performed by staff in this case were precisely those that were “some of the  
16 work that the attorney would have to do anyway [performed] at substantially less cost  
17 per hour.”<sup>32</sup> As the Nevada Supreme Court reasoned, “the use of paralegals and other  
18 nonattorney staff reduces litigation costs, so long as they are billed at a lower rate,”  
19 so “‘reasonable attorney’s fees’ . . . includes charges for persons such as paralegals  
20 and law clerks.”

21 Victoria Javiel, the paralegal assigned to Olena’s case, she has been paralegal  
22 for over 19 years, providing substantial assistance to WILLICK LAW GROUP staff in  
23 a variety of family law cases.

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24  
25 <sup>31</sup> Per direct enactment of the Board of Governors of the Nevada State Bar, and independently  
26 by the National Board of Trial Advocacy. Mr. Willick was privileged (and tasked) by the Bar to  
27 write the examination that other would-be Nevada Family Law Specialists must pass to attain that  
status.

28 <sup>32</sup> *LVMPD v. Yeghiazarian*, 129 Nev. 760, 312 P.3d 503 (2013), citing to *Missouri v. Jenkins*,  
491 U.S. 274 (1989).

1 The work actually performed will be provided to the Court upon request by  
2 way of a *Memorandum of Fees and Costs* (redacted as to confidential information),  
3 consistent with the requirements under *Love*.<sup>33</sup>

4 Additionally, since the finding of paternity, Enrique has failed to cooperate in  
5 the payment of *any* support and has forced Olena to have to file this *Motion*.

6 Accordingly, we ask the Court to enter an award for the entirety of the fees and  
7 costs charged to Olena by our firm.

8  
9 **IV. CONCLUSION**

- 10 1. Order for Child Support.  
11 2. Order for Child Support arrears.  
12 3. Medical expenses relating to prenatal and delivery costs for minor  
13 child.  
14 4. Award of attorney's fees and costs.

15  
16 **DATED** this 13<sup>th</sup> day of January, 2023.

17  
18 Respectfully Submitted By:  
WILLICK LAW GROUP

19  
20 // s // *Richard L. Crane*

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

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<sup>33</sup> *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998).

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**DECLARATION OF ATTORNEY**

Richard L. Crane, Esq., being first duly sworn, deposes and says:

1. I, Richard L. Crane, Esq., declare that I am competent to testify to the facts contained in the preceding filing.
2. I am an attorney duly licensed to practice law in the State of Nevada; I am the principal of the WILLICK LAW GROUP; and I am one of the attorneys that represent Defendant, Olena Karpenko.
3. I have read the preceding filing, and it is true to best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.
4. The factual averments contained in the preceding filing are incorporated herein as if set forth in full.

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

**EXECUTED** this 13<sup>th</sup> day of January, 2023.

*// s // Richard L. Crane*

RICHARD L. CRANE, ESQ.

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW  
3 GROUP and that on this 13<sup>TH</sup> day of January, 2023, I caused the above and  
4 foregoing document to be served as follows:

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

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

19 Racheal H. Mastel, Esq.  
 20 KAINEN LAW GROUP  
 21 3303 Novat Street Ste. 200  
 22 Las Vegas, Nevada 89129  
 23 [service@kainenlawgroup.com](mailto:service@kainenlawgroup.com)  
 24 [racheal@kainenlawgroup.com](mailto:racheal@kainenlawgroup.com)  
 25 *Attorney for Plaintiff*

26 /s/ Victoria Javiel  
 27 An Employee of the WILICK LAW GROUP

28 P:\wp19\KARPENKO.O\DRAFTS\00599311.WPD/vj

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

ENRIQUE SCHAERER, )  
Plaintiff, )  
)  
-v.- )  
)  
)  
OLENA KARPENKO, )  
Defendant, )  
)  
\_\_\_\_\_ )

Case No. D-21-628088-D

Department U

**MOTION/OPPOSITION  
FEE INFORMATION SHEET**

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

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

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

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

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

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

The total filing fee for the motion/opposition I am filing with this form is:  
 **\$0**  \$25  \$57  \$82  \$129  \$154

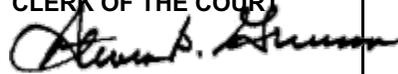
Party filing Motion/Opposition: Olena Karpenko Date: 1/13/2023

Signature of Party or Preparer: Victoria Javiel at the Willick Law Group

**EXHIBIT “12”**

**EXHIBIT “12”**

**EXHIBIT “12”**



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

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

ENRIQUE SCHAERER,  
Plaintiff,  
vs.  
OLENA KARPENKO,  
Defendant.

CASE NO: D-21-628088-D  
DEPT. NO: U

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

**NOTICE OF ENTRY OF ORDER**

TO: ENRIQUE SCHAERER, Plaintiff.

TO: RACHEAL H. MASTEL, ESQ. Attorney for Plaintiff.

PLEASE TAKE NOTICE that the *Order and Judgment for Attorney's Fees and Costs*, was duly entered in the above action on the 17<sup>th</sup> day of April, 2023, a true and

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correct copy of which is attached.

DATED this 17th day of April, 2023

WILLICK LAW GROUP

*// s // Richard L. Crane*

---

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



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

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

ENRIQUE SCHAEERER,  
  
Plaintiff,  
  
vs.  
  
OLENA KARPENKO,  
  
Defendant.

CASE NO: D-21-628088-D  
DEPT. NO: U

DATE OF HEARING: 3/23/2023  
TIME OF HEARING: 3:00 p.m.

**ORDER AND JUDGMENT FOR ATTORNEY'S FEES AND COSTS**

The Honorable Dawn R. Throne, District Court Judge, issued a *Minute Order* on March 23, 2023.

This matter came on for a hearing on February 21, 2023, *Defendant's Motion for Enforcement of Child Support, Arrears, Reimbursed Medical Expenses, and Attorney's Fees; and Plaintiff's Opposition to Motion for Enforcement of Child Support, Arrears, Reimbursed Medical Expenses and Attorney's Fees.* At that hearing, Defendant's counsel was given until March 7, 2023, to file a *Memorandum of Fees and Costs*, and Plaintiff's counsel until March 21, 2023, to oppose.

On March 2, 2023, Defendant filed her *Memorandum of Fees and Costs*. On March 21, 2023, Plaintiff filed his *Reply to Defendant's Memorandum of Fees and Costs*.

1 The Court, having reviewed the papers and pleadings on file herein, hereby  
2 issues the following findings and orders.

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**THE COURT HEREBY FINDS:**

1. That when awarding attorney’s fees in a family law case, the Court must first determine that an applicable rule or statute authorizes the award of attorney’s fees and costs. In this case, the award of reasonable attorney’s fees and costs to Defendant is warranted pursuant to NRS 18.0010(2) solely as the prevailing party on the issue of paternity. However, Defendant is not entitled to have Plaintiff pay for the extraordinary fees and costs she incurred as a result of her own litigation choices.

2. **THE COURT FURTHER FINDS** that Plaintiff is not responsible for the fees and costs associated with Defendant’s unilateral choices, including, but not limited to, her choice to leave the United States on a whim and return to Ukraine. This then caused both parties significant fees and costs dealing with the logistical issues involved in obtaining reliable DNA testing from parties in separate countries. Defendant’s choice to make Plaintiff question paternity with her communications to him directly and her *Answer* to his *Complaint* on that issue, her choice not to comply with the Court’s initial order requiring her and the child to travel to the United States, at Plaintiff’s sole expense, in order to complete legally defensible DNA testing, her choice to incur fees and costs to fight to have representative from the Ukraine Consulate observe hearings, her choice to attempt to set aside the *Decree of Divorce* and her choice to file a *Petition for Writ of Mandamus or Prohibition* with the Nevada Supreme Court.

3. **THE COURT FURTHER FINDS** that Plaintiff is also not responsible for the fees and costs incurred by Defendant to litigate the proper calculation of child support arrears and Plaintiff’s current gross monthly income because both parties presented reasonable legal and factual arguments on these issues that required resolution by the Court and neither party can be considered the prevailing party on

1 these issues. Due to changes in Plaintiff's employment, there is a legitimate dispute  
2 regarding what his gross monthly income will be for 2023 for child support purposes.

3 4. Next, when awarding fees, the Court must consider the *Brunzell factors*  
4 AND must consider the disparity in the parties' income pursuant to *Wright v. Osburn*,  
5 114 Nev. 1367, 970 P.3d 1071 (1998). See also, *Miller. Wilfong*, 121 Nev. 619, 622,  
6 119 P.3d 727, 729 (2005).

7 5. With regard to the *Brunzell factors*, the Court **FINDS** as follows:

8 6. Qualities of the Advocate: Marshal S. Willick, Esq., and Richard L.  
9 Crane, Esq., are the attorneys primarily responsible for litigating this case. They both  
10 have practiced exclusively in the field of family law and have substantial experience  
11 dealing with complex family law cases. The rate counsel charged Defendant in this  
12 case is consistent with rates charged by Family law attorneys in Clark County,  
13 Nevada with their level of experience and expertise.

14 7. Character of the Work to Be Done: This case was more complex than the  
15 average paternity and child support matter due to the parties residing in different  
16 countries and the involved jurisdictional issues. Counsel has reviewed the applicable  
17 law, explored the relevant facts. Child support and arrearages are not that complex  
18 for a very experienced family law attorney.

19 8. Work Actually Performed by the Attorney: The work completed by  
20 counsel in this case included preparing an *Opposition and Countermotion to*  
21 *Plaintiff's Motion for Summary Judgment*, preparing a *Motion and Reply to Plaintiff's*  
22 *Opposition Regarding Child Support Arrears* and ongoing child support, preparing  
23 exhibit appendices, representing Defendant at three hearings, and preparing the  
24 *Memorandum of Fees and Costs*.

25 9. Result obtained: Counsel was able to successfully assist Defendant in  
26 obtaining an *Order* for paternity testing.

27 10. With regard to the disparity of the income of the parties and how it  
28 impacts the award of attorney's fees and costs to Defendant, Defendant filed her latest

1 *General Financial Disclosure Form (FDF)* on January 13, 2023, listing a gross  
2 monthly income (GMI) of \$1,170. However, she lives in Ukraine and her monthly  
3 living expenses for her and the minor child are only \$1,215. At the hearing on  
4 February 21, 2023, this court found that Plaintiff's GMI for 2023 is set at \$18,847.  
5 The Court therefore *finds* that Plaintiff earns more than sixteen times what Defendant  
6 earns. Therefore, the *disparity in income* favors Defendant, who is receiving the  
7 award of attorney's fees and costs, and Plaintiff has the ability to pay the reasonable  
8 attorney's fees and costs that Defendant incurred in establishing paternity.

9  
10 **THE COURT HEREBY ORDERS:**

11 1. Based on the above findings, it is hereby ordered that Plaintiff, Enrique  
12 Schaerer, is ordered to pay Defendant, Olena Karpenko, the amount of \$13,706.50 for  
13 attorney's fees and costs.

14 2. **IT IS FURTHER ORDERED** that Plaintiff shall have 30 days from  
15 March 23, 2023, to pay this amount in full to Defendant or said award is reduced to  
16 judgment against Plaintiff and shall accrue interest at the legal interest rate from  
17 March 23, 2023, until paid in full. Said judgment shall be collectible by all lawful  
18 means.

19 3. **IT IS FURTHER ORDERED** that the hearing set on Chamber's  
20 Calendar for March 22, 2023, shall be vacated.

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4. A copy of the court minutes shall be provided to both parties. Counsel for Defendant is ordered to prepare an *Order and Judgment with Findings* consistent with this *Minute Order*.

**IT IS SO ORDERED**

Dated this 17th day of April, 2023



JVH

**582 0D4 B61E CD42  
Dawn R. Throne  
District Court Judge**

Respectfully Submitted By:  
WILLICK LAW GROUP

Approved to Form and Content By:  
KAINEN LAW GROUP, PLLC

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



RACHEAL H. MASTEL, ESQ.  
Nevada Bar No. #11646  
3303 Novat Street, Suite 200  
Las Vegas, Nevada 89129  
(702) 823-4900  
service@KainenLawGroup.com  
Attorney for Plaintiff

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1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 Enrique Schaerer, Plaintiff

CASE NO: D-21-628088-D

7 vs.

DEPT. NO. Department U

8 Olena Karpenko, Defendant.

9  
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/17/2023

15 Racheal Mastel	racheal@kainenlawgroup.com
16 Katherine Provost	katherine@kainenlawgroup.com
17 Service KLG	service@kainenlawgroup.com
18 Marshal Willick	marshal@willicklawgroup.com
19 Reception Reception	email@willicklawgroup.com
20 Victoria Javiel	victoria@willicklawgroup.com
21 Kolin Niday	kolin@kainenlawgroup.com
22 Richard Crane	richard@willicklawgroup.com
23 Dana Taylor	dana@kainenlawgroup.com

**EXHIBIT “13”**

**EXHIBIT “13”**

**EXHIBIT “13”**

D-21-628088-D

Enrique Schaerer, Plaintiff  
vs.  
Olena Karpenko, Defendant.

Department U

July 18, 2023

11:00 AM

Status Check

HEARD BY: Throne, Dawn R.

COURTROOM: RJC Courtroom 03H

COURT CLERK: Baltazar, Josephine

**PARTIES PRESENT:**

**Enrique Schaerer, Plaintiff, Present**

**Racheal H. Mastel, ESQ, Attorney, Present**

**Olena Karpenko, Defendant, Present**

**Marshal Shawn Willick, Attorney, Present**

**JOURNAL ENTRIES**

**STATUS CHECK**

Plaintiff/Dad and counsel, Attorney Racheal Mastel (Nevada Bar No. 11646) present via videoconference through the BlueJeans application. Defendant/Mom and counsels, Attorneys Marshal Willick and Richard Crane (Nevada Bar No. 9536), and case manager Victoria Javiel also present via BlueJeans.

Upon Court inquiry, Attorney Crane stated he has no arguments that the Court has no jurisdiction to address Dad's earnings because of the pending appeals. Arguments regarding parties' Financial Disclosure Forms (FDFs), incomes, and Child Support. Further discussions regarding Honeycutt and the appeals on previous Child Support and Attorney's Fees. Upon Court inquiry, Attorney Mastel confirmed the parties have exchanged their tax returns. Attorney Crane stated the parties' Mediation was terminated and Dad has dismissed his counsel in Ukraine. Attorney Mastel stated the parties have no more issues in Ukraine.

COURT FINDS it has no jurisdiction over Dad's earnings.

COURT FURTHER FINDS it has jurisdiction to resolve the 2023 Child Support issue.

COURT ORDERED the following:

Mom shall file her FINANCIAL DISCLOSURE FORM no later than August 9, 2023.

Dad's TEMPORARY CHILD SUPPORT OBLIGATION to Mom shall be \$1,676.00 per month, effective July 1, 2023.

Parties shall supplement their paystubs after December 9, 2023.

DISCOVERY is OPEN.

HALF-DAY EVIDENTIARY HEARING shall be SET for January 9, 2024, at 1:30 PM in Courtroom 03H at the Regional Justice Center (200 Lewis Avenue, Las Vegas, Nevada 89101). Parties may appear via BlueJeans.

CALENDAR CALL shall be SET for January 2, 2024, at 9:00 AM.

Court shall issue a Trial Management Order.

Attorney Mastel shall prepare the order from today's hearing.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

Jan 02, 2024 9:00AM Calendar Call  
RJC Courtroom 03H Throne, Dawn R.

Jan 09, 2024 1:30PM Evidentiary Hearing  
RJC Courtroom 03H Throne, Dawn R.