District Court Case No: D-23-678957-D

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Apr 08 2025 10:21 AM
Elizabeth A. Brown
Clerk of Supreme Court

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

JAMIE IRENE RANDOLPH,

Plaintiff(s),

vs.

MICHAEL DAVID RANDOLPH,

Defendant(s).

NOTICE OF APPEAL PACKET COVER SHEET

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4/4/2025 10:32 PM
Steven D. Grierson
CLERK OF THE COURT

NOTAP
Jamie Irene Randolph
7239 Pinebrook Circle
Las Vegas NV 89147
(702)793-8424
Plaintiff in Proper Person

DISTRICT COURT FAMILY DIVISION
CLARK COUNTY, NEVADA

JAMIE IRENE RANDOLPH Plaintiff, vs. MICHAEL DAVID RANDOLPH Defendant.	Case No. D-23-678957-D Dept No. A

NOTICE OF APPEAL

COMES NOW, Jamie Irene Randolph, in Proper Person, and hereby appeals the Order entered on March 12, 2025, a copy of which is attached hereto.

Jamie Irene Randolph requests a waiver of the appeal bond in this mater, and authorization to proceed in Proper Person.

Dated this 4th day of April, 2025.

/s Jamie Irene Randolph
JAMIE IRENE RANDOLPH
Plaintiff/Appellant in Proper Person

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of April, 2025, I served a copy of the above and foregoing *Notice of Appeal* to the following via E-Service and/or United States Mail, postage prepaid:

HOFLAND & TOMSHECK
Bradley J. Hofland, Esq.
bradh@hoflandlaw.com
Meredith Simmons, Esq.
msimmons@hoflandlaw.com
Attorneys for Defendant

Dated this 4th day of April, 2025.

/s Jamie Irene Randolph
_____
JAMIE IRENE RANDOLPH
Plaintiff/Appellant in Proper Person

Electronically Filed
3/13/2025 8:58 AM
Steven D. Grierson
CLERK OF THE COURT

NOE

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA
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Jamie irene Randolph, Plaintiff vs. Michael David Randolph, Defendant.	Case No.: D-23-678957-D Department A

NOTICE OF ENTRY OF ORDER FROM HEARING

TO: ALL PARTIES AND/OR THEIR ATTORNEYS

Please take note that after a review of the court file, an Order was prepared by the Court following a scheduled hearing. A copy of the Order from the Evidentiary Hearing heard on November 21, 2024, is attached hereto. I hereby certify that I caused on the above file stamped date, a copy of the Order From Hearing to be:

E-served pursuant to NEFCR 9 on March 13, 2025:

Jennifer Isso, Esq.
Meredith Simmons, Esq.

/s/ Kim Jones
Kim Jones
Temporary Judicial Executive Assistant
Department A

Electronically Filed
03/12/2025 8:22 PM
CLERK OF THE COURT

DECD

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMIE RANDOLPH, Plaintiff, vs. MICHAEL RANDOLPH, Defendant	Case No.: D-23-678957-D Dept. No.: A Trial Date: November 21, 2024 Time: 1:30 p.m.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF DIVORCE

This matter having come on for Evidentiary Hearing on November 21, 2024 at 1:30 p.m., Plaintiff JAMIE RANDOLPH ("Mom") being present in person and represented by her counsel of record, JENNIFER ISSO, ESQ., Defendant MICHAEL RANDOLPH ("Dad") being present in person and represented by MEREDITH SIMMONS, ESQ., the Court having heard the evidence presented, HAVING REVIEWED THE PARTIES' Closing Briefs and Proposed Findings of Fact and Conclusions of Law submitted on December 16, 2024, having taking the matter under advisement, hereby finds and orders as follows:

I. PROCEDURAL HISTORY

1. THE COURT FINDS that on November 22, 2023, Mom filed her *Complaint for Divorce*.
2. On December 21, 2023, Dad filed his *Answer to Complaint for Divorce and Counterclaim for Divorce*.

MARI D. PARLADÉ
DISTRICT JUDGE
Family Division
Department A

Statistically closed: USJR-FAM-Judgment Reached (Bench Trial) (Close Case) (UJR)

3. On January 17, 2024, Dad filed his General Financial Disclosure Form (FDF).
4. On January 18, 2024, Mom filed her *Motion for Joint Legal and Primary Physical Custody, to Set Child Support, for Temporary Spousal Support and Attorney's Fees, and Other Related Relief.*
5. On February 1, 2024, Dad filed his *Opposition to Motion for Joint Legal and Primary Physical Custody, to Set Child Support, for Temporary Spousal Support and Attorney's Fees, and Other Related Relief.*
6. On February 26, 2024, this Court entered the parties' Stipulation and Order to continue the February 28, 2024 Case Management Conference and Return Hearing from the Family Mediation Center (FMC) to March 28, 2024 at 9:00 a.m.
7. On March 22, 2024, Mom filed her FDF.
8. On March 28, 2024, the parties came before this Court on Mom's *Motion for Joint Legal and Primary Physical Custody, to Set Child Support, for Temporary Spousal Support and Attorney's Fees, and Other Related Relief,* the corresponding Opposition, a Case Management Conference, and a Return Hearing from FMC. The Court reviewed the case, and upon the Court's inquiry, Dad's counsel stated that the parties had agreed that Dad would have Primary Physical Custody. Mom's counsel stated that Mom was requesting Primary Physical Custody. Each parties' counsel requested that the opposing party undergo drug testing. THE COURT ORDERED that everything shall remain STATUS QUO, and the child shall continue to remain in the home with Dad where his school is. THE COURT FURTHER ORDERED that based on Mom's objection, the Court shall not file the Parenting Agreement; however, temporarily, the Court shall

honor the terms of the Parenting Agreement. THE COURT FOUND that Joint Legal Custody is in the best interest of the child, and temporarily, the terms of the Parenting Agreement are in the child's best interest; therefore, the child shall reside with Dad each week beginning Sunday at 9:00 a.m. until Thursday at 3:00 p.m., at which point the child shall reside with Mom. The child shall reside with Mom on alternating weekends beginning this weekend on Thursday at 3:00 p.m. and concluding Sunday at 9:00 a.m. Whenever there is a Staff Development Day or an extra day off for the child in conjunction with Mom's weekend, the extra day shall also be Mom's day with the child. Dad shall have the child on the 2nd and 4th weekends of each month, and Mom shall have the child on the 1st, 3rd, and 5th weekends of each month. THE COURT FURTHER ORDERED that Mom's visitation is subject to a clean drug test. MOM shall submit to a drug test and per stipulation, Dad shall pay for the testing. If the test is dirty, Dad shall be reimbursed by Mom. If Mom's drug test is dirty, her visits shall be at Donna's House. THE COURT FURTHER ORDERED that counsel's request for Dad to submit a drug test is DENIED. THE COURT FURTHER ORDERED that Mom's Motion for financial relief is DENIED pursuant to EDCR 5.507 at this time for Mom's failure to file an accurate and complete FDF. Mom shall file an FDF by end of business on Friday. The request for financial relief is DEFERRED to the Evidentiary Hearing. THE COURT FURTHER ORDERED that Discovery is OPEN. THE COURT FURTHER ORDERED that the parties are referred to FMC for a Child Interview. THE COURT FURTHER ORDERED that the request for attorney's fees is DEFERRED and the parties must follow the Mutual Behavior Order. Neither party shall use the child as

a means of communication, and neither party shall communicate to the child about this case.

9. On March 28, 2024, the Court issued an Evidentiary Hearing Management Order setting Calendar Call for November 14, 2024 at 10:00 a.m., the Evidentiary Hearing for November 21, 2024 at 1:30 p.m., and the deadline for Pre-Trial Memorandums for November 7, 2024.

10. On June 3, 2024, Mom filed an updated FDF.

11. On June 4, 2024, the parties came before this Court for a Return Hearing from the Child Interview. THE COURT NOTED it had reviewed the Child Interview Report. Counsel confirmed they had reviewed the report with both parties. Mom's counsel represented that there was nothing in the Child Interview Report that was glaring, and that the child indicated he wanted to spend equal time with both parents. Mom's counsel indicated Mom previously drug tested and was on supervised visitation at Donna's House. She further stated Mom will do whatever it takes to not have supervised visits anymore, even if that entails taking another drug test. Dad's attorney represented that they reviewed the report, and while the minor child's preference is one of the factors, it is only one of the many the Court must utilize when making a best interest determination. Dad's counsel indicated that when Mom drug tested, her levels were high. She further indicated that Mom has not exercised visitation with the child since last year; there has been no contact, as Mom has declined to comply with the Court Orders for that contact. Dad's counsel requested Status Quo be preserved and that Mom should be placed on a drug monitoring program. THE COURT NOTED that Donna's House was ordered so

the Court would have reports that show how visitation is going with Mom and the child. THE COURT FURTHER NOTED that if Mom is not even exercising her supervised visits at Donna's House, then she cannot go from supervised visits to unsupervised visits. Mom's counsel indicated that the only reason Mom did not exercise the supervised visitation at Donna's House was simply because she did not want it to adversely affect the minor child. Mom's counsel requested that a family member facilitate the supervised visits instead of Donna's House. Mom indicated that she is willing to submit to another drug test. THE COURT NOTED its concern with the child's knowledge about his parents' case. The parties acknowledge that the child had many questions about the case, but they encouraged him to just be honest and answer all the questions during the Child Interview. Dad's counsel indicated that Mom's mother (the child's maternal grandmother) uses drugs, and the child should not be in the home with the maternal grandmother. Mom explained that her mom is not using drugs; she is currently fighting breast cancer and no longer uses illicit drugs. THE COURT ORDERED that Mom's request to submit to a drug test has been GRANTED. Mom shall be drug tested by 4:15 p.m. today. THE COURT FURTHER ORDERED that all the Court's prior orders remain in effect; the only caveat is that Mom's visitation shall be subject to a clean drug test. If Mom's drug test comes back dirty, visitation shall be at Donna's House. If the drug test comes back clean, Mom's VISITATION shall be unsupervised from Thursdays at 3:00 p.m. to Sundays at 9:00 a.m. THE COURT FURTHER ORDERED that the Return Hearing is set for August 20, 2024 at 11:00 a.m. regarding Mom's ATI Drug Test Results.

MARI D. PARLADÉ
DISTRICT JUDGE
Family Division
Department A

12. On August 20, 2024, the parties appeared before this Court for a Return Hearing on Mom's ATI Drug Test Results. THE COURT NOTED that Mom's ATI Results came back positive. The Court allowed argument by counsel. Following all arguments, testimony, and findings, THE COURT ORDERED that Dad shall have temporary Primary Physical Custody. MOM shall have liberal supervised visits with the child, to be supervised by Dad. THE COURT FURTHER ORDERED that MOM shall have 7:00 p.m. FACETIME VISITATIONS with the minor child. THE COURT FURTHER ORDERED that trial STANDS.

13. On October 8, 2024, Mom filed a *Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief.*

14. On October 21, 2024, Dad filed his *Opposition to Plaintiff's Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief.*

15. On November 7, 2024, Dad filed a Pre-Trial Memorandum.

16. On November 14, 2024, Mom filed her Pre-Trial Memorandum.

17. On November 14, 2024, the parties appeared before this Court for Calendar Call. The parties and their counsel confirmed that they were prepared to move forward with the trial in response to the Court's inquiry. Mom's counsel indicated that she would turn in the Pre-Trial Memorandum at the end of the day. THE COURT ORDERED that Pre-Trial Memorandums shall be filed by 6:00 p.m. on November 14, 2024.

18. On November 20, 2024, Mom filed her *Reply to Defendant's Opposition to Plaintiff's Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief.*

19. On November 21, 2024, the parties came before this Court on Mom's *Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief* and the corresponding Opposition and Reply, as well as the Evidentiary Hearing. All parties appeared in person. Defendant's Exhibits A, B, C, D, F, and G were admitted. Jamie Randolph and Michael Randolph served as witnesses. THE COURT ORDERED that the parties' Closing Briefs, Proposed Findings of Fact, Conclusions of Law, and Final Orders are due on December 23, 2024 at 6:00 p.m.

20. On November 21, 2024, Mom filed an updated FDF.

21. On December 23, 2024, Mom filed her Closing Brief.

22. On December 23, 2024, Mom filed her Supplement to Closing Brief.

23. On December 23, 2024, Dad filed his Closing Brief.

II. FINDINGS OF FACT

24. THE COURT FINDS that Jamie Randolph (Mom) and Michael Randolph (Dad) were married in Las Vegas, Nevada on October 30, 2010, and have ever since been husband and wife. There is one child born the issue of this marriage, to wit: Jake Ryan Randolph (Jake), born November 15, 2010, who is currently 14 years old.

25. Mom and Dad physically separated in January 2023, when Mom left Dad and Jake

in the marital home and moved to her mother's home. Since January 2023, Dad and Jake have continuously resided in the marital residence, with Dad continuously maintaining primary physical custody of Jake subject to Mom's visits. Meanwhile, Mom has resided in her mother, Teresa Irene Belcher's, home.

26. Both Mom and Dad testified that Jake is a happy, healthy, well-adjusted boy, who is thriving in his current scholastic and home environment. Jake is in the eighth grade, and he presently attends the Joy Academy, a private Christian school, which is located in very close proximity to the marital residence. The parties' respective testimonies confirmed it was their mutual intention, desire, and plan for Jake to attend the Joy Academy though his high school graduation. The parties' testimony confirmed that Dad's family trust is paying for Jake's private school tuition.

27. Dad testified that he has consistently gone out of his way to create activities and different things for Mom to have frequent supervised visitation with Jake, such as, the Starbucks visits, bowling and park visits.[1] Dad also testified that he frequently encourages Jake to call and/or FaceTime with Mom.

28. Dad testified that he always accommodated ***all*** of Mom's requests for visitation by facilitating same, and that he never attempted to cancel or change or reschedule any visits scheduled. Dad further testified that it was never his understanding that Mom was limited to only one visit per week; but rather, Mom simply did not seek to exercise

[1] November 21, 2024 Evidentiary Hearing Video Citation (EHVC) at 4:28:39 p.m.

her visitation very often, but when she did, she was always the one who ended the visits after one or two hours.[2]

29. Dad testified that he made time for Mom to exercise her supervised visitation whenever she wanted but she did not take advantage of his willingness to make the child [and himself] available for her supervised visitation very often, but when Mom did, Dad made sure he and the child were available for the visit.

30. Dad testified that since January 2023, he has been solely responsible for providing for Jake's primary care, to include providing for Jake's financial support, taking Jake to his karate classes and therapy, paying for Jake's karate classes and therapy, taking Jake to doctors and dental appointments, and coordinating with Jake's school. [3]

31. When Dad was questioned as to why he believed Mom was unable to maintain her parental responsibilities for Jake since January 2023, Dad testified that he believed that Mom's ongoing struggles with her addiction was adversely impacting her ability to be present and actively parent Jake.[4]

32. Dad testified that aside from the high conflict caused by Mom's ongoing illicit drug abuse, there was little or no conflict existing between the parties.[5] Dad also testified that since Mom abandoned the marriage and her family in January 2023, there has been no conflict between the parties, and Mom's testimony confirmed the same.[6]

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[2] *Id.* at 4:27:53 and 4:29:40 p.m.
[3] *Id.* at 4:34:47 p.m.
[4] *Id.* at 4:35:02 p.m.
[5] *Id.* at 4:33:39 p.m.
[6] *Id.* at 4:33:48 p.m.

33. When questioned about Mom's parent/child bond with Jake, Dad testified as to his beliefs that Jake loves his mother and that Mom loves Jake.[7] Dad also testified as to his beliefs that Mom was having difficulties transitioning from parenting Jake, as a young child, to parenting Jake, as a teenage boy, who is becoming more autonomous, self-reliant and independent every day.[8]

34. Dad demonstrated a good faith basis for his beliefs, by testifying about Mom's expressed frustration regarding Jake's limited willingness to participate in frequent phone/FaceTime contact with Mom, given her always-changing daily work schedule and that Jake is now a teenaged boy.

35. Dad also testified to his beliefs that Mom gave Jake a hard time about not contacting her every day.[9]

36. Although Mom testified that she repeatedly offered to contribute to Jake's financial support since she left the marriage, the parties' respective testimonies ultimately confirmed that she has neither provided financial support for Jake, nor contributed to any of the community expenses, notwithstanding her car and vehicle insurance payments, since January 2023.[10]

37. The parties both testified that since January 2023, Dad has been exclusively responsible for attending to Jake's day-to-day needs, including, without limitation, taking Jake to medical and dental appointments, taking Jake to karate and therapy, helping Jake with

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[7] *Id.* at 4:25:21 p.m.
[8] *Id.* at 4:25:33 p.m.
[9] *Id.* at 4:27:53 p.m.
[10] *Id.* at 2:02:16-2:02:47 p.m., and 2:36:12-2:36:31 p.m.

his homework, providing for Jake's meals, and for providing Jake a safe and wholesome home environment.

38. Throughout the marriage, Dad, notwithstanding several brief periods of unemployment, was the primary breadwinner for the family, even though Mom was often employed full-time once Jake started school.[11]

39. Prior to Jake becoming school aged, Mom stayed home to care for Jake while Dad maintained full-time employment to financially provide for the community.[12]

40. Nevertheless, during the marriage, Mom obtained her associate's degree in culinary arts, which now contributes to her ability to self-support post-divorce.[13]

41. Once Jake began school, Mom obtained a job at a school, working in the cafeteria, and then at a hospital, where she worked in the kitchen as a cook for approximately six years.[14]

42. In January 2023, Mom began working as a Kitchen Supervisor at Blake Shelton's Ole Red Restaurant located on the Las Vegas Strip. As of the Non-Jury Trial, Mom was still employed at Ole Red as a full-time swing-shift Kitchen Supervisor, working from 3:00 p.m., to 11:00 p.m., five days per week.[15] Mom testified that she currently earns a gross monthly income of $3,986.00 and the same was stated in her Financial Disclosure Form dated November 21, 2024.[16]

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[11] *Id.* at 1:52:02 -1:52:38 p.m.
[12] *Id.* at 1:49:58-1:50:07 p.m.
[13] *Id.* at: 1:50:18 p.m.
[14] *Id.* at 1:55:35-1:56:17, and 3:09:31- 3:09:34 p.m.
[15] *Id.* at 2:34:15-2:34:23 p.m.
[16] *Id.* at 3:35:36-3:36:28 p.m.

43. In 2020, Dad obtained full-time employment at Clearwater Paper. Dad further testified that in January 2024, he was injured on the job during the course of his employment at Clearwater Paper.[17] As a result of his on-the-job injury, Dad was placed on short-term disability in January 2024, and subsequently reassigned to long-term disability on August 8, 2024.[18]

44. While Dad testified that he earned approximately $50,000 in 2002, which was corroborated by the parties 2022 federal income tax returns marked and admitted as Exhibit "A," he also testified that he is presently earning no income because of his current inability to work due to his back injury and long-term disability designation. Dad further testified that in addition to a monthly trust distribution and/or disbursement payment of approximately $2,000.00 per month, which was sustained as non-income separate property inheritance over Mom's counsel's objection, he is presently receiving approximately $2,000.00 per month in and as for disability pay.[19]

45. Both parties testified that the community residence located at 5409 Concerta Court, Las Vegas, Nevada 89120, was purchased during the marriage and funded with community property proceeds. Likewise, Exhibit "F" and Exhibit "G" admitted in the proceedings demonstrates the mortgage associated with the marital residence is jointly held in both parties' names.

46. Although Mom did not address the disposition of the community credit card debt in her testimony, her Financial Disclosure Form dated November 21, 2024 states that she

[17] *Id.* at 1:53:07 p.m.
[18] *Id.* at 1:53:14, 2:05:35, and 3:52:50 – 3:53:48 p.m.
[19] *Id.* at 4:53:18-4:53:33 p.m.

currently has approximately $14,000 of community property credit card debt held in her individual name.[20] Dad testified, and his Financial Disclosure Form dated November 12, 2024 states, that he currently has approximately $19,000 of community property credit card debt held in his individual name.

47. Both parties testified to there being two community property vehicles, namely, a 2023 Jeep Wrangler, with a current fair market value of approximately $29,400, and an outstanding encumbrance of approximately $35,838, associated therewith, and a 2018 Ford Edge, with a current fair market value of approximately $14,000, and an outstanding encumbrance of $16,824.61, associated therewith - both of which are financed in Dad's individual name.

48. At trial, the parties both testified that the during the marriage they purchased the marital residence located at 5409 Contera Court, which is located less than one block away from Jake's current school, the JOY Academy of Southern Nevada.[21] Dad testified that the current fair market value of the marital residence is approximately $438,900. Dad's testimony and the documentary evidence admitted as Exhibit "G" and Exhibit "F" demonstrated that there is presently an outstanding note of $161,750.98 associated therewith and there is approximately $277,149.02 in equity in the marital residence held by the community.

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[20] See Jaime's November 12, 2024 FDF.

[21] The JOY Academy of Southern Nevada is a K-12 private school located at 3883 E Mesa Vista Way, Las Vegas, Nevada, is less than one block away from the marital residence located at 5409 Concerta Court, Las Vegas, Nevada.

49. Dad's testimony further demonstrated that he and Jake are residing in the marital residence and the marital residence is the only home that Jake has ever known. Likewise, Dad's testimony demonstrated that Jake's private school that he will be attending through high school is located directly adjacent to/across the street from home, and Jake is presently thriving in his current home and school environments.

50. Dad's testimony also demonstrated Mom's history of illicit drug use, and his serious concerns about Mom's ability to responsibly utilize any community property assets that may be awarded to her vis-à-vis her drug addiction. Additionally, Dad testified that he fears that Mom will forego the entirety of her one-half interest in any proceeds realized from the sale of the marital residence awarded to her pursuant to the Decree to fund and sustain her illicit drug habit, without regard for her ongoing parental financial obligations owed to Jake for the remainder of his minority.

51. Mom commenced the instant divorce action against Dad on November 22, 2023, by way of filing her Complaint for Divorce in the above-named action. It is critical to note that at Trial, this Court confirmed neither Mom's Complaint, nor either of the custodial Motions[22] Mom filed in the above-named action alleged that Dad engaged in acts of domestic violence against her. Specifically, under the domestic violence best interest factor of NRS 125C.0035(4), Mom listed "N/A" for not applicable, under factor (k).

52. Specifically, on January 18, 2024, Mom's *Motion for Joint Legal Custody, to Set Child Support, for Temporary Support and Attorney's Fees* was filed in the above-named

[22] Mom filed her first Motion seeking Primary Physical Custody of Jake on January 18, 2024, and her second such motion on October 8, 2024.

action, wherein, Mom sought Joint Legal and Physical Custody of the minor child, child support, temporary support and attorney fees and costs. Mom did not allege domestic violence by Dad in this Motion; instead she wrote "N/A", for not applicable, in the corresponding domestic violence best interest factor NRS 125C.0035(4)(k).

53. On February 1, 2024, Dad filed his Opposition to Mom's Motion and Countermotion alleging that Mom's chronic heavy drug abuse rendered her not fit and not proper to be awarded Joint Physical Custody of the minor child.

54. Due to Dad's allegations as to Mom's chronic heavy drug abuse, at the hearing of March 28, 2024, the Court entered Orders directing Mom to submit for drug testing, and likewise, made the enforcement of the parties' stipulated custody timeshare agreement negotiated at mediation at the Family Mediation Center ("FMC") contingent upon Mom having a clean drug test.[23] At no time in the hearing did Mom allege domestic violence as to Dad.

55. In accordance with the Court's Orders, Mom appeared at ATI for court-ordered drug testing on March 28, 2024.

56. On April 1, 2024, Mom's hair test came back positive for Amphetamine at 9775pg/mg; and Methamphetamine at 15980 pg/mg.[24] As a result of Mom's positive drug test, Dad

[23] *See* Order from the Hearing of March 28, 2024, on-file, herein, page 2, lines 8-21, and page 3, lines 19- 21.

[24] EHVC at 3:14:16 p.m.

was awarded temporary primary physical custody of the minor child, subject to Mom's supervised visitation.[25]

57. On June 4, 2024, the parties came back before the Court for a status check hearing re: Child Interview. At no time during this hearing did Mom allege domestic violence as to Dad. At the onset of the proceedings, the Court reviewed the Child Interview and confirmed that Mom's drug tests results came back positive for amphetamine and methamphetamine – at extremely high levels. At Mom's counsel's request, the Court entered Orders directing Mom to submit for a second drug test, and likewise, ordered for Mom's supervised visitation to take place at Donna's House if her drug test results came back positive again because Donna's House would issue Visitation Reports to the Court.[26] Although Mom complied with the Court's Orders by appearing at ATI for her second court-ordered drug test on June 4, 2024, she refused to exercise her supervised visitation at Donna's House, which, in turn, effectively frustrated any visitation reporting to the Court.

58. On June 11, 2024, Mom's hair test came back positive for: (1) Cocaine at 2150 pg/mg; (2) Cocaine Metabolite at 75pg/mg; (3) Amphetamine at 2165pg/mg; and (4) Methamphetamine at 3485 pg/mg, and her urine test came back positive for: (1) Hydromorphone at 561 ng/ml; (2); Hydrocodone at 635 ng/ml; and THC at 257 ng/ml.[27]

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[25] Pursuant to the Order from the Hearing of March 28, 2024, Michael and Jaime were awarded Joint Legal and Joint Physical Custody of the minor child, ***subject to Jaime having a clean drug test.***

[26] *See* Court Minutes from the Hearing of June 4, 2024.

[27] Although Mom testified at trial to having medical prescriptions for hydrocodone and an anti-anxiety medications, no verified medical prescriptions were produced during the pre-trial phase of these proceedings to confirm Mom's alleged prescriptions.

As a result of Mom's second positive drug test, Dad's designation as the minor child's Primary Physical Custodian, subject to Mom's supervised visitation [at Donna's House] remained the status quo.

59. On August 20, 2024, the parties came back before the Court for a return hearing/status check re: Mom's second drug test results. At no time during this hearing did Mom allege domestic violence as to Dad. At the onset of the proceedings, the Court, having reviewed Mom's drug test results, entered the following Judicial Findings and Orders, in pertinent part:

FINDINGS:

The Court hereby FINDS that the purpose of today's hearing is to go over Jaime's second drug test results.[28]

The Court hereby FINDS that at the previous hearing of June 4, 2024, Jaime's drug test results came back positive for methamphetamine -at extremely high levels.[29]

The Court further FINDS that as a result of her positive drug test results, Jaime, through counsel, volunteered to submit for a subsequent drug testing.[30]

The Court further FINDS that Jaime's subsequent drug test results came back positive for multiple controlled substances, namely, hydromorphone, hydrocodone, amphetamine, methamphetamine, and cocaine.[31]

The Court further FINDS that consistent with the provisions of NRS 125C.0035(4), Jaime's two consecutive positive drug test results warrant a modification of the temporary physical custody orders in this case, as same will serve the best interests of the child and ensure that his home environment remains safe and drug free.[32]

ORDERS:

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[28] Order from the Hearing of August 20, 2024, on-file, herein, page 2, lines 4-5.
[29] *Id.* at lines 6-7.
[30] *Id.* at lines 8-9.
[31] *Id.* at lines 10-12.
[32] *Id.* at lines 13-17.

NOW, THEREFORE, IT IS HEREBY ORDERED that the temporary physical custody orders are hereby modified to award Michael Primary Physical Custody of the minor child, subject to Jaime's liberal supervised visitation, with Michael acting as the supervisor for said visitation(s).[33]

It is further ORDERED that Jaime shall have daily FaceTime visitation with the child at 7:00 p.m.[34]

It is further ORDERED that Michael's previous request for attorney fees for having to: (1) respond, brief and appear at the hearing of March 21, 2024, to oppose and/or argue against Jaime's Motion; (2) appear at the return hearing of June 4, 2024, for Jaime's [first] drug test results; and (3) appear at the hearing of August 20, 2024, for Jaime's [second] drug test results is hereby granted.[35]

It is further ORDERED that Michael's counsel shall submit a Memorandum of Fees for the fees and costs incurred for the March 21, 2024, June 4, 2024, and August 20, 2024, hearings for this Court's consideration and review…[36]

60. On November 21, 2024, immediately prior to the start of the Non-Jury Trial, the Court heard arguments on Mom's *Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney Fees, and Dad's Opposition and Countermotion for Sanctions Pursuant to EDCR 5.219(a), for Attorney Fees and Costs, and for Other Related Relief.* Mom did not allege domestic violence in this Motion. Following arguments from the parties' counsel, the Court, having found that consistent with the provisions of NRS 125C.0035(4)(f), Mom's ongoing illicit drug abuse demonstrated by her second positive drug test results warrants maintaining the current Primary Physical Custodial

[33] *Id.* at lines 18-21.
[34] *Id.* at 22-23.
[35] *Id.* at page 3, lines 1-5.
[36] *Id.* at lines 6-8.

Timeshare with Dad, subject to Mom's supervised visitation, THEREFORE, THE COURT DENIED Mom's Motion in its entirety.

Domestic Violence

61. At trial, Mom alleged domestic violence against Dad for the first time. At no time did Mom plead domestic violence in her papers and pleadings. At no time did Mom mention domestic violence in prior Hearings. At trial, Mom testified for the very first time that Dad was very angry and abusive.[37]

62. Mom testified: "Michael is very abusive."[38] Mom stated, "I don't know what it meant, but what I'm saying to you is he was physically, emotionally, and financially abusive to me, period."[39]

63. Mom further testified that sometime in 2021, while she was recuperating from a breast lumpectomy, Dad punched her in the breast/chest area where she had recently been operated on causing her to sustain physical injuries requiring additional medical treatment, which included a subsequent mammogram and a digital ultrasound of her breast.[40]

64. While Mom testified that she told her oncologist, who treated her for domestic violence injuries, that said injuries were caused by Dad's acts of domestic violence perpetrated against her, she made no mention in her testimony as to the oncologist reporting her injuries to law enforcement, or Dad being criminally investigated and/or charged. Given

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[37] EHVC at 2:14:07 p.m.
[38] *Id.* at 2:06:36 p.m.
[39] *Id.* at 2:11:24 p.m.
[40] *Id.* at 2:19:21 p.m.

that mammograms and digital ultrasound imaging machines are not medically recognized tools utilized in the diagnosis and treatment of physical injuries sustained from acts of physical domestic violence, and because oncologists, as medical treatment providers, are mandatory reporters under Nevada law.

65. DAD's counsel moved to strike Mom's testimony, but was overruled by the Court. The Court allowed Mom's testimony so that it could assess its probative value and credibility vis-à-vis NRS 125C.0035(4)(k) and NRS 125C.0035(5).

66. Mom testified that the parties "had three physical altercations throughout [their] marriage,"[41] and explained that two occurred before 2019. She described the parties' marriage and communication as "not easy." Mom explained that Dad worked long hours, "he was gone forever and he would come home very angry."[42]

67. Mom explained that the parties had an altercation in their spare bedroom, and she "gave [Dad] two black eyes to defend [herself]."[43] When Mom's counsel asked her what Dad was doing to her, Mom stated that ***Dad was trying to keep her away from him***. (Emphasis added) Mom testified that Dad was punching her, and that the whole room was a wreck from him "tossing" her around in that room. For a second time, Mom's counsel asked her to tell the judge what Dad did to her. Mom looked at the Court and testified, "He's punched me a few times. It was in the jaw mainly. Then I kicked him in the face."[44]

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[41] *Id.* at 2:19:02 p.m.
[42] *Id.* at 2:19:38 p.m.
[43] *Id.* at 2:19:44 p.m.
[44] *Id.* at 2:20:02 p.m.

68. Mom's testified that throughout the marriage, the parties fought, yelled, and screamed at each other for years. Mom testified that the parties "were banging up against the nightstands, the pictures on the walls. I think we even broke the door."[45]

69. Mom blamed Dad for these altercations, stating that he is "angry, he's a very angry person."[46] She further described Dad as "funny but he's also very angry and very emotional, he's angry. He's an angry man."[47]

70. Based on the Court's observation of Mom's body language, demeanor and testimony at trial concerning the alleged domestic violence, THE COURT FINDS that Mom's sua sponte allegations of domestic violence lack credibility and provide no probative value in this case.

71. Mom testified that Dad's infidelity is what led her to leave Dad in 2023. She explained, "I'm not asking for much. I just want the child half the time, I want the dog half the time, and I want half the house. The equity."[48] Mom indicated that she would like the dog to come with Jake when he visits Mom. She added, "I don't want this to happen. This is bad."[49]

72. Mom's counsel, Jennifer Isso, had to be admonished multiple times for testifying and leading her witness. As a result, several portions of Mom's testimony were stricken.[50]

73. Mom became emotional and cried when asked if she believes she and Dad can

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[45] *Id.* at 2:21:10 p.m.
[46] *Id.* at 2:21:20 p.m.
[47] *Id.* at 2:22:09 p.m.
[48] *Id.* at 2:27:06 p.m.
[49] *Id.* at 2:27:52 p.m.
[50] *Id.* at 2:40:00 p.m.

cooperate for the sake of the child.[51] She described her relationship with Jake as being strained right now, but that he knows things will get better, and Mom knows he loves her. Jake tells her all the time that he loves her; they still have that connection.[52]

74. On cross-examination, Dad's counsel asked Mom why she did not call the police, seek a protective order against Dad, or go to a domestic violence shelter, and instead continued to remain in the home with the child. Mom answered that she was "scared… scared enough that [Dad would] find me."[53]

75. During Mom's testimony regarding domestic violence, the following exchange occurred:

> **ATTORNEY SIMMONS:** And you testified that due to such acts of domestic violence, at one point, you required a mammogram to confirm your sutures were in tact, is that right?
> **MOM:** Internal bleeding-
> **ATTORNEY SIMMONS:** Internal bleeding. Mammograms detect cancerous tumors, correct?
> **MOM:** Yes, digital ultrasounds also detect internal bleeding.
> **ATTORNEY SIMMONS:** And you testified to having a mammogram, correct?
> **MOM:** Yes, and –
> **ATTORNEY SIMMONS:** Moving on. You testified that throughout the marriage, the marriage was tough because my client as very angry. Well, what was the source of the anger, if you know?
> **MOM:** What was the source?
> **ATTORNEY SIMMONS:** Why was he angry?
> **MOM:** Cause he was guilty, cheating on me, infidelity, for so long.
> **ATTOREY SIMMONS:** Isn't it true that he was angry because you were habitually using methamphetamine?
> **MOM:** We *both* are drug addicts.
> **ATTORNEY SIMMONS:** Nonresponsive, objection.
> **COURT:** So stricken.[54]

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[51] *Id.* at 2:45:12 p.m.
[52] *Id.* at 2:45:54 p.m.
[53] *Id.* at 3:07:07 p.m.
[54] *Id.* at 3:07:26 p.m.

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76. Mom admitted that she had not provided day-to-day care to Jake because "he hasn't accepted any."[55]

77. During her cross-examination, the Court had to admonish Mom to answer the questions asked of her several times; Mom apologized.[56]

78. THE COURT FINDS that MOM did not provide credible testimony about her relationship with Jake. Mom testified as follows:

> **ATTORNEY SIMMONS:** Have you ever told Jake that he doesn't call you enough?
> **MOM:** Doesn't call me enough? I wouldn't say it like that. I would say that him and I need to call each other more often. It goes both ways.
> **ATTORNEY SIMMONS:** How many times a week do you call Jake presently?
> **MOM:** Probably every other day.
> **ATTORNEY SIMMONS:** And how many times do you speak to Jake during that time?
> **MOM:** Depends on when he calls me back.
> **ATTORNEY SIMMONS:** And during your conversations, what is the tone?
> **MOM:** Jake is – uh – what is the tone? Loving, um. Waiting for this to be over.[57]

79. THE COURT FINDS that Mom provided inconsistent testimony at trial. MOM testified that she asked DAD for more visits with JAKE which he denied. At trial DAD testified that he facilitated visits with MOM and JAKE, he even planned several of them at various locations; oftentimes, MOM cut the visit short. Based on the Court's observations of the parties' body language, demeanor and testimony at trial, THE COURT FINDS that DAD's testimony is more credible than MOM's testimony.

80. During cross-examination, MOM was asked about her opposition to the imposition of a constructive trust on the marital residence during Jake's minority wherein Mom

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[55] *Id.* at 3:17:55 p.m.
[56] *Id.* at 3:18:27 p.m.
[57] *Id.* at 3:21:30 p.m.

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would not have to make any payments on the mortgage, taxes or any expense pertinent to maintaining the residence during the constructive trust, but when Jake reaches majority, Mom will receive half of the net equity in the marital home. MOM denied that a brief delay to her financial gain is secondary to Jake's best interest:

> **ATTORNEY SIMMONS:** And you would agree with me that a brief delay to your financial gains is secondary to Jake's best interest?
> **MOM:** No.
> **ATTORNEY SIMMONS**: So your financial gains are priority?
> **MOM:** Jake comes first. Jake comes first for me.
> **ATTORNEY SIMMONS:** I'm confused, you just – when I asked you –
> **MOM:** Yes, I need the money, but I need my son first.[58]
> ...
> **ATTORNEY SIMMONS:** From your perspective, your temporary financial deferred receipt of assets is prioritized over Jake's best interests.
> **MOM:** Yes.
> **ATTORNEY SIMMONS:** I'm sorry, I didn't hear you.
> **MOM:** Yes.[59]

81. THE COURT NOTES that while MOM credibly looked at the Court and stated, "Yes," at 3:47:45 p.m., she then looked at her attorney, Jennifer Isso, who shook her head in disapproval at 3:47:50 p.m., to which MOM explained to her counsel, "I mean my… I – I don't know." While her counsel shook her head from side to side, Mom expressed exasperation by throwing both arms up in the air and covering her face. She advised the Court that "it's just a little stressful," while looking at her counsel the entire time, who kept stating, "Do you need a break?"

82. THE COURT ADMONISHED MOM to look at the Judge when she is answering questions, and not to look to her attorney. THE COURT expressed concern about MOM

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[58] *Id.* at 3:46:37 p.m.
[59] *Id.* at 3:47:30 p.m.

looking at Attorney Isso and/or her mom (who sat behind Attorney Isso) for answers. THE COURT further expressed concern about what appeared to be corresponding gestures from Ms. Isso and Mom. THE COURT reminded Mom that if she did not understand the question, she must let the Court know.[60]

83. THE COURT TAKES JUDICIAL NOTICE OF ALL OF MOM'S DRUG TESTS FILED AND SERVED IN THIS MATTER, which have been incorporated into this Decision and delineated in the chart below:

TEST DATE	SUBSTANCE	RESULT	LOCATION
28-Mar-24	Amphetamine	9775 pg/mg	Hair
	Methamphetamine	15980 pg/mg	Hair
4-Jun-24	Hydromorphone	561 ng/ml	Urine
	Hydrocodone	635 mg/ml	Urine
	THC Metabolite	267 ng/ml	Urine
	Cocaine	2150 pg/mg	Hair
	Cocaine Metabolite	75 pg/mg	Hair
	Amphetamine	2165 pg/mg	Hair
	Methamphetamine	3485 pg/mg	Hair
20-Aug-24	N/A	Negative	Hair and Urine
22-Nov-24	Hydrocodone	5525 pg/mg	Hair
	Methamphetamine	1615 pg/mg	Hair

84. THE COURT FINDS that whereas MOM tested positive in both her hair and urine on March 28, 2024 and June 4, 2024 (which were court-ordered immediately following the Court Hearing), the only time MOM presented a clean drug test was when she voluntarily took the test. FURTHERMORE, on November 22, 2024, MOM tested positive in her hair for Hydrocodone and Methamphetamine. THE COURT FURTHER FINDS that (with the exception of the August 20, 2024 voluntary drug test), MOM'S

[60] *Id.* at 3:48:00 p.m.

methamphetamine levels in her hair have been steadily decreasing from 15,980 pg/mg on March 28, 2024 to 3,485 pg/mg on June 4, 2024 to 1615 pg/mg on November 22, 2024 (which was the day after trial). THE COURT FINDS THAT the August 20, 2024 voluntary drug test results are not credible.

85. THE COURT FINDS that MOM presented inconsistent, self-serving testimony throughout the proceedings. FURTHERMORE, MOM appeared to have been led by her counsel in much of her testimony to the point where MOM changed her answers after looking at her counsel who expressed disapproval. THE COURT ADMONISHED Ms. Isso for leading her witness and testifying, among other things. THE COURT FINDS that MOM's testimony was not credible and lacked probative value.

86. THE COURT FURTHER FINDS that DAD provided clear, consistent and credible testimony that was further corroborated by the evidence.

87. THE COURT TAKES JUDICIAL NOTICE of the Child Interview in FMC case FMC-23-678957-D, wherein Jake disclosed that he wanted his interview to be "equal" because he loves both of his parents.[61] When asked what time he begins to reside with his mother every other Saturday, Jake replied, "The time depends. Mom will say a time, but it means 30 minutes or an hour later."[62] Jake reported being on this timeshare "since mom left the house last January."[63] Jake disclosed that he has a cell phone and can freely call his parents; he has privacy when he calls them. Jake explained that he wanted

[61] Jake Randolph's Child Interview dated April 18, 2024, page 2.
[62] *Id.* at 3.
[63] *Id.*

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his time with each parent to be equal.[64] He did not want his mother to have all the weekends with him "because Dad works during the week and is off weekends and he'd get no weekend with me."[65]

88. THE COURT NOTES that the Child Interview was conducted April 15, 2024, which was prior to Mom's visitation becoming supervised due to her positive drug tests. For these reasons, the child's initial preferences stated in the child interview may not be as relevant, or probative, considering Mom's drug use and corresponding absence from her son's life.

89. THE COURT FURTHER FINDS that in the Child Interview, Jake rated his relationship with Mom as a "7" out of ten because "Sometimes, she argues, gets very distant and sad" and he wishes she would stop accusing him of being on his dad's "side."[66] Jake rated his relationship with his Dad as a "9" out of ten because "He's very outgoing and nice to other people. Before, he had a lot of road rage. Sometimes he can have anger in his voice. But, he calms himself."[67] Jake stated he would not change anything about his father.

90. ***If any of these Findings of Fact are more correctly interpreted as a Conclusion of Law, they shall be so construed.***

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[64] *Id.* at 7.
[65] *Id.*
[66] *Id.* at 6.
[67] *Id.*

III. CONCLUSIONS OF LAW

Jurisdiction

The parties were legally married on October 30, 2010. The parties have one minor child, JAKE RYAN RANDOLPH, ("JAKE"), born November 15, 2010. This Court has jurisdiction in the premises, both as to the subject matter thereof as well as to the parties thereto under Chapter 125 of the Nevada Revised Statutes. Mom and Dad have been, and are now, actual and bona fide residents of the County of Clark, State of Nevada, and have been domiciled therein for more than six weeks immediately prior to the commencement of this action. Pursuant to NRS 125A.305(1)(a), Nevada is the home state of the minor child at the time the proceedings were commenced. This Court maintains subject matter jurisdiction over this child custody case; personal jurisdiction over the parties; and exclusive and continuing personal jurisdiction over the minor child, JAKE. The custody and visitation orders made herein are in the best interest of the child. The amount of child support ordered herein is in compliance with NAC 425.

THE COURT HEREBY FINDS AND CONCLUDES that the parties are incompatible in marriage due to irreconcilable differences; neither party is pregnant, the parties request an equal division of community property and debt, and the parties desire this Court to enter a Decree of Divorce. THEREFORE, the bonds of matrimony are heretofore DISSOLVED and the parties and are hereby restored to their status as single unmarried persons.

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Legal Custody

Legal custody involves having basic legal responsibility for a child and making major decisions regarding the child, including the child's health, education, and religious upbringing. *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009).

Pursuant to NRS 125C.001:

The Legislature declares that it is the policy of this State:

1. To ensure that minor children have frequent associations and a continuing relationship with both parents after the parents have ended their relationship, become separated or dissolved their marriage;
2. To encourage such parents to share the rights and responsibilities of child rearing; and
3. To establish that such parents have an equivalent duty to provide their minor children with necessary maintenance, health care, education, and financial support. As used in this subsection, "equivalent" must not be construed to mean that both parents are responsible for providing the same amount of financial support to their children.

NRS 125C.002 provides direction to the Court in deciding legal custody of a child as follows:

1. When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if:
(a) The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or
(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.
2. The court may award joint legal custody without awarding joint physical custody.

THE COURT FINDS that Mom and Dad both want what is best for Jake. However, Dad has been the one solely providing for Jake's physical, emotional, developmental needs since January 2023 due to Mom's decision to leave her son in Dad's care, coupled with

Mom's ongoing drug use, as evidenced by her positive drug tests; THEREFORE, THE COURT FINDS AND CONCLUDES that it is in Jake's best interest for Dad to have Modified Legal Custody wherein Dad must communicate any important legal decisions regarding Jake (i.e., education, medical, religious, etc.) to Mom via TalkingParents. If Mom fails to respond to Dad within 48 hours, then Dad may proceed with his decision-making. In the event the parties reach an impasse, Dad may proceed with his decision-making and Mom shall seek court intervention.

Physical Custody

NRS 125C.0025 Joint physical custody.

1. When a court is making a determination regarding the physical custody of a child, there is a preference that joint physical custody would be in the best interest of a minor child if:

(a) The parents have agreed to an award of joint physical custody or so agree in open court at a hearing for the purpose of determining the physical custody of the minor child; or

(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.

Evaluating the child's best interest in determining custody is designed to place the child's welfare and developmental needs at the forefront of all child custody decisions, ensuring that the outcomes support their physical, emotional, and psychological well-

being.[68] The best interest of the child standard is a polestar of judicial decision making in family law matters.[69]

In analyzing the best interest of the children, the Court must analyze the factors enumerated in NRS 125C.0035(4):

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her custody.

At trial, Dad testified that Jake is a happy, healthy and bright child, who thriving in his present home and school environment, but he has been adversely impacted by Mom's extensive absence from his life.[70] Additionally, Dad testified that it was his belief that the child's preference was to preserve the status quo by maintaining the current timeshare arrangement in place in this case.[71]

THE COURT TAKES JUDICIAL NOTICE of the Child Interview in FMC case FMC-23-678957-D, wherein Jake disclosed that he wanted his interview to be "equal" because he loves both of his parents.[72] When asked what time he begins to reside with his mother every other Saturday, Jake replied, "The time depends. Mom will say a time, but it means 30 minutes or an hour later."[73] Jake reported being on this timeshare "since mom left the house last January."[74] Jake disclosed that he has a cell phone and can freely call his

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[68] *Soldo-Allesio v. Ferguson,* 141 Nev., Advance Opinion 9 (2025) (unpublished disposition) (citing *Monahan v. Hogan, 138 Nev. 58, 62, 507 P.3d 588, 592 (Ct. App. 2022)*
[69] *Id.*
[70] EHVC at 4:25:21 and 4:25: 07 p.m.
[71] *Id.* at 4:27:29 p.m.
[72] Jake Randolph's Child Interview Report dated April 18, 2024, page 2.
[73] *Id.* at 3.
[74] *Id.*

parents; he has privacy when he calls them. Jake explained that he wanted his time with each parent to be equal.[75] He did not want his mother to have all the weekends with him "because Dad works during the week and is off weekends and he'd get no weekend with me."[76]

THE COURT NOTES that the Child Interview was conducted April 15, 2024, which was prior to Mom's visitation becoming supervised due to her positive drug tests. This was also prior to Mom's decision not to exercise her visitation at Donna's House. For these reasons, the child's initial preferences stated in the child interview may not be as relevant, or probative, considering Mom's two dirty drug tests, and notable absence from her son's life, after the Child Interview.

For these reasons, based on the evidence presented at trial, this factor is neutral.

(b) Any nomination by a parent or a guardian for the child.

This factor is not applicable.

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

At trial, Dad testified that he has always supported, encouraged and fostered Mom's parent/child relationship with the minor child. Particularly:

Dad testified that he has consistently gone out of his way to create activities and different things for Mom to have frequent supervised visitation with the child, such as, the

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[75] *Id.* at 7.
[76] *Id.*

Starbucks visits, bowling and park visits.[77] Dad also testified that he frequently encourages the child to call and/or FaceTime with Mom. Dad testified that he always accommodated ***all*** of Mom's requests for visitation by facilitating same, he never attempted to cancel or change or reschedule any visits scheduled, it was never his understanding that Mom was limited to only one visit per week, but rather, Mom simply did not seek to exercise her visitation very often, but when she did, she was always the one who ended the visits after one or two hours.[78] Most importantly, Dad testified that he basically made time for Mom to exercise her supervised visitation whenever she wanted but she did not take advantage of his willingness to make the child [and himself] available for her supervised visitation very often, but when Mom did, Dad made sure he and the child were available for the visit.

Conversely, while Mom testified as to her beliefs as to the minor child loving his father, aside from acknowledging Dad's strong parent/child bond with the child and praising Dad as a father, she proffered no testimony pertaining to her efforts to support, foster and encourage the child's relationship with Dad.

For these reasons, based on the evidence presented at trial, this factor favors Dad.

(d) The level of conflict between the parents.

At trial, Dad testified that aside from the high conflict caused by Mom's ongoing illicit drug abuse, there was little or no conflict existing between the parties.[79] Dad also

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[77] EHVC at 4:28:39 p.m.
[78] *Id.* at 4:27:53 and 4:29:40 p.m.
[79] *Id.* at 4:33:39 p.m.

testified that since Mom abandoned the marriage and her family in January 2023, there has been no conflict between the parties, and Mom's testimony confirmed same.[80]

Mom testified that Dad brought high conflict into their relationship. Mom alleged domestic violence for the first time at trial. Mom's domestic violence allegations were not found to be credible by the Court. This will be discussed more, *infra* factor (k).

Based on the evidence presented at Trial, this factor is neutral.

(e) The ability of the parents to cooperate to meet the needs of the child.

While the parties' respective testimonies unequivocally confirmed that Mom was primarily responsible for Jake's day-to-day care during his infancy, early and middle childhood phases of his child development, the parties' respective testimonies also unequivocally confirmed that since leaving the marriage and her family in January 2023, Mom has played no part in providing for Jake's day-to-day needs for two years.[81] Additionally, the parties' respective testimonies confirmed that since Mom left the marital home, Dad has been exclusively responsible for meeting Jake's day-to-day needs. Specifically:

Dad testified that since January 2023, he has been solely responsible for providing for Jake's primary care, to include, providing for Jake's financial support, taking Jake to his karate classes and therapy, paying for Jake's karate classes and therapy, taking Jake to doctors and dental appointments, and coordinating with Jake's school.[82] When questioned as to why he believed Mom was unable to maintain her parental responsibilities for Jake

[80] *Id.* at 4:33:48 p.m.
[81] *Id.* at 4:34:47 p.m.
[82] *Id.* at 4:34:47 p.m.

since January 2023, Dad testified that he believed that Mom's ongoing struggles with her addiction was adversely impacting her ability to be present and actively parent Jake.[83]

Although Mom's testimony confirmed that Dad has been solely responsible for providing for Jake's primary care, including providing Jake's transportation to and from Karate classes and therapy (as well as paying for same), providing for Jake's transportation to all supervised visits, and taking Jake to all medical and dental appointments since Mom left the marital home, Mom also testified that she has consistently maintained ongoing electronic communications with Jake's school. [84]

Dad demonstrated that he is willing and capable of cooperating with Mom to meet Jake's day-to-day needs. Mom failed to establish that she has cooperated with Dad to meet Jake's day-to-day needs. For these reasons, based on the evidence presented at trial, this factor favors Dad.

(f) The mental and physical health of the parents.

At trial, Dad testified that notwithstanding his prior history of addiction, which has been successfully managed for approximately 13 years, and his current back injury sustained during the course of his employment, which is presently being treated and does not impact his ability to meet Jake's day-to-day needs, Dad has no mental or physical health conditions that adversely impact his ability to be present, to parent Jake and to meet Jake's day-to-day needs.[85]

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[83] *Id.* at 4:35:02 p.m.
[84] *Id.* at 3:19:46 p.m.
[85] *Id.* at 4:10:46-4:10:49, 4:11:56, and 4:12:16 p.m.

Conversely, when questioned about Mom's mental and physical health, Dad testified that he believed that Mom's ongoing struggles with addiction adversely impact and preclude her ability to parent a typical teenage boy.[86] Dad further testified as to his beliefs that Mom's ongoing struggle with illicit drug abuse was the actual reason why Mom abandoned the marriage and her family. Dad also testified that Mom's current residence at her mother's house is not a conducive environment for a teenage boy because all of the adults who reside with Mom have documented histories of illicit drug abuse, including maternal grandmother.

During her cross-examination, Mom's testimony confirmed that during the pre-trial phase of these proceedings, Mom twice tested positive for drugs and/or illicit substances on her court-ordered drug tests.[87] Mom testified that her first drug test came back positive for Amphetamine and Methamphetamine – at extremely high levels, and her second drug test came back positive for Cocaine, Cocaine Metabolite, hydrocodone, hydromorphone, THC, Amphetamine and Methamphetamine.[88] Additionally, and of notable concern, Mom provided no testimony as to any remedial efforts she has taken – *or will take* -- to eliminate her illicit substance abuse. Furthermore, at trial, Mom testified that she takes four prescribed drugs, though she could not identity all four of these prescribed drugs by name.

For these reasons, based on the evidence presented at trial, this factor favors Dad.

(g) The physical, developmental and emotional needs of the child.

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[86] *Id.* at 4:35:06 p.m.
[87] *Id.* at 3:13:48 p.m.
[88] *Id.* at 3:14:31 p.m.

Both parties testified that Jake is a happy, healthy, well-adjusted typical teenage boy, who is thriving in his present school and home environments.[89] Jake presently attends the Joy Academy, a small private school (K-12) located less than one-hundred yards from the marital residence. The parties' respective testimonies confirm it was their mutual desire and intention for Jake to graduate from the Joy Academy.

As set forth in factor (e), *supra*, although Mom was primarily responsible for Jake's day-to-day care during his infancy, early and middle childhood phases of his child development, ever since she left the marital home in January 2023, Mom has played no part in providing for Jake's day-to-day needs for almost two years.[90] It is undisputed that Dad has been exclusively responsible for meeting Jake's day-to-day needs. Specifically:

Dad testified that since January 2023, he has been solely responsible for providing for Jake's primary care, to include, providing for Jake's financial support, taking Jake to his karate classes and therapy, paying for Jake's karate classes and therapy, taking Jake to doctors and dental appointments, and coordinating with Jake's school.[91]

Based on the evidence presented at trial, this factor favors Dad.

(h) The nature of the relationship of the child with each parent.

In the Child Interview, Jake rated his relationship with Mom as a "7" out of ten because "Sometimes, she argues, gets very distant and sad" and he wishes she would stop accusing him of being on his dad's "side."[92] Jake rated his relationship with his Dad as a

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[89] *Id.* at 4:25:21 p.m.
[90] *Id.* at 4:34:47 p.m.
[91] *Id.* at 4:34:47 p.m.
[92] Jake Randolph's Child Interview dated April 18, 2025, page 6.

"9" out of ten because "He's very outgoing and nice to other people. Before, he had a lot of road rage. Sometimes he can have anger in his voice. But, he calms himself."[93] Jake stated he would not change anything about his father.

At trial, MOM admitted that her relationship with Jake is strained right now. Regarding their communication, Mom testified as follows:

> **ATTORNEY SIMMONS:** Have you ever told Jake that he doesn't call you enough?
> **MOM:** Doesn't call me enough? I wouldn't say it like that. I would say that him and I need to call each other more often. It goes both ways.
> **ATTORNEY SIMMONS:** How many times a week do you call Jake presently?
> **MOM:** Probably every other day.
> **ATTORNEY SIMMONS:** And how many times do you speak to Jake during that time?
> **MOM:** Depends on when he calls me back.
> **ATTORNEY SIMMONS:** And during your conversations, what is the tone?
> **MOM:** Jake is – uh – what is the tone? Loving, um. Waiting for this to be over.[94]

When questioned about Mom's parent/child bond with Jake, Dad testified as to his beliefs that Jake loves his mother and that Mom loves Jake.[95] Dad also testified as to his beliefs that Mom was having difficulties transitioning from parenting Jake, as a young child, to parenting Jake, as a teenage boy, who is becoming more autonomous, self-reliant and independent every day.[96] Dad demonstrated a good faith basis for his beliefs, by testifying about Mom's expressed frustration regarding Jake's limited willingness to participate in frequent phone/FaceTime contact with Mom, given her always-changing

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[93] *Id.*
[94] *Id.* at 3:21:30 p.m.
[95] *Id.* at 4:25:21 p.m.
[96] *Id.* at 4:25:33 p.m.

daily work schedule and that Jake is now a teenaged boy. Dad also testified to his beliefs that Mom gave Jake a hard time about not contacting her every day.[97]

Dad testified that he and Jake have become extremely close since Mom abandoned the marriage and her family. Dad also testified that for the better part of two years, he has been Jake's sole primary custodian, who has been responsible for meeting all of Jake's day-to-day needs.

For these reasons, based on the evidence presented at trial, this factor favors Dad.

(i) The ability of the child to maintain a relationship with any sibling.

This factor is inapplicable.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

This factor is inapplicable.

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

Although Mom ***did not*** include allegations of domestic violence in her Complaint, and although both of her Motions filed in the underlying action expressly stated "N/A" in her NRS 125C.0035(4)(k) best interest factor analysis, Mom spent the lion's share of her direct testimony testifying as to previously unpled, sua sponte allegations of domestic violence against Dad, over Dad's objection.[98] Pursuant to *Castle v. Simmons, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004)*, the Court must "hear *all* information regarding domestic violence

[97] *Id.* at 4:27:53 p.m.
[98] EHVC at 2:06:39, 2:07:51, and 2:08:26 p.m.

in order to determine the child's best interests."[99] The Supreme Court of Nevada recently reemphasized the importance of district courts' careful review and consideration of *all* evidence related to domestic violence in *Soldo-Allesio v. Ferguson*, 141 Nev. Adv. Op. 9 (Nev. App. 2025).

At trial, Mom testified, for the very first time in this divorce action, that Dad was very angry and abusive.[100] Mom further testified that sometime in 2021, while she was recuperating from a breast lumpectomy, Dad punched her in the breast/chest area where she had recently been operated on causing her to sustain physical injuries requiring additional medical treatment, which included a subsequent mammogram and a digital ultrasound of her breast.[101]

While Mom testified that she told her oncologist, who treated her for domestic violence injuries, that said injuries were caused by Dad's acts of domestic violence perpetrated against her, she made no mention in her testimony as to the oncologist reporting her injuries to law enforcement, or Dad being criminally investigated and/or charged. Given that mammograms and digital ultrasound imaging machines are not medically recognized tools utilized in the diagnosis and treatment of physical injuries sustained from acts of physical domestic violence, and because oncologists, as medical treatment providers, are mandatory reporters under Nevada law, Mom's sua sponte allegations lack credibility and provide no probative value in this case.

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[99] *Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004).
[100] EHVC at 2:14:07 p.m.
[101] *Id.* at 2:19:21 p.m.

Additionally, Mom testified about an incident prior to 2019, that involved alleged acts of domestic violence that transpired one evening when Dad came home angry and the parties got into a fight, which ultimately resulted in Mom's admission that she kicked Dad in the head and gave him two black eyes.[102] This, in turn, effectively renders Mom, by her own admission, the actual perpetrator of acts of domestic violence in this case.

Although Mom alleged that Dad perpetrated acts of domestic violence against her throughout the marriage, Mom's testimony was not supported by any documentary evidence. Mom, by her own admission, never reported Dad to law enforcement, she never sought a Temporary Protection Order against Dad, and she (and Jake) never went to a domestic violence shelter. In fact, the only facts demonstrated through Mom's testimony regarding domestic violence was that Mom, by her own admission, perpetrated ongoing acts of domestic violence against Dad.[103]

On cross-examination, Dad's counsel asked Mom why she did not call the police, seek a protective order against Dad, or go to a domestic violence shelter, and instead continued to remain in the home with the child, Mom answered that she was "scared… scared enough that [Dad would] find me."[104] During Mom's testimony regarding domestic violence, the following exchange occurred:

> **ATTORNEY SIMMONS:** And you testified that due to such acts of domestic violence, at one point, you required a mammogram to confirm your sutures were in tact? [*unintelligible*] internal bleeding? Mammograms detect cancerous tumors, correct?
> **MOM:** Yes, digital ultrasounds also detect internal bleeding.
> **ATTORNEY SIMMONS:** And you testified to having a mammogram, correct?

[102] *Id.* at 2:19:22 p.m.
[103] *Id.* at 2:19:25, 2:20: 03, and 2:20:20 p.m.
[104] *Id.* at 3:07:07 p.m.

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Family Division
Department A

MOM: Yes, and –
ATTORNEY SIMMONS: Moving on. You testified that throughout the marriage, the marriage was tough because my client as very angry. Well, what was the source of the anger, if you know?
MOM: What was the source?
ATTORNEY SIMMONS: Why was he angry?
MOM: Cause he was guilty, cheating on me, infidelity, for so long.
ATTOREY SIMMONS: Isn't it true that he was angry because you were habitually using methamphetamine?
MOM: We *both* are drug addicts.
ATTORNEY SIMMONS: Nonresponsive, objection.
COURT: So stricken.[105]

Based on the Court's observation of Mom's demeanor, behavior, body language and testimony at trial – not to mention her interplay with her attorney at trial – THE COURT FINDS AND CONCLUDES THAT Mom's testimony regarding the domestic violence incident was not credible and lacked probative value. THE COURT FINDS AND CONCLUDES that MOM provided self-serving, non-credible testimony on the subject of domestic violence. For these reasons, based on the evidence presented at trial, THE COURT FINDS AND CONCLUDES that – *just as MOM wrote in her two underlying custodial Motions*[106] -- this factor is "N/A" which stands for not applicable.

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

This factor is inapplicable.

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[105] *Id.* at 3:07:26 p.m.
[106] Mom filed her first Motion seeking Primary Physical Custody of Jake on January 18, 2024, and her second such motion on October 8, 2024.

Based on the evidence presented at trial, THE COURT FINDS AND CONCLUDES that the NRS 125C.0035(4), best interest factors unequivocally favor Dad.

THE COURT FURTHER FINDS AND CONCLUDES that NRS 125C.0035(5) is not applicable for there was not clear and convincing evidence establishing that either party has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child.

THE COURT FURTHER FINDS that it must "consider the least restrictive parenting time arrangement possible to avoid constraining the parent-child relationship any more than is necessary to prevent potential harm caused by an unfit parent and meet the best interest of the child."[107] THEREFORE, pursuant to *Roe v. Roe*, THE COURT FINDS AND CONCLUDES that, considering MOM's ongoing drug use vis-à-vis the potential harm to the child, it is in Jake's best interest for Dad to have Sole Physical Custody, subject to Mom having progressively increased supervised visitation as defined herein, *infra*. The COURT FINDS that this custodial timeshare is the least restrictive so as to ensure the safety and well-being of Jake vis-à-vis his mother's drug treatment and monitoring. THE COURT FURTHER FINDS AND CONCLUDES that although the Court had granted MOM liberal supervised visits with JAKE, MOM has only exercised her visits for a few hours each week, per DAD's credible testimony. THEREFORE, MOM's visits shall remain status quo, supervised by Dad at least once per week for a minimum of four hours per week, at Dad's discretion.

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[107] *Roe v. Roe*, 139 Nev. Adv. Op. 21, 535 P.3d 274, 281 (Nev. App. 2023).

While the goal is for Mom to share Joint Physical Custody of Jake, THE COURT FINDS AND CONCLUDES that based on the COURT's preliminary NRS 125C.0035(4) Findings memorialized in the Order from the Hearing of August 30, 2024, on-file, herein, and incorporated herein by reference, and Mom's positive drug tests at the onset of this case, coupled with the evidence admitted at trial, THE COURT FINDS AND CONCLUDES that as a condition precedent to MOM exercising Joint Physical Custody of Jake, Mom must successfully complete a drug treatment program (which includes random drug tests, drug treatment, goals and milestones). Specifically:

Mom shall engage in drug treatment and complete the Options Patch Program, consisting of not less than thirty-six (36) consecutive weeks and/or nine (9) months of uninterrupted drug monitoring, prior to being awarded any unsupervised overnight visitation with Jake. Additionally, once Mom successfully engages in drug treatment and completes not less than thirty-six consecutive weeks of the Options Patch Program, Mom shall be subject to ongoing monitoring and random drug testing upon Dad's request, for an additional three (3) months; thereby totaling twelve (12) months of monitoring and treatment.

Phase 1: MOM's supervised visits shall remain status quo, at least once per week for at least 4 hours supervised at Dad's discretion. After MOM engages in four (4) consecutive months of drug treatment and clean Options test results ("patches"), Mom's supervised visits shall expand to two (2) four (4) hour blocks of unsupervised visitation each week.

Phase 2: After six (6) consecutive months of drug treatment and clean patches, Mom's unsupervised visits shall be expanded to two (2) eight (8) hour blocks of unsupervised visitation each week.

Phase 3: After nine (9) consecutive months of drug treatment and clean patches, Mom may submit a request for referral order to FMC to allow the parties to attempt to formulate a schedule for unsupervised visitation that will afford Mom an average of not less than eight (8) full days (with overnights) each calendar month, excluding holidays, and to attempt to formulate a holiday visitation schedule for Mom (which shall presume Mom shall continue to be drug free), with the new unsupervised visitation to become effective upon Mom's successful completion of nine (9) consecutive months of drug treatment and clean Options test results. The parties shall acknowledge and stipulate that their use of FMC, after Mom meets the nine (9) month benchmark milestone, shall be for the limited purpose of attempting to formulate an unsupervised visitation schedule and shall not include discussions regarding the modification of physical custody.

If the parties are unable to formulate a schedule at FMC, Mom shall file a motion in accordance with this agreement setting forth her requested visitation schedule. So long as Mom has successfully completed the required total of nine (9) consecutive months of drug treatment and clean tests results through Options Monitoring Program, the Court may deem there to be sufficient adequate cause for the Court to consider Mom's requested visitation schedule.

Phase 4: If Mom successfully completes the nine (9) consecutive months of drug treatment and clean test results through the Options Monitoring Program, Mom shall then

be subject to random hair and urine drug testing at American Toxicology, Inc. ("ATI") for a period of three (3) additional months thereafter. During this 3-month period, Dad and/or his counsel can contact Mom or her counsel, via email and/or talking parents, requesting for Mom to submit for testing at any time during this three (3) month period. Mom shall report for testing within eight (8) hours from the time of the request being made. If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances Mom shall be solely responsible for all costs associated with testing stipulated to into his agreement.

Global Rule: If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances. Mom shall be solely responsible for all costs associated with testing stipulated to into his agreement. If Mom should test dirty and/or positive and/or relapse, at any time during this 12-month monitoring period, the "Candyland" provision shall be triggered and Mom's visitation and required monitoring shall revert back to Phase 1, and Mom shall be required to successfully follow the graduated plan in this agreement until Mom successfully completes 12 consecutive months of monitoring.

THE COURT FINDS AND CONCLUDES that it is in the best interest of Jake for Mom's expanded visitation plan to be contingent on Mom's successful completion of at least 12 months in a drug treatment program and Options Monitoring. THE COURT FURTHER FINDS AND CONCLUDES that the visitation schedule described herein is the least restrictive timeshare consistent with Jake's best interests, as it permits Mom and

Jake to gradually work up to unsupervised quality time together while simultaneously ensuring Mom is maintaining sobriety for Jake's safety and wellbeing.[108]

CHILD SUPPORT

Nevada Administrative Code (NAC) 425.025
"Gross income" defined. (NRS 425.620)

1. "Gross income" includes, without limitation:

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

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

(c) Social security disability benefits and old-age insurance benefits under federal law.

(d) Any periodic payment from a pension, retirement plan or annuity which is considered remuneration for employment.

(e) Net proceeds resulting from workers' compensation or other personal injury awards intended to replace income.

(f) Unemployment insurance.

(g) Income continuation benefits.

(h) Voluntary contributions to a deferred compensation plan, employee contributions to an employee benefit or profit-sharing plan, and voluntary employee contributions to any pension or retirement account, regardless of whether the account provides for tax deferral or avoidance.

(i) Military allowances and veterans' benefits.

(j) Compensation for lost wages.

(k) Undistributed income of a business entity in which a party has an ownership interest sufficient to individually exercise control over or access the earnings of the business, unless the income is included as an asset for the purposes of imputing income pursuant to NAC 425.125. As used in this paragraph:

(1) "Reasonable allowance for economic depreciation" means the amount of depreciation on assets computed using the straight-line method and useful lives as determined under federal income tax laws and regulations.

(2) "Undistributed income" means federal taxable income of a

[108] *Roe*, 139 Nev. Adv. Op. 21, 535 P.3d 274 at 281 (Nev. App. 2023).

business entity plus depreciation claimed on the federal income tax return of the business less a reasonable allowance for economic depreciation.

(l) Child care subsidy payments if a party is a child care provider.

(m) Alimony.

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

2. The term does not include:

(a) Child support received.

(b) Foster care or kinship care payments.

(c) Benefits received under the federal Supplemental Nutrition Assistance Program.

(d) Cash benefits paid by a county.

(e) Supplemental security income benefits and state supplemental payments.

(f) Except as otherwise provided in paragraph (l) of subsection 1, payments made for social services or any other public assistance benefits.

(g) Compensation for losses, including, without limitation, both general and special damages, from personal injury awards not intended to replace income.

3. This section must not be construed to limit income withholding or the assignment of workers' compensation benefits for the collection of child support.

NAC 425.140 Schedule for determining base child support obligation based on number of children and monthly gross income of obligor. (NRS 425.620)

Except as otherwise provided in NAC 425.145, the base child support obligation of an obligor must be determined according to the following schedule:

1. For one child, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 16 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 8 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 4 percent of such a portion.

2. For two children, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 22 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 11 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 6 percent of such a portion.

NAC 425.150 Adjustment of child support obligation in accordance with specific needs of child and economic circumstances of parties. (NRS 425.620)

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

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

Consistent with the provisions of NAC 425.115 and NAC 425.140, Mom must be ordered to pay Dad child support at the monthly rate of 16% of her gross monthly income. Pursuant to Mom's Financial Disclosure Form, on-file, herein, and her testimony, Mom currently earns a gross monthly income of $3,986. Accordingly, Mom's child support obligation calculates as follows:

$3,986 x .16 = $637.76

As it pertains to child support deviations, THE COURT FINDS AND CONCLUDES that the Court did not receive any credible evidence regarding childcare, transportation costs, or necessary medical care for the children in accordance with NAC 425.150; thus, there are no further deviations from the statutory amount pursuant to NAC

425. Mom may receive a downward deviation for half of her out-of-pocket costs of the child's health insurance premium, subject to proof.

Additionally, because Mom willfully disregarded her parental financial responsibilities for the minor child since she left the marital home in January 2023, THE COURT FINDS AND CONCLUDES that Dad is entitled to child support arrears retroactive to when he began solely providing for and attending to Jake's daily needs in January 2023.

District Courts have discretion to award child support arrears for the "reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian."[109] However, "[i]n the absence of a court order for the support of a child, the parent who has physical custody may recover not more than 4 years' support furnished before the bringing of the action to establish an obligation for the support of the child."[110]

It is undisputed that DAD has been providing solely for Jake's needs without any assistance from Mom since January 2023. DAD did not offer any evidence of the "reasonable portion of the cost of care, support, education, and maintenance" that he spent on Jake since January 2023. It is undisputed that Dad's family trust pays for Jake's private school tuition. It is further undisputed that Dad has provided for Jake's daily needs, to include his shelter, food, and clothing, among other things. Dad filed an FDF on January 17, 2024 and November 12, 2024. Therefore, based on DAD's FDF, he is entitled to half the cost of the food, shelter and clothing for Jake, to the extent it was delineated in DAD's

[109] NRS 125B.030.

[110] *Perez v. Haywood*, 522 P.3d 463 (Nev. App. 2022) (citing NRS 125B.030).

FDF. Apart from DAD's FDF, no other evidence was admitted vis-à-vis the reasonable portion of Jake's care, support and maintenance. THEREFORE, THE COURT FINDS AND CONCLUDES that DAD must file a Schedule of Arrears for any constructive arrears consistent with this Decree (i.e. constructive arrears shall be based on the amounts delineated on DAD's FDF for Jake's food, shelter, and clothing). DAD's award of child support shall be retroactive to January 2023, as neither party disputes that Dad has been solely providing for Jake's needs without any assistance from Mom since that date.

At trial, Mom testified that she presently has access to health insurance benefits for the minor child made available to her through her current employer.[111] Conversely, Dad testified that due to his present long-term disability classification and/or status, he does not presently have access to health insurance benefits for the minor child available through his employer.

Accordingly, consistent with provisions of NAC 425.135, Mom is ordered to maintain health insurance benefits for the minor child for the remainder of his minority, through benefits made available to her through her employer. Mom shall receive a downward deviation for half of this amount, subject to proof, pursuant to NAC 425.150(g).

CONSTRUCTIVE TRUST

Dad requests that the marital home be placed in a constructive trust for the duration of Jake's minority. The Supreme Court of Nevada established that a constructive trust will arise and affect property acquisitions under the following circumstances: "(1) a confidential relationship exists between the parties; (2) retention of legal title by the holder thereof

[111] EHVC at 3:33:12 p.m.

against another would be inequitable; and (3) the existence of such a trust is essential to the effectuation of justice."[112] The Supreme Court further clarified that a confidential relationship

> may arise by reason of kinship or professional, business, or social relationships between the parties. Such a relationship "*exists when one party gains the confidence of the other and purports to act or advise with the other's interests in mind*; it may exist although there is no fiduciary relationship; it is particularly likely to exist when there is a family relationship or one of *friendship*." When a confidential relationship exists, the person in whom the *special trust* is placed owes a duty to the other party similar to the duty of a fiduciary, requiring the person to act in good faith and with due regard to the interests of the other party.[113]

Further, pursuant to *Bemis v. Estate of Bemis*, implied trusts are equitable remedies recognizing and protecting property rights of an innocent party.[114] A constructive trust does not require the parties' specific intent to create such a trust; "the constructive trust is no longer limited to fraud and misconduct cases; it redresses ***unjust enrichment***, not wrongdoing."[115] (Emphasis Added) Thus, a court must find that there has been ***unjust enrichment*** in order to impose a constructive trust.

While, in theory, the Court agrees with Dad's equitable arguments for imposition of a constructive trust, it is incumbent on this Court to strictly apply the *Locken* factors to the case at bar. In doing so, THE COURT FINDS AND CONCLUDES that the requirements for a constructive trust are not met in this case.

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[112] *Locken v. Locken*, 98 Nev. 369, 372, 650 P.2d 803, 805 (1982).
[113] *Wilson v. Grundy*, 536 P.3d 913 (Nev. 2023) (citing *Perry v. Jordan*, 111 Nev. 943, 947, 900 P.2d 335, 337 – 38 (1995) (emphases added)).
[114] *Bemis v. Estate of Bemis*, 114 Nev. 1021, 1027, 967 P.2d 437, 441 (1998).
[115] *Id.* (citing Dan B. Dobbs, *Law of Remedies* § 4.3(2) (2d ed.1993).

Here, the first factor for establishing a constructive trust is clearly met: Mom and Dad had a confidential relationship as evidenced by their 15-year marriage and their co-parenting relationship as they have worked together to raise Jake. As to the second factor, the Court would have to find that equal division of the proceeds from the sale of the marital home would be inequitable, and would result in unjust enrichment of Mom. This is simply not the case here, as the Nevada policy for equal division of community assets upon divorce is explicitly delineated in NRS 125.150(1)(b); Mom's receipt of her share of funds from the sale of the home would certainly not constitute unjust enrichment. Rather, such a distribution would be well in line with the policy and preference of the State of Nevada. Because this Court has not found that retention of the legal title of the marital home (in the form of her possession of half of the sale proceeds) by Mom would be inequitable, this Court cannot impose a constructive trust in this case.

This Court's paramount concern is the best interest of Jake. Jake has lived in the marital home for his entire life; his private school is located in close proximity to the marital residence. Jake is thriving in his current home and school environments, and sale of the marital home would constitute further disruption to what has already been a tumultuous experience in Jake's adolescent years. Furthermore, Dad has established his credible concern that Mom's share of proceeds from the sale of the marital home may be utilized to fund purchase of illicit drugs. This concern is corroborated by the several ATI drug test results received by the Court in this case, and the Court echoes Dad's concern. Thus, while this Court agrees with Dad that establishment of a constructive trust would benefit Jake, this Court disagrees that Dad has satisfied the requisite *Locken* factors.

At trial, the parties both testified that the during the marriage they purchased the marital residence located at 5409 Contera Court, which is located less than one block away from Jake's current school, the JOY Academy of Southern Nevada.[116] Dad testified that the current fair market value of the marital residence is approximately $438,900. Dad's testimony and the documentary evidence admitted as Exhibit "G" and Exhibit "F" demonstrated that there is presently an outstanding note of $161,750.98 associated therewith and there is approximately $277,149.02 in equity in the marital residence held by the community.

Dad's testimony further demonstrated that he and Jake are residing in the marital residence and the marital residence is the only home that Jake has ever known. Likewise, Dad's testimony demonstrated that Jake's private school that he will be attending through high school is located directly adjacent to/across the street from home, and Jake is presently thriving in his current home and school environments.

Dad's testimony also demonstrated Mom's history of illicit drug use, and his serious concerns about Mom's ability to responsibly utilize any community property assets that may be awarded to her vis-à-vis her illicit substance abuse. Additionally, Dad testified that he fears that Mom will forego the entirety of her one-half interest in any proceeds realized from the sale of the marital residence awarded to her pursuant to the Decree to fund and sustain her illicit substance abuse, without regard for her ongoing parental financial obligations owed to Jake for the remainder of his minority. DAD's testimony is

[116] The JOY Academy of Southern Nevada is a K-12 private school located at 3883 E Mesa Vista Way, Las Vegas, Nevada, is less than one block away from the marital residence located at 5409 Concerta Court, Las Vegas, Nevada.

corroborated by the undisputed fact that since MOM left DAD to provide solely for Jake's needs in January 2023, MOM has not provided any financial support for her son.

THE COURT FINDS AND CONCLUDES that Dad provided credible, consistent and compelling testimony corroborated by the evidence, whereas Mom did not. MOM presented inconsistent, self-serving testimony throughout the proceedings. She looked to her counsel while answering questions during cross-examination, changed her answers, and expressed exasperation during her testimony. THE COURT had to ADMONISH MOM to look at the Judge when she was answering questions, and not to look to her attorney. THE COURT expressed concern about Mom looking at her counsel, Jennifer Isso (and/or her mom). THE COURT FURTHER expressed concerns about what appeared to be corresponding gestures between Attorney Isso and Mom during her testimony. THE COURT reminded MOM that if she did not understand the question, she must let the Court know.[117]

THE COURT FURTHER FINDS AND CONCLUDES that the only time MOM presented a clean drug test was when she voluntarily took the test. This is contrasted with the three dirty drug tests that Mom submitted in compliance with the Court's Orders. THE COURT FINDS AND CONCLUDES that MOM's August 20, 2024 drug test is not credible. THE COURT FURTHER FINDS AND CONCLUDES that the drug test results from MOM's March 28, June 4 and November 22, 2024 drug tests are credible and delineated herein:

[117] EHVC at 3:48:00 p.m.

TEST DATE	SUBSTANCE	RESULT	LOCATION
28-Mar-24	Amphetamine	9775 pg/mg	Hair
	Methamphetamine	15980 pg/mg	Hair
4-Jun-24	Hydromorphone	561 ng/ml	Urine
	Hydrocodone	635 mg/ml	Urine
	THC Metabolite	267 ng/ml	Urine
	Cocaine	2150 pg/mg	Hair
	Cocaine Metabolite	75 pg/mg	Hair
	Amphetamine	2165 pg/mg	Hair
	Methamphetamine	3485 pg/mg	Hair
20-Aug-24	N/A	Negative	Hair and Urine
22-Nov-24	Hydrocodone	5525 pg/mg	Hair
	Methamphetamine	1615 pg/mg	Hair

Based on the evidence presented at trial and Mom's three positive drug test results, THE COURT FINDS Dad's concerns -- *that Mom may utilize the substantial sum of proceeds from the sale of the marital home to sustain her illicit substance abuse* -- to be credible. However, as discussed *supra*, this Court cannot impose a constructive trust, as the second *Locken* factor is not satisfied in this case.

Rather, so as to ensure that Jake is allowed to remain in the only childhood home he has ever known and that ongoing best interests are continuously met for remainder of his minority, THE COURT FINDS, CONCLUDES AND ORDERS compelling reasons to award DAD the marital residence as his sole and separate property, subject to DAD refinancing within 120 days of entry of this Decree, and giving Mom an equalization payment that will be calculated as follows:

HALF OF THE NET EQUITY IN THE MARITAL HOME

- ***MINUS*** MOM'S CONSTRUCTIVE ARREARS TO DAD
- ***MINUS*** HALF OF THE NEGATIVE EQUITY IN THE JEEP WRANGLER

- *MINUS* DAD'S REASONABLE ATTORNEY FEES

= DAD'S EQUALIZATION PAYMENT TO MOM

Any necessary and material fees associated with the refinance (i.e. appraisal fees, lender fees, etc.) shall be equally born between the parties and deducted from the net equity proceeds of the refinance prior to distribution. MOM shall execute any legal documents pertinent to transferring title to the property to DAD. DAD shall maintain the mortgage so that the property may be refinanced within 120 days of entry of the decree, with MOM receiving her equalization payment delineated herein.

This disposition of the marital residence would permit Jake to remain in the only childhood home he has ever known for the remainder of his minority, while distributing to Mom her net equitable share of the community asset. Mom and Dad shall cooperate to facilitate the execution of all conveyance instruments necessary to fulfill their obligations pursuant to the Decree.

TAX DEDUCTION

THE COURT FURTHER FINDS that as Jake's Primary Physical Custodian, and pursuant to federal law, Dad shall receive the tax deduction credit for the minor child Jake each and every year.

HEALTH INSURANCE

THE COURT FURTHER FINDS that the minor child will continue to be medically covered through MOM, subject to a downward deviation in child support for any out-of-pocket premium costs for the child. The parties shall work together to ensure Jake remains insured.

Health insurance shall continue until such time as each child reaches 18 years of age if no longer enrolled in high school, otherwise until the child graduates from high school or reaches 19 years of age, dies, marries, or otherwise becomes emancipated pursuant to Nevada law, whichever occurs first.

THE COURT FURTHER FINDS AND CONCLUDES that all unreimbursed out-of-pocket expenses shall be shared equally pursuant to the 30/30 rule, i.e., any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the other party within thirty days of incurring such expenses, if not tendered within the thirty-day period, the Court may consider it a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period the party may be subject to a finding of contempt and appropriate sanctions.

THE COURT FURTHER FINDS AND CONCLUDES that the parties shall equally bear the child's routine medical costs, to include mental health, dental and vision expenses.

DIVISION OF PROPERTY AND DEBT

NRS 125.150(1)(b) states that in granting a divorce, the Court:

> Shall, to the extent practicable, make an equal disposition of the community property of the parties, including, without limitation, any community property transferred into an irrevocable trust pursuant to NRS 123.125 over which the court

acquires jurisdiction pursuant to NRS 164.010, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

The Court must make an equal disposition of community property unless there is a "compelling reason" to make an unequal disposition. NRS 125.150(1)(b).

Division of the marital home shall occur as discussed *supra*.

VEHICLES & DEBTS

According to Mom's Financial Disclosure Form dated November 21, 2024, she currently has approximately $14,000 of community property credit card debt held in her individual name.[118] According to Dad's Financial Disclosure Form dated November 12, 2024 states, he has approximately $19,000 of community property credit card debt held in his individual name. The parties have been living separate and apart since January 2023, THEREFORE EACH PARTY SHALL BEAR THE DEBTS AND ENCUMBRANCES IN THEIR NAME AS THEIR SOLE AND SEPARATE DEBT.

Both parties testified to there being two community property vehicles, namely, a 2023 Jeep Wrangler, with a current fair market value of approximately $29,400, and an outstanding encumbrance of approximately $35,838, associated therewith, and a 2018 Ford Edge, with a current fair market value of approximately $14,000, and an outstanding encumbrance of $16,824.61, associated therewith - both of which are financed in Dad's individual name. THE COURT was inclined to award the parties their respective vehicles, subject to the encumbrance thereon; however, MOM returned the JEEP back to Dad

[118] See Jaime's November 12, 2024 FDF.

because she cannot afford to maintain it.[119] THEREFORE, THE COURT awards both vehicles – which are in DAD's name – to DAD as his sole and separate property, subject to the encumbrances thereon. FURTHERMORE, as set forth herein, *supra,* half of the negative equity in the JEEP shall be attributed back to DAD and deducted from MOM's equalization payment.

SPOUSAL SUPPORT

NRS 125.150(a) states that in granting a divorce, the court may award such alimony to either spouse, in a specified principal sum or as specified periodic payments, as appears just and equitable.

Determining the amount of alimony a spouse should be awarded falls "within the sound discretion of the trial court." *Sprenger v. Sprenger*, 110 Nev. 855, 859, 878 P.2d 284, 287 (1994). The trial court's discretion, however, is not limitless. The "court must award such alimony as appears 'just and equitable,' having regard to the conditions in which the parties will be left by the divorce." *Id.* at 859, 287 (citing NRS 125.150(1)(a)).

Alimony, in its most elementary form, is based on the receiving spouse's need and the paying spouse's ability to pay. The Nevada Legislature created alimony awards to keep recipient spouses "off the welfare rolls." *Gilman v. Gilman*, 114 Nev. 416, 423-424, 956 P. 2d 761, 765 (1998).

In addition to economic need, alimony may also be awarded to "compensate for economic loss as a result of a marriage and subsequent divorce, particularly one spouse's loss in standard of living or earning capacity." *Kogod vs. Cliff-Kogod*, 135 Nev. 64,70, 439

[119] Mom's Supplement to her Closing Brief, page 1, filed on December 23, 2024

P.3d 397, 403 (2019). See also Collins, *The Theory of Marital Residuals*, 24 Harv. Women's L.J. at 49 ("[T]here should be some degree of post-divorce incomes to reflect the returns flowing from efforts made while the marital joint-venture was operational – an equitable sharing of the residual economic benefits from work done during the marriage.") Therefore, alimony may be awarded to compensate for economic loss as the result of a marriage and subsequent divorce, particularly one spouse's loss in standard of living or earning capacity.[120]

Alimony can be "just and equitable" both when necessary to support the economic needs of a spouse and to compensate for a spouse's economic losses from the marriage and divorce, including to equalize post-divorce earnings or help maintain the marital standard of living.[121]

Enabling the lower-income-earning spouse to maintain a lifestyle as close as possible to the lifestyle enjoyed during the marriage has consistently been an important aim of the Nevada Supreme Court.[122]

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[120] *Kogod vs. Cliff-Kogod*, 135 Nev. 64, 439 P.3d 397 (2019).

[121] *Id.*

[122] *Id.*, citing the following: ("See, e.g., *Wright v. Osburn*, 114 Nev. 1367, 1369, 970 P.2d 1071, 1072 (1998) (deeming the spousal support award insufficient because the wife would not be able to "maintain the lifestyle she enjoyed during the marriage or a lifestyle commensurate with" her former husband); *Sprenger v. Sprenger*, 110 Nev. 855, 860, 878 P.2d 284, 287 (1994) (remanding with instructions to award alimony such that the spouse may "live as nearly as fairly possible to the station in life she enjoyed before the divorce") (internal quotation marks omitted); *Gardner v. Gardner*, 110 Nev. 1053, 1058, 881 P.2d 645, 648 (1994) (increasing alimony by ten years because the wife's "contribution to the community over many years [was] not fairly recognized by the two-year alimony award"); *Rutar v. Rutar*, 108 Nev. 203, 208, 827 P.2d 829, 832 (1992) (increasing the alimony award where the previous award only provided "a standard of living far below that to which [the wife and children] have been accustomed"). This court reaffirmed this goal in *Shydler v. Shydler*, 114 Nev. 192, 954 P.2d 37 (1998), by noting that two of the primary purposes of alimony "are to narrow any large gaps between the post-divorce earning capacities of the parties and to allow the recipient spouse to live 'as nearly as

The Nevada Supreme Court has held that the purpose of spousal support is not to equalize post-divorce incomes, but "to allow the recipient to live as nearly as fairly as possible to the station in life enjoyed before the divorce." *Shydler v. Shydler*, 114 Nev. 192, 198, 954 P.2d 37, 40 (1998). Further, the Court should not consider the respective "merits" of the parties in adjudicating the issue of spousal support. *Rodriguez v. Rodriguez*, 116 Nev. 993, 13 P.3d 415 (2000). It is not a "sword to level the wrongdoer," nor is it a "prize to reward virtue." *Id.*116 Nev. at 999, 13 P3d 419. Rather, "alimony is financial support paid from one spouse to the other whenever justice and equity require it." *Id.*

When determining whether to award alimony and the amount of such an award, NRS 125.150(9) sets forth the factors that the Court shall consider, in addition to any other factors the court considers relevant. The requisite factors are analyzed accordingly:

a. The financial condition of each spouse;

At trial, Dad testified that he is currently unable to maintain full-time employment due to injuries he sustained at work, and that he is presently receiving monthly long-term disability payments of approximately $2,000.00, per month. Dad also testified that he presently receives approximately $2.000.00 per month in and as for a monthly distribution payment from his family's Trust. Dad further testified that his family's trust's assets have been dwindling in recent years and that he cannot depend on the trust to supplement his income in the long-term.

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fairly possible to the station in life [ ] enjoyed before the divorce." Id. at 198, 954 P.2d at 40 (alteration in original) (citations omitted) (quoting Sprenger, 110 Nev. at 860, 878 P.2d at 287-88).")

At trial, Mom testified that she is currently working full-time swing-shift at Blake Shelton's Ole Red Restaurant as a Kitchen Supervisor earning approximately $3,986 per month.

Based on the evidence derived from the parties' testimonies at trial, the parties presently earn substantially similar incomes, to such the extent that any claims for alimony asserted by the parties should be deemed as nonmeritourious and baseless, as the parties are already on equal financial footing. Furthermore, based on mom surrendering the 2023 Jeep Wrangler, with a current fair market value of approximately $29,400, and an outstanding encumbrance of approximately $35,838, associated therewith, to DAD; DAD is left with a vehicle that has negative equity in amount of $6,438.00, not including the monthly payments. This is in addition to DAD making the monthly payments on the 2018 Ford Edge, with a current fair market value of approximately $14,000, and an outstanding encumbrance of $16,824.61; as well as DAD maintaining the mortgage, property taxes, and any expenses pertinent to the marital home; in addition to the $19,000.00 credit card debts in DAD's name. For these reasons, this factor does not favor granting an award of alimony in Mom's favor.

b. The nature and value of the respective property of each spouse,

Dad's testimony at trial confirmed that Mom would be entitled to receive one-half of the equity held in the home. Mom will duly receive her interest in the marital home subject to the provisions of this Decree.

Mom has $14,000.00 credit card debt in her name. This pales in comparison to the $19,000.00 credit card debt in Dad's name, plus the two encumbered vehicles in Dad's

name. As stated hereinabove, *supra*, Mom surrendered the 2023 Jeep Wrangler to DAD; which has negative equity in amount of $6,438.00. In addition, Dad has the 2018 Ford Edge, which has negative equity in amount of $2,824.61. For these reasons, based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

c. *The contribution of each spouse to the marriage's community property,*

THE COURT did not hear evidence on this factor, other than that both parties purchased the marriage with community funds during the marriage.

d. The duration of the marriage,

Both parties testified at trial that they were married on October 30, 2010, in Las Vegas, Nevada, and have been husband and wife for fourteen years. Based on the evidence presented at trial, this factor favors an award of alimony in Mom's favor.

e. The income, earning capacity, age, and health of each spouse,

As indicated above, the parties are presently generating substantially similar incomes, with Dad testifying that he is currently generating approximately $4,000.00 per month, and Mom testifying that she is currently generating approximately $3,986.00 per month. Dad testified that he is presently 53 years and Mom is presently 47 years old. Dad also testified that he is presently unable to work full-time due to a work-related injury he sustained in January 2024, and to the best of his knowledge Mom has no physical conditions that adversely impact her ability work full time and self-support.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

f. The standard of living to which the spouses were accustomed during the marriage,

No credible evidence as to the standard of living maintained by the parties during the marriage was presented by either party through their respective testimonies proffered at trial.

Based on the lack of evidence presented at trial as to the standard of living enjoyed by the parties during the marriage, this factor is neutral and favors neither party.

g. The career, before the marriage, of the spouse receiving alimony,

No credible evidence was offered on this factor; therefore, it is neutral.

h. Any specialized education or training or marketable skills obtained by either spouse during the marriage,

At trial, Mom testified that she obtained her associate's degree in culinary arts during the marriage, and by virtue thereof, she has specialized marketable commercial skills, which are in high demand the Las Vegas hospitality market, and the ability of self-support post-divorce.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

i. The contribution of either spouse as a homemaker,

While the respective testimonies of the parties confirmed that Mom was a stay-at-home mom prior to Jake becoming school-aged, Mom's testimony regarding her receipt of her associate's degree in culinary arts during marriage, and the various jobs she held once Jake began school confirms that Mom's brief time as a homemaker at the onset of the

marriage, did not adversely impact her ability to obtain specialized commercial skills during the marriage and her ability for self-support post-divorce.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

j. Any property granted by the court to each spouse in the divorce,

As delineated hereinabove, supra, Mom surrendered the Jeep to Dad; thereby leaving Dad with two underwater vehicles in his name, $19,000.00 of credit card debt and the mortgage, property taxes and maintenance of the marital home his financial responsibility. Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

k. The physical and mental condition of each party as it relates to his or her financial condition and ability to work, and

Although she testified positive for numerous illicit substances during these proceedings, Mom testified that she has never missed work or been late to work, received write ups or been disciplined as a result of her struggles with addiction. Mom's testimony confirms she is able to sustain full-time employment and self-support, despite her ongoing substance abuse struggles.

Conversely, Dad testified that as a result of his current back injuries, he is presently unable to maintain full-time employment, he is currently on long-term disability, and his monthly disability benefits reflect only a portion of his full-time monthly income. Dad's testimony confirms that his present physical condition and back injuries are presently

adversely impacting Dad's ability to work, and thus, in turn adversely impact his ability to pay alimony to Mom, post-divorce.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

NRS 123.100 provides that a "spouse abandoned by his or her spouse is not liable for the support of the abandoning spouse until such spouse offers to return unless the misconduct of the abandoned spouse justified the abandonment."

At trial, both parties' testimonies confirmed that Mom voluntarily abandoned the marriage and her family in January 2023, due to her ongoing struggles with drug addiction. Mom testified that she left the home because of DAD's infidelity. MOM also alleged that she left because of DAD's domestic violence. DAD testified that MOM left because of her drug use. THE COURT FINDS AND CONCLUDES that DAD provided credible, consistent, compelling and corroborated testimony; whereas MOM did not. THE COURT FINDS AND CONCLUDES that because Mom abandoned the marriage and her family, without cause, consistent with the provisions of NRS 123.100, Mom is not entitled to seek alimony, as a matter of law.

THEREFORE, THE COURT FINDS AND CONCLUDES that based on the evidence presented at trial, consistent with the provisions of NRS 125.150(9) and NRS 123.100, Mom's request for alimony is summarily denied, as a matter of law.

THE COURT FINDS AND CONCLUDES that based on the evidence admitted, there was no credible evidence to establish a need for rehabilitative alimony pursuant to NRS 125.150(10).

THE COURT FINDS AND CONCLUDES that neither party shall receive alimony.

ATTORNEY FEES

NRS 18.010 Award of attorney's fees.

1. The compensation of an attorney and counselor for his or her services is governed by agreement, express or implied, which is not restrained by law.

2. In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party:

(a) When the prevailing party has not recovered more than $20,000; or

(b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party. The court shall liberally construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

3. In awarding attorney's fees, the court may pronounce its decision on the fees at the conclusion of the trial or special proceeding without written motion and with or without presentation of additional evidence.

4. Subsections 2 and 3 do not apply to any action arising out of a written instrument or agreement which entitles the prevailing party to an award of reasonable attorney's fees.

NRS 125C.250 Attorney's fees and costs.

Except as otherwise provided in NRS 125C.0689, in an action to determine legal custody, physical custody or visitation with respect to a child, the court may order reasonable fees of counsel and experts and other costs of the proceeding to be paid in proportions and at times determined by the court.

THE COURT FINDS AND CONCLUDES that MOM filed two custodial Motions[123] that were DENIED wherein DAD has been awarded temporary Primary Physical Custody of Jake throughout the proceedings. Dad's requests for attorney fees were DEFERRED to trial.

FURTHERMORE, based on the evidence presented at trial, THE COURT FINDS AND CONCLUDES THAT pursuant **NRS 125C.250** the court may order reasonable fees and other costs of the proceeding to be paid in proportions to DAD. THE COURT FURTHER FINDS AND CONCLUDES that Mom's two positive pre-trial drug tests and the corresponding evidence establishes that MOM's two unsuccessful Motions[124] were brought or maintained without reasonable ground or to harass DAD, whom this COURT FINDS AND CONCLUDES is the prevailing party in accordance with the provisions of NRS 18.010 and EDCR 5.219(a). Accordingly, THE COURT FINDS AND CONCLUDES that Dad is entitled to reasonable attorney fees and costs, subject to a Memorandum of Fees and Costs, *Brunzell* Analysis, and corresponding legal authority. Such supporting documentation must be filed with the Court within 5 days with regard to costs pursuant to NRS 18.110 and within 28 days with regard to attorney's fees pursuant to NRCP 52(b).

If any of these Conclusions of Law are more correctly interpreted as Findings of Fact, they shall be so construed.

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[123] Mom filed her first Motion seeking Primary Physical Custody of Jake on January 18, 2024, and her second such motion on October 8, 2024.

[124] *Id.*

IV. FINAL ORDERS

Based on the foregoing Findings of Fact and Conclusions of Law:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the parties are incompatible in marriage due to irreconcilable differences; neither party is pregnant, the parties request an equal division of community property and debt, and the parties desire this Court to enter a Decree of Divorce. THEREFORE, the bonds of matrimony are heretofore DISSOLVED and the parties and are hereby restored to their status as single unmarried persons.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that it is in Jake's best interest for Dad to have Modified Legal Custody wherein Dad must communicate any important decisions or information regarding Jake (i.e., education, medical, religious, etc.) to Mom via TalkingParents. If Mom fails to respond to Dad within 48 hours, then Dad may proceed with his decision-making. If the parties reach an impasse, then Dad may proceed with his decision-making and Mom may seek court intervention.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, considering MOM's ongoing drug use vis-à-vis the potential harm to the child, it is in Jake's best interest for Dad to have Sole Physical Custody, subject to Mom having progressively increased supervised visitation as defined herein, *infra*. Mom shall engage in drug treatment and complete the Options Patch Program, consisting of not less than thirty-six (36) consecutive weeks and/or nine (9) months of uninterrupted drug monitoring, prior to being awarded any unsupervised overnight visitation with Jake. Additionally, once Mom successfully engages in drug treatment and completes not less than thirty-six consecutive

weeks of the Options Patch Program, Mom shall be subject to ongoing monitoring and random drug testing upon Dad's request, for an additional three (3) months; thereby totaling twelve (12) months of drug treatment and monitoring comprised of the following Phases:

Phase 1: MOM's supervised visits shall remain status quo, at least once per week for at least 4 hours supervised at Dad's discretion. After MOM engages in four (4) consecutive months of drug treatment and clean Options test results ("patches"), Mom's supervised visits shall expand to two (2) four (4) hour blocks of unsupervised visitation each week.

Phase 2: After six (6) consecutive months of drug treatment and clean patches, Mom's unsupervised visits shall be expanded to two (2) eight (8) hour blocks of unsupervised visitation each week.

Phase 3: After nine (9) consecutive months of drug treatment and clean patches, Mom may submit a request for referral order to FMC to allow the parties to attempt to formulate a schedule for unsupervised visitation that will afford Mom an average of not less than eight (8) full days (with overnights) each calendar month, excluding holidays, and to attempt to formulate a holiday visitation schedule for Mom (which shall presume Mom shall continue to be drug free), with the new unsupervised visitation to become effective upon Mom's successful completion of nine (9) consecutive months of drug treatment and clean Options test results. The parties shall acknowledge and stipulate that their use of FMC, after Mom meets the nine (9) month benchmark milestone, shall be for the limited

purpose of attempting to formulate an unsupervised visitation schedule and shall not include discussions regarding the modification of physical custody.

If the parties are unable to formulate a schedule at FMC, Mom shall file a motion in accordance with this agreement setting forth her requested visitation schedule. So long as Mom has successfully completed the required total of nine (9) consecutive months of drug treatment and clean tests results through Options Monitoring Program, the Court may deem there to be sufficient adequate cause for the Court to consider Mom's requested visitation schedule.

Phase 4: If Mom successfully completes the nine (9) consecutive months of drug treatment and clean test results through the Options Monitoring Program, Mom shall then be subject to random hair and urine drug testing at American Toxicology, Inc. ("ATI") for a period of three (3) additional months thereafter. During this 3-month period, Dad and/or his counsel can contact Mom or her counsel, via email and/or talking parents, requesting for Mom to submit for testing at any time during this three (3) month period. Mom shall report for testing within eight (8) hours from the time of the request being made. If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances Mom shall be solely responsible for all costs associated with testing stipulated to into his agreement.

Global Rule: If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances. Mom shall be solely responsible for all costs associated with

testing stipulated to into his agreement. If Mom should test dirty and/or positive and/or relapse, at any time during this 12-month monitoring period, the "Candyland" provision shall be triggered and Mom's visitation and required monitoring shall revert back to Phase 1, and Mom shall be required to successfully follow the graduated plan in this agreement until Mom successfully completes 12 consecutive months of monitoring.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that it is in the best interest of Jake for Mom's expanded visitation plan to be contingent on Mom's successful completion of at least 12 months in drug treatment and monitoring through the Options Monitoring Program. In the interim. MOM's visits shall remain status quo, which means, supervised by Dad at least once per week for a minimum of four hours per week, at Dad's discretion.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the visitation schedule described herein is the least restrictive timeshare possible consistent with Jake's best interests, as it permits Mom and Jake to gradually work up to unsupervised quality time together while simultaneously ensuring Mom is maintaining sobriety for Jake's safety and wellbeing.[125]

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that consistent with the provisions of NAC 425.115 and NAC 425.140, Mom must be ordered to pay Dad child support at the monthly rate of 16% of her gross monthly income. Pursuant to Mom's Financial Disclosure Form dated November 21, 2024 and her testimony, Mom currently

[125] *Roe*, 139 Nev. Adv. Op. 21, 535 P.3d 274 at 281 (Nev. App. 2023).

earns a gross monthly income of $3,986. Accordingly, Mom's child support obligation is **$637.76**[126] per month, effective seven (7) days upon entry of this Decree, and on the 1st day of every month thereafter. MOM is entitled to a downward deviation in child support for half of any out-of-pocket premium costs for the child, subject to proof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that DAD must file a Schedule of Arrears for any constructive arrears consistent with this Decree. Based on what Dad reported on his November 12, 2024 and January 18, 2024 FDFs, Dad is eligible to receive half of the cost of food, shelter and clothing to the child, excluding any school tuition payments (which are covered by DAD's family trust). DAD's award of child support shall be retroactive to January 2023, as neither party disputes that Dad has been solely providing for Jake's needs without any assistance from Mom since January 2023.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that minor child will continue to be medically covered through MOM, subject to a downward deviation in child support for any out-of-pocket premium costs for the child. The parties shall work together to ensure Jake remains insured. Health insurance shall continue until such time as the child reaches 18 years of age if no longer enrolled in high school, otherwise until the child graduates from high school or reaches 19 years of age, dies, marries, or otherwise becomes emancipated pursuant to Nevada law, whichever occurs first.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all unreimbursed out-of-pocket expenses shall be shared equally pursuant to the 30/30 rule,

[126] The calculation is as follows: $3,986 x .16 = $637.76.

i.e., any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the other party within thirty days of incurring such expenses, if not tendered within the thirty-day period, the Court may consider it a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period the party may be subject to a finding of contempt and appropriate sanctions.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall equally bear the child's routine medical costs, to include mental health, dental and vision expenses subject to the 30/30 Rule.[127]

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to federal law, Dad shall receive the tax deduction credit for the minor child Jake each and every year.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there are compelling reasons to award DAD the marital residence as his sole and separate property,

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[127] Any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the other party within thirty days of incurring such expenses, if not tendered within the thirty-day period, the Court may consider it a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period the party may be subject to a finding of contempt and appropriate sanctions.

subject to DAD refinancing within 120 days of entry of this Decree, and giving Mom an equalization payment that will be calculated as follows:

HALF OF THE NET EQUITY IN THE MARITAL HOME

- ***MINUS*** MOM'S CONSTRUCTIVE ARREARS TO DAD
- ***MINUS*** HALF OF THE NEGATIVE EQUITY IN THE JEEP WRANGLER
- ***MINUS*** DAD'S REASONABLE ATTORNEY FEES

= DAD'S EQUALIZATION PAYMENT TO MOM

Any necessary and material fees associated with the refinance (i.e. appraisal fees, lender fees, etc.) shall be equally born between the parties and deducted from the net equity proceeds of the refinance prior to distribution. MOM shall execute any legal documents pertinent to transferring title to the property to DAD. DAD shall maintain the mortgage so that the property may be refinanced within 120 days of entry of the decree, with MOM receiving her equalization payment delineated herein.

This disposition of the marital residence would permit Jake to remain in the only childhood home he has ever known for the remainder of his minority, while distributing to Mom her net equitable share of the community asset. Mom and Dad shall cooperate to facilitate the execution of all conveyance instruments necessary to fulfill their obligations pursuant to the Decree.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that DAD shall be awarded the 2023 Jeep Wrangler and the 2018 Ford Edge, as his sole and separate property, subject to the encumbrances thereon. As of the date of entry of this Decree, half of the

negative equity in the JEEP WRANGLER shall be attributed to Dad and deducted from MOM's equalization payment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be awarded their credit card debts, liabilities and encumbrances in their name as their sole and separate liabilities.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be awarded the personal belongings in their possessions and any bank accounts or assets in their name as their sole and separate property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that neither party shall receive alimony.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dad is entitled to reasonable attorney fees and costs, subject to a Memorandum of Fees and Costs, *Brunzell* Analysis, and corresponding legal authority. Such supporting documentation must be filed with the Court within 5 days with regard to costs pursuant to NRS 18.110 and within 28 days with regard to attorney's fees pursuant to NRCP 52(b).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are given notice of the following:

NOTICE IS HEREBY GIVEN that the following statutory notices relating to the custody and visitation of the minor children are applicable to the parties herein:

STATUTORY NOTICES

Approved by Presiding Judge Pursuant to EDCR 5.707

NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.0045(6):

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.0045(7)(8):

The terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country as follows:

If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning the child to his or her habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

NOTICE IS HEREBY GIVEN that, pursuant to NRS 125C.006:

1. If PRIMARY PHYSICAL CUSTODY has been established pursuant to an order, judgment or decree of a court and the custodial parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the custodial parent desires to take the child with him or her, the custodial parent shall, before relocating:

(a) Attempt to obtain the written consent of the noncustodial parent to relocate with the child; and

(b) If the noncustodial parent refuses to give that consent, petition the court for permission to relocate with the child.

2. The court may award reasonable attorney's fees and costs to the custodial parent if the court finds that the noncustodial parent refused to consent to the custodial parent's relocation with the child:

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the custodial parent.

3. A parent who relocates with a child pursuant to this section without the written consent of the noncustodial parent or the permission of the court is subject to the provisions of NRS 200.359.

NOTICE IS HEREBY GIVEN that, pursuant to NRS 125C.0065:

1. If JOINT PHYSICAL CUSTODY has been established pursuant to an order, judgment or decree of a court and one parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the relocating parent desires to take the child with him or her, the relocating parent shall, before relocating:

(a) Attempt to obtain the written consent of the non-relocating parent to relocate with the child; and

(b) If the non-relocating parent refuses to give that consent, petition the court for primary physical custody for the purpose of relocating.

2. The court may award reasonable attorney's fees and costs to the relocating parent if the court finds that the non-relocating parent refused to consent to the relocating parent's relocation with the child:

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the relocating parent.

3. A parent who relocates with a child pursuant to this section before the court enters an order granting the parent primary physical custody of the child and permission to relocate with the child is subject to the provisions of NRS 200.359.

NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.010(1)(b), for purposes of visitation rights of a child, the State of Nevada or the state where the child resides within the United States of America is the habitual residence of the child.

NOTICE IS HEREBY GIVEN that the parent having the child support obligation is subject to NAC 425.025 and NRS 31A.020 through 31A.230, inclusive, regarding the immediate withholding or assignment of wages, commissions or bonuses for payment of child support, whether current or delinquent.

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 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.

NOTICE IS HEREBY GIVEN that each party shall submit the information required in NRS 125B.055, NRS 125.130, and 125.230 on a separate form to the Court and the Welfare Division of the Department of Human Resources within ten days from the date this Decree is filed. Such information shall be maintained by the Clerk in a confidential manner and not part of the public record. The parties shall update the information filed with the Court and the Welfare Division of the Department of Human Resources within ten days should any of that information become inaccurate.

NOTICE IS HEREBY GIVEN that you have an affirmative duty to update any changes in your personal information by filing a Notice of Change of Address form. The form can be found at the following link: https://www.familylawselfhelpcenter.org/images/forms/misc/address-change-pdf-fillable.pdf

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated this 12th day of March, 2025

HONORABLE MARI D. PARLADÉ
DISTRICT JUDGE
F66 5A9 B879 ED41
Mari D. Parlade
District Court Judge

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Jamie irene Randolph, Plaintiff vs. Michael David Randolph, Defendant.	CASE NO: D-23-678957-D DEPT. NO. Department A

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Decree of Divorce 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: 3/12/2025

Bradley Hofland	Bradh@hoflandlaw.com
Nikki Woulfe	clerk@hoflandlaw.com
Anna Stein	bhassistant@hoflandlaw.com
Meredith Simmons	msimmons@hoflandlaw.com
Staff IHL	efilenotifications@issohugheslaw.com
Jennifer Isso	ji@issohugheslaw.com
Robert Blau	Robertb@hoflandlaw.com
Kathy Gentry	kgentry@hoflandlaw.com

If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 3/13/2025

Jennifer Isso

The Isso & Hughes Law Firm
Attn: Jennifer Isso, Esq
8965 S. Eastern Ave Ste 120
Las Vegas, NV, 89123

Electronically Filed
4/7/2025 1:11 PM
Steven D. Grierson
CLERK OF THE COURT

ASTA

District Court Case No: D-23-678957-D

Dept No: A

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

JAMIE IRENE RANDOLPH,

Plaintiff(s),

vs.

MICHAEL DAVID RANDOLPH,

Defendant(s),

CASE APPEAL STATEMENT

1. Name of appellant(s) filing this case appeal statement:
   Jamie Irene Randolph

2. Identify the judge issuing the decision, judgment or order appealed from:
   Mari D. Parlade

3. Identify each appellant and the name and address of counsel for each appellant. If an appellant(s) is self-represented, identify the name and address of appellant(s):

   Jamie Irene Randolph

   Jamie Irene Randolph
   7239 Pinebrook Cir.
   Las Vegas, NV 89147

4. Identify each respondent and the name and address of appellate counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel). For self-represented respondents, identify the name and address of each respondent:

Michael David Randolph

Meredith Simmons, Esq.
228 S. 4th St., 1st Floor
Las Vegas, NV 89101

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the District Court granted that attorney permission to appear under SCR 42: **N/A**

6. If appellant was represented by counsel in the District Court, indicate whether counsel was ☐ appointed or ☐ retained or ☒ N/A

7. If appellant is represented by counsel on appeal, is counsel ☐ appointed or ☐ retained or ☒ N/A

8. Has appellant been granted leave to proceed informa pauperis?

☐ Yes: Identify the date of entry of the District Court order granting such leave:
(copy of order to follow by mail)
***Expires 1 year from date filed*

☒ No: Has appellant filed an application to proceed in forma pauperis?
☒ No.
☐ Yes: identify date the application was filed:
If application was denied, indicate date of order denying:
(copy of order to follow by mail.)

9. Indicate the date the proceedings commenced in the District Court (e.g., date complaint, indictment, information, or petition was filed): **November 22, 2023**

10. Provide a brief description of the nature of the action and result in the District Court, including the type of judgment or order being appealed and the relief granted by the District Court: **Divorce Decree**

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court or Court of Appeals and, if so, the caption and appellate court docket number of the prior proceedings:

Docket No.	**Case Caption**
N/A	N/A

12. Does this appeal raise issues involving child custody, the guardianship of a minor, parenting time, or visitation?
☒ Yes: Is this the primary issue on appeal? ☐ Yes ☒ No
☐ No

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: **unknown**

Dated This 7 day of April 2025.

Steven D. Grierson, Clerk of the Court

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

cc: Jamie Irene Randolph

Electronically Filed
4/4/2025 10:32 PM
Steven D. Grierson
CLERK OF THE COURT

Jamie Irene Randolph
7239 Pinebrook Circle
Las Vegas NV 89147
(702)793-8424
Plaintiff in Proper Person

DISTRICT COURT FAMILY DIVISION
CLARK COUNTY, NEVADA

JAMIE IRENE RANDOLPH Plaintiff, vs. MICHAEL DAVID RANDOLPH Defendant.	Case No. D-23-678957-D Dept No. A

REQUEST FOR AUTHORIZATION TO PROCEED IN PROPER PERSON; WAIVER OF APPEAL BOND; AND TO TRANSMIT ENTIRE RECORD ON FILE

COMES NOW, Jamie Irene Randolph, in Proper Person, and hereby requests authorization from the Court to proceed in Proper Person, and to submit the entire record on file.

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Further, Plaintiff also requests the Court waive the bond in this matter, due to financial hardship.

Dated this 4th day of April, 2025.

/s Jamie Irene Randolph
_____
JAMIE IRENE RANDOLPH
Plaintiff/Appellant in Proper Person

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of April, 2025, I served a copy of the above and foregoing *Request for Authorization to Proceed in Proper Person; Waiver of Appeal Bond; and to Transmit Entire Record on File* to the following via E-Service and/or United States Mail, postage prepaid:

HOFLAND & TOMSHECK
Bradley J. Hofland, Esq.
bradh@hoflandlaw.com
Meredith Simmons, Esq.
msimmons@hoflandlaw.com
Attorneys for Defendant

Dated this 4th day of April, 2025.

/s Jamie Irene Randolph
_____
JAMIE IRENE RANDOLPH
Plaintiff/Appellant in Proper Person

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. D-23-678957-D

Jamie irene Randolph, Plaintiff	§	Location:	**Department A**
vs.	§	Judicial Officer:	**Parlade, Mari D**
Michael David Randolph, Defendant.	§	Filed on:	**11/22/2023**
	§		

CASE INFORMATION

Statistical Closures
03/12/2025 Judgment Reached (Bench Trial)

Case Type: **Divorce - Complaint**
Subtype: **Complaint Subject Minor(s)**

Case Status: **03/24/2025 Reopened**

Case Flags: **Proper Person Mail Returned**
Order / Decree Logged Into Department
Appealed to Supreme Court

DATE — CASE ASSIGNMENT

Current Case Assignment

Case Number	D-23-678957-D
Court	Department A
Date Assigned	11/22/2023
Judicial Officer	Parlade, Mari D

PARTY INFORMATION

Plaintiff	**Randolph, Jamie irene** *7239 Pinebrook Circle* *Las Vegas, NV 89147*	**Isso, Jennifer** *Retained* 702-434-4424(W) **Marr, Patricia A., ESQ** *Retained* 702-353-4225(W)
Defendant	**Randolph, Michael David** *5409 Contera Court* *Las Vegas, NV 89120*	**Simmons, Meredith** *Retained* 702-895-6760(W) **Hofland, Bradley J.** *Retained* 702-895-6760(W)
Subject Minor	**Randolph, Jake Ryan**	
Counter Defendant	**Randolph, Jamie irene** *7239 Pinebrook Circle* *Las Vegas, NV 89147*	**Isso, Jennifer** *Retained* 702-434-4424(W) **Marr, Patricia A., ESQ** *Retained* 702-353-4225(W)

DATE — EVENTS & ORDERS OF THE COURT

EVENTS

11/22/2023 Complaint for Divorce
Filed by: Counter Defendant Randolph, Jamie irene
[1] Complaint for Divorce

11/22/2023 Request for Issuance of Joint Preliminary Injunction
Filed By: Counter Defendant Randolph, Jamie irene

[2] Request for Issuance of Joint Preliminary Injunction

11/22/2023 Summons Electronically Issued - Service Pending
Filed by: Counter Defendant Randolph, Jamie irene
[3] Summons

11/22/2023 Joint Preliminary Injunction
Filed by: Counter Defendant Randolph, Jamie irene
For: Counter Claimant Randolph, Michael David
[4] Joint Preliminary Injunction

12/04/2023 Affidavit of Service
Filed By: Counter Defendant Randolph, Jamie irene
[5] Affidavit of Service

12/21/2023 Notice of Appearance
Party: Counter Claimant Randolph, Michael David
[6] Notice of Appearance

12/21/2023 Answer and Counterclaim - Divorce, Annulment, Separate Maint
Filed by: Counter Claimant Randolph, Michael David
[7] Answer to Complaint for Divorce and Counterclaim for Divorce

12/22/2023 Order
[8] Order Referring to Mediation

12/22/2023 NRCP 16.2 Case Management Conference Order
[9] Order Setting Case Management Conference

12/22/2023 Order for Family Mediation Center Services
[10] Order For Family Mediation Center Services

01/17/2024 Financial Disclosure Form
Filed by: Counter Claimant Randolph, Michael David
[11] General Financial Disclosure Form

01/18/2024 Motion
Filed By: Counter Defendant Randolph, Jamie irene
[12] Plaintiff's Motion For Joint Legal And Primary Physical Custody, To Set Child Support, For Temporary Spousal Support And Attorney's Fees, And Other Related Relief

01/18/2024 Clerk's Notice of Hearing
[13] Clerk's Notice of Hearing

02/01/2024 Opposition and Countermotion
Filed By: Counter Claimant Randolph, Michael David
[14] Opposition To Motion For Joint Legal And Primary Custody, To Set Child Support, For Temporary Spousal Support And Attorney Fees, And Other Related Relief And Countermotion For Joint Legal Custody, Primary Physical Custody, Child Support, And Related Relief

02/26/2024 Stipulation and Order
[15] Stipulation and Order to Continue Hearing

03/22/2024 Financial Disclosure Form
Filed by: Counter Defendant Randolph, Jamie irene
[16] Financial Disclosure Form

03/28/2024 Order Setting Evidentiary Hearing
[17] Evidentiary Hearing Management Order

03/28/2024 Order for Family Mediation Center Services
[18] Order for Family Mediation Center Services

04/01/2024 Order
[19] Mutual Behavior Order

04/23/2024	Notice of Hearing *[20] Notice of Hearing*
04/26/2024	Order *[21] Order From the Hearing of March 28, 2024*
04/26/2024	Notice of Entry of Order Filed By: Counter Claimant Randolph, Michael David *[22] Notice of Entry of Order from Hearing of March 28, 2024*
06/03/2024	Financial Disclosure Form Filed by: Counter Defendant Randolph, Jamie irene *[23] Financial Disclosure Form*
09/13/2024	Exhibits Filed By: Counter Defendant Randolph, Jamie irene *[24] Drug Test Results*
09/19/2024	Exhibits Filed By: Counter Defendant Randolph, Jamie irene *[25] Plaintiff's Drug test Results*
10/08/2024	Memorandum of Costs and Disbursements Filed by: Counter Claimant Randolph, Michael David *[26] Memorandum of Fees and Costs*
10/08/2024	Motion Filed By: Counter Defendant Randolph, Jamie irene *[27] Plaintiff's Motion For A Change Of The Visitation Schedue Based On Changed Circumstances To A Joint Legal And Joint Physical Custody Arrangement, For Attorney's Fees And Costs And Other Related Relief*
10/11/2024	Clerk's Notice of Hearing *[28] Clerk's Notice of Hearing*
10/21/2024	Opposition and Countermotion Filed By: Counter Claimant Randolph, Michael David *[29] Defendant's Opposition To Motion For A Change Of The Visitation Schedule Based On Changed Circumstances To A Joint Legal And Joint Physical Custody Arrangment, For Attorney Fees And Costs, And Other Related Relief; And Countermotion For Sanctions Pursuant To 5.219(A), For Attorney Fees And Costs, And For Other Related Relief*
10/23/2024	Order *[30] Order for Fees and Costs*
10/23/2024	Order *[31] Order from Hearing of August 20, 2024*
11/07/2024	Pre-trial Memorandum Filed By: Counter Claimant Randolph, Michael David *[32] Defendant's Pre-Trial Memorandum*
11/07/2024	Exhibits Filed By: Counter Claimant Randolph, Michael David *[33] Defendant's Exhibit List*
11/12/2024	Financial Disclosure Form Filed by: Counter Claimant Randolph, Michael David *[34] General Financial Disclosure Form*
11/12/2024	Ex Parte Application for Order *[35] Ex Parte Application for Order Shortening Time*
11/13/2024	Order Shortening Time *[36] Order Shortening Time*

11/14/2024	Pre-trial Memorandum Filed By: Counter Defendant Randolph, Jamie irene *[37] Plaintiff's Pre-Trial Memorandum*
11/15/2024	Acceptance of Service Filed by: Counter Defendant Randolph, Jamie irene *[38] Acceptance of Service*
11/20/2024	Reply to Opposition Filed by: Counter Defendant Randolph, Jamie irene *[39] Plaintiffs Reply to Defendant's Opposition to Plaintiff's Motion*
11/21/2024	Financial Disclosure Form *[40] Pltff Financial Disclosure Form*
11/26/2024	Notice of Change of Address Filed By: Counter Defendant Randolph, Jamie irene *[41] Notice of Change of Address*
11/26/2024	Confession of Judgment Filed By: Counter Defendant Randolph, Jamie irene *[42] Confession of Judgment*
11/26/2024	Notice of Attorney Lien Filed By: Counter Defendant Randolph, Jamie irene *[43] Notice of Attorney Lien*
12/23/2024	Brief Filed By: Counter Defendant Randolph, Jamie irene *[44] Plaintiff's Closing Brief*
12/23/2024	Supplement Filed by: Counter Defendant Randolph, Jamie irene *[45] Plaintiff's Supplement To Closing Brief*
12/23/2024	Brief Filed By: Counter Claimant Randolph, Michael David *[46] Defendant's Closing Brief*
02/14/2025	Motion for Order to Show Cause Filed By: Counter Claimant Randolph, Michael David *[47] Defendants Motion For An Order To Show Cause Why Plaintiff Should Not Be Held In Contempt Of Court For Violation Of The Joint Preliminary Injunction*
02/14/2025	Clerk's Notice of Hearing *[48] Notice of Hearing*
03/12/2025	Decree of Divorce *[49] Randolph FOFCOL DECREE OF DIVORCE*
03/13/2025	Notice of Entry of Order *[50] Notice of Entry of Order From Hearing*
03/24/2025	Opposition and Countermotion Filed By: Counter Defendant Randolph, Jamie irene *[51] Plaintiffs Opposition To Defendants Motion For Contempt And Countermotion For Attorneys Fees And Other Related Relief*
03/26/2025	Notice of Entry of Decree Party: Counter Claimant Randolph, Michael David *[52] Notice of Entry of Findings of Fact, Conclusions of Law and Decree of Divorce*
03/26/2025	Memorandum of Costs and Disbursements Filed by: Counter Claimant Randolph, Michael David

[53] Memorandum of Fees and Costs

03/28/2025 Reply
Filed By: Counter Claimant Randolph, Michael David
[54] Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Contempt and Countermotion for Attorney Fees and Costs

04/04/2025 Notice of Appeal
Filed By: Counter Defendant Randolph, Jamie irene
[55] Notice of Appeal

04/04/2025 Request
Filed By: Counter Defendant Randolph, Jamie irene
[56] Request for Authorization to Proceed in Proper Person; Waiver of Appeal Bond; and to Transmit Entire Record on File

04/07/2025 Case Appeal Statement
Case Appeal Statement

HEARINGS

03/28/2024 **Case Management Conference** (9:00 AM) (Judicial Officer: Parlade, Mari D)
Referred to Family Mediation;

03/28/2024 **Return Hearing** (9:00 AM) (Judicial Officer: Parlade, Mari D)
FMC
Matter Heard;

03/28/2024 **Motion** (9:00 AM) (Judicial Officer: Parlade, Mari D)
Plaintiff's Motion For Joint Legal And Primary Physical Custody, To Set Child Support, For Temporary Spousal Support And Attorney's Fees, And Other Related Relief
Evidentiary Hearing;

03/28/2024 **Opposition & Countermotion** (9:00 AM) (Judicial Officer: Parlade, Mari D)
Defendant's Opposition To Motion For Joint Legal And Primary Custody, To Set Child Support, For Temporary Spousal Support And Attorney Fees, And Other Related Relief And Countermotion For Joint Legal Custody, Primary Physical Custody, Child Support, And Related Relief
Evidentiary Hearing;

03/28/2024 **All Pending Motions** (9:00 AM) (Judicial Officer: Parlade, Mari D)

MINUTES
Matter Heard;

04/30/2024 *CANCELED* **Order to Show Cause** (9:00 AM) (Judicial Officer: Parlade, Mari D)
Vacated
RE: Past Due Order from the hearing on 3/28/2024. Atty Simmons was to prepare. Atty Isso to review and sign off.

06/04/2024 **Return Hearing** (11:00 AM) (Judicial Officer: Parlade, Mari D)
FMC-CHILD INTERVIEW
Matter Heard;

08/20/2024 **Return Hearing** (11:00 AM) (Judicial Officer: Parlade, Mari D)
Mom's ATI Drug Test Results
Matter Heard;

11/14/2024 **Calendar Call** (10:00 AM) (Judicial Officer: Parlade, Mari D)
Not Settled;

11/21/2024 **Evidentiary Hearing** (1:30 PM) (Judicial Officer: Parlade, Mari D)
Decision Made;

11/21/2024 **Motion** (1:30 PM) (Judicial Officer: Parlade, Mari D)
Plaintiff's Motion For A Change Of The Visitation Schedue Based On Changed Circumstances To A Joint Legal And Joint Physical Custody Arrangement, For Attorney's Fees And Costs And Other Related Relief
Granted in Part;

11/21/2024 **Opposition & Countermotion** (1:30 PM) (Judicial Officer: Parlade, Mari D)
Defendant's Opposition To Motion For A Change Of The Visitation Schedule Based On Changed Circumstances

To A Joint Legal And Joint Physical Custody Arrangment, For Attorney Fees And Costs, And Other Related Relief; And Countermotion For Sanctions Pursuant To 5.219(A), For Attorney Fees And Costs, And For Other Related Relief

Denied in Part;

11/21/2024 **All Pending Motions** (1:30 PM) (Judicial Officer: Parlade, Mari D)
Matter Heard;

12/23/2024 *CANCELED* **No Appearance Required** (8:45 AM) (Judicial Officer: Parlade, Mari D)
Vacated
Atty submission of Case briefs

12/23/2024 *CANCELED* **Evidentiary Hearing** (6:00 PM) (Judicial Officer: Parlade, Mari D)
Vacated
Closing Briefs Due

04/08/2025 **Motion** (10:00 AM) (Judicial Officer: Parlade, Mari D)
Defendants Motion For An Order To Show Cause Why Plaintiff Should Not Be Held In Contempt Of Court For Violation Of The Joint Preliminary Injunction

04/08/2025 **Opposition & Countermotion** (10:00 AM) (Judicial Officer: Parlade, Mari D)
[51] Plaintiffs Opposition To Defendants Motion For Contempt And Countermotion For Attorneys Fees And Other Related Relief

04/08/2025 **Opposition & Countermotion** (10:00 AM) (Judicial Officer: Parlade, Mari D)
Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Contempt and Countermotion for Attorney Fees and Costs

SERVICE

11/22/2023 **Summons**
Randolph, Michael David
Served: 12/01/2023

Electronically Filed
03/12/2025 8:22 PM
CLERK OF THE COURT

DECD

DISTRICT COURT
CLARK COUNTY, NEVADA

JAMIE RANDOLPH, Plaintiff, vs. MICHAEL RANDOLPH, Defendant	Case No.: D-23-678957-D Dept. No.: A Trial Date: November 21, 2024 Time: 1:30 p.m.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF DIVORCE

This matter having come on for Evidentiary Hearing on November 21, 2024 at 1:30 p.m., Plaintiff JAMIE RANDOLPH ("Mom") being present in person and represented by her counsel of record, JENNIFER ISSO, ESQ., Defendant MICHAEL RANDOLPH ("Dad") being present in person and represented by MEREDITH SIMMONS, ESQ., the Court having heard the evidence presented, HAVING REVIEWED THE PARTIES' Closing Briefs and Proposed Findings of Fact and Conclusions of Law submitted on December 16, 2024, having taking the matter under advisement, hereby finds and orders as follows:

I. PROCEDURAL HISTORY

1. THE COURT FINDS that on November 22, 2023, Mom filed her *Complaint for Divorce*.
2. On December 21, 2023, Dad filed his *Answer to Complaint for Divorce and Counterclaim for Divorce*.

MARI D. PARLADÉ
DISTRICT JUDGE
Family Division
Department A

Statistically closed: USJR-FAM-Judgment Reached (Bench Trial) (Close Case) (UJR)

3. On January 17, 2024, Dad filed his General Financial Disclosure Form (FDF).
4. On January 18, 2024, Mom filed her *Motion for Joint Legal and Primary Physical Custody, to Set Child Support, for Temporary Spousal Support and Attorney's Fees, and Other Related Relief.*
5. On February 1, 2024, Dad filed his *Opposition to Motion for Joint Legal and Primary Physical Custody, to Set Child Support, for Temporary Spousal Support and Attorney's Fees, and Other Related Relief.*
6. On February 26, 2024, this Court entered the parties' Stipulation and Order to continue the February 28, 2024 Case Management Conference and Return Hearing from the Family Mediation Center (FMC) to March 28, 2024 at 9:00 a.m.
7. On March 22, 2024, Mom filed her FDF.
8. On March 28, 2024, the parties came before this Court on Mom's *Motion for Joint Legal and Primary Physical Custody, to Set Child Support, for Temporary Spousal Support and Attorney's Fees, and Other Related Relief,* the corresponding Opposition, a Case Management Conference, and a Return Hearing from FMC. The Court reviewed the case, and upon the Court's inquiry, Dad's counsel stated that the parties had agreed that Dad would have Primary Physical Custody. Mom's counsel stated that Mom was requesting Primary Physical Custody. Each parties' counsel requested that the opposing party undergo drug testing. THE COURT ORDERED that everything shall remain STATUS QUO, and the child shall continue to remain in the home with Dad where his school is. THE COURT FURTHER ORDERED that based on Mom's objection, the Court shall not file the Parenting Agreement; however, temporarily, the Court shall

MARI D. PARLADÉ
DISTRICT JUDGE
Family Division
Department A

honor the terms of the Parenting Agreement. THE COURT FOUND that Joint Legal Custody is in the best interest of the child, and temporarily, the terms of the Parenting Agreement are in the child's best interest; therefore, the child shall reside with Dad each week beginning Sunday at 9:00 a.m. until Thursday at 3:00 p.m., at which point the child shall reside with Mom. The child shall reside with Mom on alternating weekends beginning this weekend on Thursday at 3:00 p.m. and concluding Sunday at 9:00 a.m. Whenever there is a Staff Development Day or an extra day off for the child in conjunction with Mom's weekend, the extra day shall also be Mom's day with the child. Dad shall have the child on the 2nd and 4th weekends of each month, and Mom shall have the child on the 1st, 3rd, and 5th weekends of each month. THE COURT FURTHER ORDERED that Mom's visitation is subject to a clean drug test. MOM shall submit to a drug test and per stipulation, Dad shall pay for the testing. If the test is dirty, Dad shall be reimbursed by Mom. If Mom's drug test is dirty, her visits shall be at Donna's House. THE COURT FURTHER ORDERED that counsel's request for Dad to submit a drug test is DENIED. THE COURT FURTHER ORDERED that Mom's Motion for financial relief is DENIED pursuant to EDCR 5.507 at this time for Mom's failure to file an accurate and complete FDF. Mom shall file an FDF by end of business on Friday. The request for financial relief is DEFERRED to the Evidentiary Hearing. THE COURT FURTHER ORDERED that Discovery is OPEN. THE COURT FURTHER ORDERED that the parties are referred to FMC for a Child Interview. THE COURT FURTHER ORDERED that the request for attorney's fees is DEFERRED and the parties must follow the Mutual Behavior Order. Neither party shall use the child as

MARI D. PARLADÉ
DISTRICT JUDGE
Family Division
Department A

a means of communication, and neither party shall communicate to the child about this case.

9. On March 28, 2024, the Court issued an Evidentiary Hearing Management Order setting Calendar Call for November 14, 2024 at 10:00 a.m., the Evidentiary Hearing for November 21, 2024 at 1:30 p.m., and the deadline for Pre-Trial Memorandums for November 7, 2024.

10. On June 3, 2024, Mom filed an updated FDF.

11. On June 4, 2024, the parties came before this Court for a Return Hearing from the Child Interview. THE COURT NOTED it had reviewed the Child Interview Report. Counsel confirmed they had reviewed the report with both parties. Mom's counsel represented that there was nothing in the Child Interview Report that was glaring, and that the child indicated he wanted to spend equal time with both parents. Mom's counsel indicated Mom previously drug tested and was on supervised visitation at Donna's House. She further stated Mom will do whatever it takes to not have supervised visits anymore, even if that entails taking another drug test. Dad's attorney represented that they reviewed the report, and while the minor child's preference is one of the factors, it is only one of the many the Court must utilize when making a best interest determination. Dad's counsel indicated that when Mom drug tested, her levels were high. She further indicated that Mom has not exercised visitation with the child since last year; there has been no contact, as Mom has declined to comply with the Court Orders for that contact. Dad's counsel requested Status Quo be preserved and that Mom should be placed on a drug monitoring program. THE COURT NOTED that Donna's House was ordered so

MARI D. PARLADÉ
DISTRICT JUDGE
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the Court would have reports that show how visitation is going with Mom and the child. THE COURT FURTHER NOTED that if Mom is not even exercising her supervised visits at Donna's House, then she cannot go from supervised visits to unsupervised visits. Mom's counsel indicated that the only reason Mom did not exercise the supervised visitation at Donna's House was simply because she did not want it to adversely affect the minor child. Mom's counsel requested that a family member facilitate the supervised visits instead of Donna's House. Mom indicated that she is willing to submit to another drug test. THE COURT NOTED its concern with the child's knowledge about his parents' case. The parties acknowledge that the child had many questions about the case, but they encouraged him to just be honest and answer all the questions during the Child Interview. Dad's counsel indicated that Mom's mother (the child's maternal grandmother) uses drugs, and the child should not be in the home with the maternal grandmother. Mom explained that her mom is not using drugs; she is currently fighting breast cancer and no longer uses illicit drugs. THE COURT ORDERED that Mom's request to submit to a drug test has been GRANTED. Mom shall be drug tested by 4:15 p.m. today. THE COURT FURTHER ORDERED that all the Court's prior orders remain in effect; the only caveat is that Mom's visitation shall be subject to a clean drug test. If Mom's drug test comes back dirty, visitation shall be at Donna's House. If the drug test comes back clean, Mom's VISITATION shall be unsupervised from Thursdays at 3:00 p.m. to Sundays at 9:00 a.m. THE COURT FURTHER ORDERED that the Return Hearing is set for August 20, 2024 at 11:00 a.m. regarding Mom's ATI Drug Test Results.

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12. On August 20, 2024, the parties appeared before this Court for a Return Hearing on Mom's ATI Drug Test Results. THE COURT NOTED that Mom's ATI Results came back positive. The Court allowed argument by counsel. Following all arguments, testimony, and findings, THE COURT ORDERED that Dad shall have temporary Primary Physical Custody. MOM shall have liberal supervised visits with the child, to be supervised by Dad. THE COURT FURTHER ORDERED that MOM shall have 7:00 p.m. FACETIME VISITATIONS with the minor child. THE COURT FURTHER ORDERED that trial STANDS.
13. On October 8, 2024, Mom filed a *Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief.*
14. On October 21, 2024, Dad filed his *Opposition to Plaintiff's Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief.*
15. On November 7, 2024, Dad filed a Pre-Trial Memorandum.
16. On November 14, 2024, Mom filed her Pre-Trial Memorandum.
17. On November 14, 2024, the parties appeared before this Court for Calendar Call. The parties and their counsel confirmed that they were prepared to move forward with the trial in response to the Court's inquiry. Mom's counsel indicated that she would turn in the Pre-Trial Memorandum at the end of the day. THE COURT ORDERED that Pre-Trial Memorandums shall be filed by 6:00 p.m. on November 14, 2024.

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18. On November 20, 2024, Mom filed her *Reply to Defendant's Opposition to Plaintiff's Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief*.

19. On November 21, 2024, the parties came before this Court on Mom's *Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief* and the corresponding Opposition and Reply, as well as the Evidentiary Hearing. All parties appeared in person. Defendant's Exhibits A, B, C, D, F, and G were admitted. Jamie Randolph and Michael Randolph served as witnesses. THE COURT ORDERED that the parties' Closing Briefs, Proposed Findings of Fact, Conclusions of Law, and Final Orders are due on December 23, 2024 at 6:00 p.m.

20. On November 21, 2024, Mom filed an updated FDF.

21. On December 23, 2024, Mom filed her Closing Brief.

22. On December 23, 2024, Mom filed her Supplement to Closing Brief.

23. On December 23, 2024, Dad filed his Closing Brief.

II. FINDINGS OF FACT

24. THE COURT FINDS that Jamie Randolph (Mom) and Michael Randolph (Dad) were married in Las Vegas, Nevada on October 30, 2010, and have ever since been husband and wife. There is one child born the issue of this marriage, to wit: Jake Ryan Randolph (Jake), born November 15, 2010, who is currently 14 years old.

25. Mom and Dad physically separated in January 2023, when Mom left Dad and Jake

in the marital home and moved to her mother's home. Since January 2023, Dad and Jake have continuously resided in the marital residence, with Dad continuously maintaining primary physical custody of Jake subject to Mom's visits. Meanwhile, Mom has resided in her mother, Teresa Irene Belcher's, home.

26. Both Mom and Dad testified that Jake is a happy, healthy, well-adjusted boy, who is thriving in his current scholastic and home environment. Jake is in the eighth grade, and he presently attends the Joy Academy, a private Christian school, which is located in very close proximity to the marital residence. The parties' respective testimonies confirmed it was their mutual intention, desire, and plan for Jake to attend the Joy Academy though his high school graduation. The parties' testimony confirmed that Dad's family trust is paying for Jake's private school tuition.

27. Dad testified that he has consistently gone out of his way to create activities and different things for Mom to have frequent supervised visitation with Jake, such as, the Starbucks visits, bowling and park visits.[1] Dad also testified that he frequently encourages Jake to call and/or FaceTime with Mom.

28. Dad testified that he always accommodated ***all*** of Mom's requests for visitation by facilitating same, and that he never attempted to cancel or change or reschedule any visits scheduled. Dad further testified that it was never his understanding that Mom was limited to only one visit per week; but rather, Mom simply did not seek to exercise

[1] November 21, 2024 Evidentiary Hearing Video Citation (EHVC) at 4:28:39 p.m.

her visitation very often, but when she did, she was always the one who ended the visits after one or two hours.[2]

29. Dad testified that he made time for Mom to exercise her supervised visitation whenever she wanted but she did not take advantage of his willingness to make the child [and himself] available for her supervised visitation very often, but when Mom did, Dad made sure he and the child were available for the visit.

30. Dad testified that since January 2023, he has been solely responsible for providing for Jake's primary care, to include providing for Jake's financial support, taking Jake to his karate classes and therapy, paying for Jake's karate classes and therapy, taking Jake to doctors and dental appointments, and coordinating with Jake's school. [3]

31. When Dad was questioned as to why he believed Mom was unable to maintain her parental responsibilities for Jake since January 2023, Dad testified that he believed that Mom's ongoing struggles with her addiction was adversely impacting her ability to be present and actively parent Jake.[4]

32. Dad testified that aside from the high conflict caused by Mom's ongoing illicit drug abuse, there was little or no conflict existing between the parties.[5] Dad also testified that since Mom abandoned the marriage and her family in January 2023, there has been no conflict between the parties, and Mom's testimony confirmed the same.[6]

[2] *Id.* at 4:27:53 and 4:29:40 p.m.
[3] *Id.* at 4:34:47 p.m.
[4] *Id.* at 4:35:02 p.m.
[5] *Id.* at 4:33:39 p.m.
[6] *Id.* at 4:33:48 p.m.

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33. When questioned about Mom's parent/child bond with Jake, Dad testified as to his beliefs that Jake loves his mother and that Mom loves Jake.[7] Dad also testified as to his beliefs that Mom was having difficulties transitioning from parenting Jake, as a young child, to parenting Jake, as a teenage boy, who is becoming more autonomous, self-reliant and independent every day.[8]

34. Dad demonstrated a good faith basis for his beliefs, by testifying about Mom's expressed frustration regarding Jake's limited willingness to participate in frequent phone/FaceTime contact with Mom, given her always-changing daily work schedule and that Jake is now a teenaged boy.

35. Dad also testified to his beliefs that Mom gave Jake a hard time about not contacting her every day.[9]

36. Although Mom testified that she repeatedly offered to contribute to Jake's financial support since she left the marriage, the parties' respective testimonies ultimately confirmed that she has neither provided financial support for Jake, nor contributed to any of the community expenses, notwithstanding her car and vehicle insurance payments, since January 2023.[10]

37. The parties both testified that since January 2023, Dad has been exclusively responsible for attending to Jake's day-to-day needs, including, without limitation, taking Jake to medical and dental appointments, taking Jake to karate and therapy, helping Jake with

[7] *Id*. at 4:25:21 p.m.
[8] *Id*. at 4:25:33 p.m.
[9] *Id*. at 4:27:53 p.m.
[10] *Id*. at 2:02:16-2:02:47 p.m., and 2:36:12-2:36:31 p.m.

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his homework, providing for Jake's meals, and for providing Jake a safe and wholesome home environment.

38. Throughout the marriage, Dad, notwithstanding several brief periods of unemployment, was the primary breadwinner for the family, even though Mom was often employed full-time once Jake started school.[11]

39. Prior to Jake becoming school aged, Mom stayed home to care for Jake while Dad maintained full-time employment to financially provide for the community.[12]

40. Nevertheless, during the marriage, Mom obtained her associate's degree in culinary arts, which now contributes to her ability to self-support post-divorce.[13]

41. Once Jake began school, Mom obtained a job at a school, working in the cafeteria, and then at a hospital, where she worked in the kitchen as a cook for approximately six years.[14]

42. In January 2023, Mom began working as a Kitchen Supervisor at Blake Shelton's Ole Red Restaurant located on the Las Vegas Strip. As of the Non-Jury Trial, Mom was still employed at Ole Red as a full-time swing-shift Kitchen Supervisor, working from 3:00 p.m., to 11:00 p.m., five days per week.[15] Mom testified that she currently earns a gross monthly income of $3,986.00 and the same was stated in her Financial Disclosure Form dated November 21, 2024.[16]

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[11] *Id*. at 1:52:02 -1:52:38 p.m.
[12] *Id*. at 1:49:58-1:50:07 p.m.
[13] *Id*. at: 1:50:18 p.m.
[14] *Id*. at 1:55:35-1:56:17, and 3:09:31- 3:09:34 p.m.
[15] *Id*. at 2:34:15-2:34:23 p.m.
[16] *Id*. at 3:35:36-3:36:28 p.m.

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43. In 2020, Dad obtained full-time employment at Clearwater Paper. Dad further testified that in January 2024, he was injured on the job during the course of his employment at Clearwater Paper.[17] As a result of his on-the-job injury, Dad was placed on short-term disability in January 2024, and subsequently reassigned to long-term disability on August 8, 2024.[18]

44. While Dad testified that he earned approximately $50,000 in 2002, which was corroborated by the parties 2022 federal income tax returns marked and admitted as Exhibit "A," he also testified that he is presently earning no income because of his current inability to work due to his back injury and long-term disability designation. Dad further testified that in addition to a monthly trust distribution and/or disbursement payment of approximately $2,000.00 per month, which was sustained as non-income separate property inheritance over Mom's counsel's objection, he is presently receiving approximately $2,000.00 per month in and as for disability pay.[19]

45. Both parties testified that the community residence located at 5409 Concerta Court, Las Vegas, Nevada 89120, was purchased during the marriage and funded with community property proceeds. Likewise, Exhibit "F" and Exhibit "G" admitted in the proceedings demonstrates the mortgage associated with the marital residence is jointly held in both parties' names.

46. Although Mom did not address the disposition of the community credit card debt in her testimony, her Financial Disclosure Form dated November 21, 2024 states that she

[17] *Id*. at 1:53:07 p.m.
[18] *Id*. at 1:53:14, 2:05:35, and 3:52:50 – 3:53:48 p.m.
[19] *Id*. at 4:53:18-4:53:33 p.m.

currently has approximately $14,000 of community property credit card debt held in her individual name.[20] Dad testified, and his Financial Disclosure Form dated November 12, 2024 states, that he currently has approximately $19,000 of community property credit card debt held in his individual name.

47. Both parties testified to there being two community property vehicles, namely, a 2023 Jeep Wrangler, with a current fair market value of approximately $29,400, and an outstanding encumbrance of approximately $35,838, associated therewith, and a 2018 Ford Edge, with a current fair market value of approximately $14,000, and an outstanding encumbrance of $16,824.61, associated therewith - both of which are financed in Dad's individual name.

48. At trial, the parties both testified that the during the marriage they purchased the marital residence located at 5409 Contera Court, which is located less than one block away from Jake's current school, the JOY Academy of Southern Nevada.[21] Dad testified that the current fair market value of the marital residence is approximately $438,900. Dad's testimony and the documentary evidence admitted as Exhibit "G" and Exhibit "F" demonstrated that there is presently an outstanding note of $161,750.98 associated therewith and there is approximately $277,149.02 in equity in the marital residence held by the community.

[20] See Jaime's November 12, 2024 FDF.

[21] The JOY Academy of Southern Nevada is a K-12 private school located at 3883 E Mesa Vista Way, Las Vegas, Nevada, is less than one block away from the marital residence located at 5409 Concerta Court, Las Vegas, Nevada.

49. Dad's testimony further demonstrated that he and Jake are residing in the marital residence and the marital residence is the only home that Jake has ever known. Likewise, Dad's testimony demonstrated that Jake's private school that he will be attending through high school is located directly adjacent to/across the street from home, and Jake is presently thriving in his current home and school environments.

50. Dad's testimony also demonstrated Mom's history of illicit drug use, and his serious concerns about Mom's ability to responsibly utilize any community property assets that may be awarded to her vis-à-vis her drug addiction. Additionally, Dad testified that he fears that Mom will forego the entirety of her one-half interest in any proceeds realized from the sale of the marital residence awarded to her pursuant to the Decree to fund and sustain her illicit drug habit, without regard for her ongoing parental financial obligations owed to Jake for the remainder of his minority.

51. Mom commenced the instant divorce action against Dad on November 22, 2023, by way of filing her Complaint for Divorce in the above-named action. It is critical to note that at Trial, this Court confirmed neither Mom's Complaint, nor either of the custodial Motions[22] Mom filed in the above-named action alleged that Dad engaged in acts of domestic violence against her. Specifically, under the domestic violence best interest factor of NRS 125C.0035(4), Mom listed "N/A" for not applicable, under factor (k).

52. Specifically, on January 18, 2024, Mom's *Motion for Joint Legal Custody, to Set Child Support, for Temporary Support and Attorney's Fees* was filed in the above-named

[22] Mom filed her first Motion seeking Primary Physical Custody of Jake on January 18, 2024, and her second such motion on October 8, 2024.

action, wherein, Mom sought Joint Legal and Physical Custody of the minor child, child support, temporary support and attorney fees and costs. Mom did not allege domestic violence by Dad in this Motion; instead she wrote "N/A", for not applicable, in the corresponding domestic violence best interest factor NRS 125C.0035(4)(k).

53. On February 1, 2024, Dad filed his Opposition to Mom's Motion and Countermotion alleging that Mom's chronic heavy drug abuse rendered her not fit and not proper to be awarded Joint Physical Custody of the minor child.

54. Due to Dad's allegations as to Mom's chronic heavy drug abuse, at the hearing of March 28, 2024, the Court entered Orders directing Mom to submit for drug testing, and likewise, made the enforcement of the parties' stipulated custody timeshare agreement negotiated at mediation at the Family Mediation Center ("FMC") contingent upon Mom having a clean drug test.[23] At no time in the hearing did Mom allege domestic violence as to Dad.

55. In accordance with the Court's Orders, Mom appeared at ATI for court-ordered drug testing on March 28, 2024.

56. On April 1, 2024, Mom's hair test came back positive for Amphetamine at 9775pg/mg; and Methamphetamine at 15980 pg/mg.[24] As a result of Mom's positive drug test, Dad

[23] *See* Order from the Hearing of March 28, 2024, on-file, herein, page 2, lines 8-21, and page 3, lines 19- 21.

[24] EHVC at 3:14:16 p.m.

was awarded temporary primary physical custody of the minor child, subject to Mom's supervised visitation.[25]

57. On June 4, 2024, the parties came back before the Court for a status check hearing re: Child Interview. At no time during this hearing did Mom allege domestic violence as to Dad. At the onset of the proceedings, the Court reviewed the Child Interview and confirmed that Mom's drug tests results came back positive for amphetamine and methamphetamine – at extremely high levels. At Mom's counsel's request, the Court entered Orders directing Mom to submit for a second drug test, and likewise, ordered for Mom's supervised visitation to take place at Donna's House if her drug test results came back positive again because Donna's House would issue Visitation Reports to the Court.[26] Although Mom complied with the Court's Orders by appearing at ATI for her second court-ordered drug test on June 4, 2024, she refused to exercise her supervised visitation at Donna's House, which, in turn, effectively frustrated any visitation reporting to the Court.

58. On June 11, 2024, Mom's hair test came back positive for: (1) Cocaine at 2150 pg/mg; (2) Cocaine Metabolite at 75pg/mg; (3) Amphetamine at 2165pg/mg; and (4) Methamphetamine at 3485 pg/mg, and her urine test came back positive for: (1) Hydromorphone at 561 ng/ml; (2); Hydrocodone at 635 ng/ml; and THC at 257 ng/ml.[27]

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[25] Pursuant to the Order from the Hearing of March 28, 2024, Michael and Jaime were awarded Joint Legal and Joint Physical Custody of the minor child, ***subject to Jaime having a clean drug test.***

[26] *See* Court Minutes from the Hearing of June 4, 2024.

[27] Although Mom testified at trial to having medical prescriptions for hydrocodone and an anti-anxiety medications, no verified medical prescriptions were produced during the pre-trial phase of these proceedings to confirm Mom's alleged prescriptions.

As a result of Mom's second positive drug test, Dad's designation as the minor child's Primary Physical Custodian, subject to Mom's supervised visitation [at Donna's House] remained the status quo.

59. On August 20, 2024, the parties came back before the Court for a return hearing/status check re: Mom's second drug test results. At no time during this hearing did Mom allege domestic violence as to Dad. At the onset of the proceedings, the Court, having reviewed Mom's drug test results, entered the following Judicial Findings and Orders, in pertinent part:

FINDINGS:

The Court hereby FINDS that the purpose of today's hearing is to go over Jaime's second drug test results.[28]

The Court hereby FINDS that at the previous hearing of June 4, 2024, Jaime's drug test results came back positive for methamphetamine -at extremely high levels.[29]

The Court further FINDS that as a result of her positive drug test results, Jaime, through counsel, volunteered to submit for a subsequent drug testing.[30]

The Court further FINDS that Jaime's subsequent drug test results came back positive for multiple controlled substances, namely, hydromorphone, hydrocodone, amphetamine, methamphetamine, and cocaine.[31]

The Court further FINDS that consistent with the provisions of NRS 125C.0035(4), Jaime's two consecutive positive drug test results warrant a modification of the temporary physical custody orders in this case, as same will serve the best interests of the child and ensure that his home environment remains safe and drug free.[32]

ORDERS:

[28] Order from the Hearing of August 20, 2024, on-file, herein, page 2, lines 4-5.
[29] *Id*. at lines 6-7.
[30] *Id*. at lines 8-9.
[31] *Id*. at lines 10-12.
[32] *Id*. at lines 13-17.

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NOW, THEREFORE, IT IS HEREBY ORDERED that the temporary physical custody orders are hereby modified to award Michael Primary Physical Custody of the minor child, subject to Jaime's liberal supervised visitation, with Michael acting as the supervisor for said visitation(s).[33]

It is further ORDERED that Jaime shall have daily FaceTime visitation with the child at 7:00 p.m.[34]

It is further ORDERED that Michael's previous request for attorney fees for having to: (1) respond, brief and appear at the hearing of March 21, 2024, to oppose and/or argue against Jaime's Motion; (2) appear at the return hearing of June 4, 2024, for Jaime's [first] drug test results; and (3) appear at the hearing of August 20, 2024, for Jaime's [second] drug test results is hereby granted.[35]

It is further ORDERED that Michael's counsel shall submit a Memorandum of Fees for the fees and costs incurred for the March 21, 2024, June 4, 2024, and August 20, 2024, hearings for this Court's consideration and review…[36]

60. On November 21, 2024, immediately prior to the start of the Non-Jury Trial, the Court heard arguments on Mom's *Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney Fees, and Dad's Opposition and Countermotion for Sanctions Pursuant to EDCR 5.219(a), for Attorney Fees and Costs, and for Other Related Relief*. Mom did not allege domestic violence in this Motion. Following arguments from the parties' counsel, the Court, having found that consistent with the provisions of NRS 125C.0035(4)(f), Mom's ongoing illicit drug abuse demonstrated by her second positive drug test results warrants maintaining the current Primary Physical Custodial

[33] *Id*. at lines 18-21.
[34] *Id*. at 22-23.
[35] *Id*. at page 3, lines 1-5.
[36] *Id*. at lines 6-8.

Timeshare with Dad, subject to Mom's supervised visitation, THEREFORE, THE COURT DENIED Mom's Motion in its entirety.

Domestic Violence

61. At trial, Mom alleged domestic violence against Dad for the first time. At no time did Mom plead domestic violence in her papers and pleadings. At no time did Mom mention domestic violence in prior Hearings. At trial, Mom testified for the very first time that Dad was very angry and abusive.[37]

62. Mom testified: "Michael is very abusive."[38] Mom stated, "I don't know what it meant, but what I'm saying to you is he was physically, emotionally, and financially abusive to me, period."[39]

63. Mom further testified that sometime in 2021, while she was recuperating from a breast lumpectomy, Dad punched her in the breast/chest area where she had recently been operated on causing her to sustain physical injuries requiring additional medical treatment, which included a subsequent mammogram and a digital ultrasound of her breast.[40]

64. While Mom testified that she told her oncologist, who treated her for domestic violence injuries, that said injuries were caused by Dad's acts of domestic violence perpetrated against her, she made no mention in her testimony as to the oncologist reporting her injuries to law enforcement, or Dad being criminally investigated and/or charged. Given

[37] EHVC at 2:14:07 p.m.
[38] *Id*. at 2:06:36 p.m.
[39] *Id*. at 2:11:24 p.m.
[40] *Id*. at 2:19:21 p.m.

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that mammograms and digital ultrasound imaging machines are not medically recognized tools utilized in the diagnosis and treatment of physical injuries sustained from acts of physical domestic violence, and because oncologists, as medical treatment providers, are mandatory reporters under Nevada law.

65. DAD's counsel moved to strike Mom's testimony, but was overruled by the Court. The Court allowed Mom's testimony so that it could assess its probative value and credibility vis-à-vis NRS 125C.0035(4)(k) and NRS 125C.0035(5).

66. Mom testified that the parties "had three physical altercations throughout [their] marriage,"[41] and explained that two occurred before 2019. She described the parties' marriage and communication as "not easy." Mom explained that Dad worked long hours, "he was gone forever and he would come home very angry."[42]

67. Mom explained that the parties had an altercation in their spare bedroom, and she "gave [Dad] two black eyes to defend [herself]."[43] When Mom's counsel asked her what Dad was doing to her, Mom stated that ***Dad was trying to keep her away from him***. (Emphasis added) Mom testified that Dad was punching her, and that the whole room was a wreck from him "tossing" her around in that room. For a second time, Mom's counsel asked her to tell the judge what Dad did to her. Mom looked at the Court and testified, "He's punched me a few times. It was in the jaw mainly. Then I kicked him in the face."[44]

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[41] *Id*. at 2:19:02 p.m.
[42] *Id*. at 2:19:38 p.m.
[43] *Id*. at 2:19:44 p.m.
[44] *Id*. at 2:20:02 p.m.

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68. Mom's testified that throughout the marriage, the parties fought, yelled, and screamed at each other for years. Mom testified that the parties "were banging up against the nightstands, the pictures on the walls. I think we even broke the door."[45]

69. Mom blamed Dad for these altercations, stating that he is "angry, he's a very angry person."[46] She further described Dad as "funny but he's also very angry and very emotional, he's angry. He's an angry man."[47]

70. Based on the Court's observation of Mom's body language, demeanor and testimony at trial concerning the alleged domestic violence, THE COURT FINDS that Mom's sua sponte allegations of domestic violence lack credibility and provide no probative value in this case.

71. Mom testified that Dad's infidelity is what led her to leave Dad in 2023. She explained, "I'm not asking for much. I just want the child half the time, I want the dog half the time, and I want half the house. The equity."[48] Mom indicated that she would like the dog to come with Jake when he visits Mom. She added, "I don't want this to happen. This is bad."[49]

72. Mom's counsel, Jennifer Isso, had to be admonished multiple times for testifying and leading her witness. As a result, several portions of Mom's testimony were stricken.[50]

73. Mom became emotional and cried when asked if she believes she and Dad can

[45] *Id*. at 2:21:10 p.m.
[46] *Id*. at 2:21:20 p.m.
[47] *Id*. at 2:22:09 p.m.
[48] *Id*. at 2:27:06 p.m.
[49] *Id*. at 2:27:52 p.m.
[50] *Id*. at 2:40:00 p.m.

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cooperate for the sake of the child.[51] She described her relationship with Jake as being strained right now, but that he knows things will get better, and Mom knows he loves her. Jake tells her all the time that he loves her; they still have that connection.[52]

74. On cross-examination, Dad's counsel asked Mom why she did not call the police, seek a protective order against Dad, or go to a domestic violence shelter, and instead continued to remain in the home with the child. Mom answered that she was "scared… scared enough that [Dad would] find me."[53]

75. During Mom's testimony regarding domestic violence, the following exchange occurred:

> **ATTORNEY SIMMONS:** And you testified that due to such acts of domestic violence, at one point, you required a mammogram to confirm your sutures were in tact, is that right?
> **MOM:** Internal bleeding-
> **ATTORNEY SIMMONS:** Internal bleeding. Mammograms detect cancerous tumors, correct?
> **MOM:** Yes, digital ultrasounds also detect internal bleeding.
> **ATTORNEY SIMMONS:** And you testified to having a mammogram, correct?
> **MOM:** Yes, and –
> **ATTORNEY SIMMONS:** Moving on. You testified that throughout the marriage, the marriage was tough because my client as very angry. Well, what was the source of the anger, if you know?
> **MOM:** What was the source?
> **ATTORNEY SIMMONS:** Why was he angry?
> **MOM:** Cause he was guilty, cheating on me, infidelity, for so long.
> **ATTOREY SIMMONS:** Isn't it true that he was angry because you were habitually using methamphetamine?
> **MOM:** We *both* are drug addicts.
> **ATTORNEY SIMMONS:** Nonresponsive, objection.
> **COURT:** So stricken.[54]

[51] *Id*. at 2:45:12 p.m.
[52] *Id*. at 2:45:54 p.m.
[53] *Id*. at 3:07:07 p.m.
[54] *Id*. at 3:07:26 p.m.

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76. Mom admitted that she had not provided day-to-day care to Jake because "he hasn't accepted any."[55]

77. During her cross-examination, the Court had to admonish Mom to answer the questions asked of her several times; Mom apologized.[56]

78. THE COURT FINDS that MOM did not provide credible testimony about her relationship with Jake. Mom testified as follows:

> **ATTORNEY SIMMONS:** Have you ever told Jake that he doesn't call you enough?
> **MOM:** Doesn't call me enough? I wouldn't say it like that. I would say that him and I need to call each other more often. It goes both ways.
> **ATTORNEY SIMMONS:** How many times a week do you call Jake presently?
> **MOM:** Probably every other day.
> **ATTORNEY SIMMONS:** And how many times do you speak to Jake during that time?
> **MOM:** Depends on when he calls me back.
> **ATTORNEY SIMMONS:** And during your conversations, what is the tone?
> **MOM:** Jake is – uh – what is the tone? Loving, um. Waiting for this to be over.[57]

79. THE COURT FINDS that Mom provided inconsistent testimony at trial. MOM testified that she asked DAD for more visits with JAKE which he denied. At trial DAD testified that he facilitated visits with MOM and JAKE, he even planned several of them at various locations; oftentimes, MOM cut the visit short. Based on the Court's observations of the parties' body language, demeanor and testimony at trial, THE COURT FINDS that DAD's testimony is more credible than MOM's testimony.

80. During cross-examination, MOM was asked about her opposition to the imposition of a constructive trust on the marital residence during Jake's minority wherein Mom

[55] *Id*. at 3:17:55 p.m.
[56] *Id*. at 3:18:27 p.m.
[57] *Id*. at 3:21:30 p.m.

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would not have to make any payments on the mortgage, taxes or any expense pertinent to maintaining the residence during the constructive trust, but when Jake reaches majority, Mom will receive half of the net equity in the marital home. MOM denied that a brief delay to her financial gain is secondary to Jake's best interest:

ATTORNEY SIMMONS: And you would agree with me that a brief delay to your financial gains is secondary to Jake's best interest?
MOM: No.
ATTORNEY SIMMONS: So your financial gains are priority?
MOM: Jake comes first. Jake comes first for me.
ATTORNEY SIMMONS: I'm confused, you just – when I asked you –
MOM: Yes, I need the money, but I need my son first.[58]
…
ATTORNEY SIMMONS: From your perspective, your temporary financial deferred receipt of assets is prioritized over Jake's best interests.
MOM: Yes.
ATTORNEY SIMMONS: I'm sorry, I didn't hear you.
MOM: Yes.[59]

81. THE COURT NOTES that while MOM credibly looked at the Court and stated, "Yes," at 3:47:45 p.m., she then looked at her attorney, Jennifer Isso, who shook her head in disapproval at 3:47:50 p.m., to which MOM explained to her counsel, "I mean my… I – I don't know." While her counsel shook her head from side to side, Mom expressed exasperation by throwing both arms up in the air and covering her face. She advised the Court that "it's just a little stressful," while looking at her counsel the entire time, who kept stating, "Do you need a break?"

82. THE COURT ADMONISHED MOM to look at the Judge when she is answering questions, and not to look to her attorney. THE COURT expressed concern about MOM

[58] *Id*. at 3:46:37 p.m.
[59] *Id*. at 3:47:30 p.m.

looking at Attorney Isso and/or her mom (who sat behind Attorney Isso) for answers. THE COURT further expressed concern about what appeared to be corresponding gestures from Ms. Isso and Mom. THE COURT reminded Mom that if she did not understand the question, she must let the Court know.[60]

83. THE COURT TAKES JUDICIAL NOTICE OF ALL OF MOM'S DRUG TESTS FILED AND SERVED IN THIS MATTER, which have been incorporated into this Decision and delineated in the chart below:

TEST DATE	SUBSTANCE	RESULT	LOCATION
28-Mar-24	Amphetamine	9775 pg/mg	Hair
	Methamphetamine	15980 pg/mg	Hair
4-Jun-24	Hydromorphone	561 ng/ml	Urine
	Hydrocodone	635 mg/ml	Urine
	THC Metabolite	267 ng/ml	Urine
	Cocaine	2150 pg/mg	Hair
	Cocaine Metabolite	75 pg/mg	Hair
	Amphetamine	2165 pg/mg	Hair
	Methamphetamine	3485 pg/mg	Hair
20-Aug-24	N/A	Negative	Hair and Urine
22-Nov-24	Hydrocodone	5525 pg/mg	Hair
	Methamphetamine	1615 pg/mg	Hair

84. THE COURT FINDS that whereas MOM tested positive in both her hair and urine on March 28, 2024 and June 4, 2024 (which were court-ordered immediately following the Court Hearing), the only time MOM presented a clean drug test was when she voluntarily took the test. FURTHERMORE, on November 22, 2024, MOM tested positive in her hair for Hydrocodone and Methamphetamine. THE COURT FURTHER FINDS that (with the exception of the August 20, 2024 voluntary drug test), MOM'S

[60] *Id.* at 3:48:00 p.m.

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methamphetamine levels in her hair have been steadily decreasing from 15,980 pg/mg on March 28, 2024 to 3,485 pg/mg on June 4, 2024 to 1615 pg/mg on November 22, 2024 (which was the day after trial). THE COURT FINDS THAT the August 20, 2024 voluntary drug test results are not credible.

85. THE COURT FINDS that MOM presented inconsistent, self-serving testimony throughout the proceedings. FURTHERMORE, MOM appeared to have been led by her counsel in much of her testimony to the point where MOM changed her answers after looking at her counsel who expressed disapproval. THE COURT ADMONISHED Ms. Isso for leading her witness and testifying, among other things. THE COURT FINDS that MOM's testimony was not credible and lacked probative value.

86. THE COURT FURTHER FINDS that DAD provided clear, consistent and credible testimony that was further corroborated by the evidence.

87. THE COURT TAKES JUDICIAL NOTICE of the Child Interview in FMC case FMC-23-678957-D, wherein Jake disclosed that he wanted his interview to be "equal" because he loves both of his parents.[61] When asked what time he begins to reside with his mother every other Saturday, Jake replied, "The time depends. Mom will say a time, but it means 30 minutes or an hour later."[62] Jake reported being on this timeshare "since mom left the house last January."[63] Jake disclosed that he has a cell phone and can freely call his parents; he has privacy when he calls them. Jake explained that he wanted

[61] Jake Randolph's Child Interview dated April 18, 2024, page 2.
[62] *Id*. at 3.
[63] *Id*.

his time with each parent to be equal.[64] He did not want his mother to have all the weekends with him "because Dad works during the week and is off weekends and he'd get no weekend with me."[65]

88. THE COURT NOTES that the Child Interview was conducted April 15, 2024, which was prior to Mom's visitation becoming supervised due to her positive drug tests. For these reasons, the child's initial preferences stated in the child interview may not be as relevant, or probative, considering Mom's drug use and corresponding absence from her son's life.

89. THE COURT FURTHER FINDS that in the Child Interview, Jake rated his relationship with Mom as a "7" out of ten because "Sometimes, she argues, gets very distant and sad" and he wishes she would stop accusing him of being on his dad's "side."[66] Jake rated his relationship with his Dad as a "9" out of ten because "He's very outgoing and nice to other people. Before, he had a lot of road rage. Sometimes he can have anger in his voice. But, he calms himself."[67] Jake stated he would not change anything about his father.

90. ***If any of these Findings of Fact are more correctly interpreted as a Conclusion of Law, they shall be so construed.***

[64] *Id*. at 7.
[65] *Id*.
[66] *Id*. at 6.
[67] *Id*.

III. CONCLUSIONS OF LAW

Jurisdiction

The parties were legally married on October 30, 2010. The parties have one minor child, JAKE RYAN RANDOLPH, ("JAKE"), born November 15, 2010. This Court has jurisdiction in the premises, both as to the subject matter thereof as well as to the parties thereto under Chapter 125 of the Nevada Revised Statutes. Mom and Dad have been, and are now, actual and bona fide residents of the County of Clark, State of Nevada, and have been domiciled therein for more than six weeks immediately prior to the commencement of this action. Pursuant to NRS 125A.305(1)(a), Nevada is the home state of the minor child at the time the proceedings were commenced. This Court maintains subject matter jurisdiction over this child custody case; personal jurisdiction over the parties; and exclusive and continuing personal jurisdiction over the minor child, JAKE. The custody and visitation orders made herein are in the best interest of the child. The amount of child support ordered herein is in compliance with NAC 425.

THE COURT HEREBY FINDS AND CONCLUDES that the parties are incompatible in marriage due to irreconcilable differences; neither party is pregnant, the parties request an equal division of community property and debt, and the parties desire this Court to enter a Decree of Divorce. THEREFORE, the bonds of matrimony are heretofore DISSOLVED and the parties and are hereby restored to their status as single unmarried persons.

Legal Custody

Legal custody involves having basic legal responsibility for a child and making major decisions regarding the child, including the child's health, education, and religious upbringing. *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009).

Pursuant to NRS 125C.001:

The Legislature declares that it is the policy of this State:

1. To ensure that minor children have frequent associations and a continuing relationship with both parents after the parents have ended their relationship, become separated or dissolved their marriage;
2. To encourage such parents to share the rights and responsibilities of child rearing; and
3. To establish that such parents have an equivalent duty to provide their minor children with necessary maintenance, health care, education, and financial support. As used in this subsection, "equivalent" must not be construed to mean that both parents are responsible for providing the same amount of financial support to their children.

NRS 125C.002 provides direction to the Court in deciding legal custody of a child as follows:

1. When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if:
(a) The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or
(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.
2. The court may award joint legal custody without awarding joint physical custody.

THE COURT FINDS that Mom and Dad both want what is best for Jake. However, Dad has been the one solely providing for Jake's physical, emotional, developmental needs since January 2023 due to Mom's decision to leave her son in Dad's care, coupled with

Mom's ongoing drug use, as evidenced by her positive drug tests; THEREFORE, THE COURT FINDS AND CONCLUDES that it is in Jake's best interest for Dad to have Modified Legal Custody wherein Dad must communicate any important legal decisions regarding Jake (i.e., education, medical, religious, etc.) to Mom via TalkingParents. If Mom fails to respond to Dad within 48 hours, then Dad may proceed with his decision-making. In the event the parties reach an impasse, Dad may proceed with his decision-making and Mom shall seek court intervention.

Physical Custody

NRS 125C.0025 Joint physical custody.

1. When a court is making a determination regarding the physical custody of a child, there is a preference that joint physical custody would be in the best interest of a minor child if:

(a) The parents have agreed to an award of joint physical custody or so agree in open court at a hearing for the purpose of determining the physical custody of the minor child; or

(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.

Evaluating the child's best interest in determining custody is designed to place the child's welfare and developmental needs at the forefront of all child custody decisions, ensuring that the outcomes support their physical, emotional, and psychological well-

being.[68] The best interest of the child standard is a polestar of judicial decision making in family law matters.[69]

In analyzing the best interest of the children, the Court must analyze the factors enumerated in NRS 125C.0035(4):

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her custody.

At trial, Dad testified that Jake is a happy, healthy and bright child, who thriving in his present home and school environment, but he has been adversely impacted by Mom's extensive absence from his life.[70] Additionally, Dad testified that it was his belief that the child's preference was to preserve the status quo by maintaining the current timeshare arrangement in place in this case.[71]

THE COURT TAKES JUDICIAL NOTICE of the Child Interview in FMC case FMC-23-678957-D, wherein Jake disclosed that he wanted his interview to be "equal" because he loves both of his parents.[72] When asked what time he begins to reside with his mother every other Saturday, Jake replied, "The time depends. Mom will say a time, but it means 30 minutes or an hour later."[73] Jake reported being on this timeshare "since mom left the house last January."[74] Jake disclosed that he has a cell phone and can freely call his

[68] *Soldo-Allesio v. Ferguson*, 141 Nev., Advance Opinion 9 (2025) (unpublished disposition) (citing *Monahan v. Hogan, 138 Nev. 58, 62, 507 P.3d 588, 592 (Ct. App. 2022)*
[69] *Id.*
[70] EHVC at 4:25:21 and 4:25: 07 p.m.
[71] *Id*. at 4:27:29 p.m.
[72] Jake Randolph's Child Interview Report dated April 18, 2024, page 2.
[73] *Id*. at 3.
[74] *Id*.

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parents; he has privacy when he calls them. Jake explained that he wanted his time with each parent to be equal.[75] He did not want his mother to have all the weekends with him "because Dad works during the week and is off weekends and he'd get no weekend with me."[76]

THE COURT NOTES that the Child Interview was conducted April 15, 2024, which was prior to Mom's visitation becoming supervised due to her positive drug tests. This was also prior to Mom's decision not to exercise her visitation at Donna's House. For these reasons, the child's initial preferences stated in the child interview may not be as relevant, or probative, considering Mom's two dirty drug tests, and notable absence from her son's life, after the Child Interview.

For these reasons, based on the evidence presented at trial, this factor is neutral.

(b) Any nomination by a parent or a guardian for the child.

This factor is not applicable.

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

At trial, Dad testified that he has always supported, encouraged and fostered Mom's parent/child relationship with the minor child. Particularly:

Dad testified that he has consistently gone out of his way to create activities and different things for Mom to have frequent supervised visitation with the child, such as, the

[75] *Id*. at 7.
[76] *Id*.

Starbucks visits, bowling and park visits.[77] Dad also testified that he frequently encourages the child to call and/or FaceTime with Mom. Dad testified that he always accommodated ***all*** of Mom's requests for visitation by facilitating same, he never attempted to cancel or change or reschedule any visits scheduled, it was never his understanding that Mom was limited to only one visit per week, but rather, Mom simply did not seek to exercise her visitation very often, but when she did, she was always the one who ended the visits after one or two hours.[78] Most importantly, Dad testified that he basically made time for Mom to exercise her supervised visitation whenever she wanted but she did not take advantage of his willingness to make the child [and himself] available for her supervised visitation very often, but when Mom did, Dad made sure he and the child were available for the visit.

Conversely, while Mom testified as to her beliefs as to the minor child loving his father, aside from acknowledging Dad's strong parent/child bond with the child and praising Dad as a father, she proffered no testimony pertaining to her efforts to support, foster and encourage the child's relationship with Dad.

For these reasons, based on the evidence presented at trial, this factor favors Dad.

(d) The level of conflict between the parents.

At trial, Dad testified that aside from the high conflict caused by Mom's ongoing illicit drug abuse, there was little or no conflict existing between the parties. [79] Dad also

[77] EHVC at 4:28:39 p.m.
[78] *Id*. at 4:27:53 and 4:29:40 p.m.
[79] *Id*. at 4:33:39 p.m.

testified that since Mom abandoned the marriage and her family in January 2023, there has been no conflict between the parties, and Mom's testimony confirmed same.[80]

Mom testified that Dad brought high conflict into their relationship. Mom alleged domestic violence for the first time at trial. Mom's domestic violence allegations were not found to be credible by the Court. This will be discussed more, *infra* factor (k).

Based on the evidence presented at Trial, this factor is neutral.

(e) The ability of the parents to cooperate to meet the needs of the child.

While the parties' respective testimonies unequivocally confirmed that Mom was primarily responsible for Jake's day-to-day care during his infancy, early and middle childhood phases of his child development, the parties' respective testimonies also unequivocally confirmed that since leaving the marriage and her family in January 2023, Mom has played no part in providing for Jake's day-to-day needs for two years.[81] Additionally, the parties' respective testimonies confirmed that since Mom left the marital home, Dad has been exclusively responsible for meeting Jake's day-to-day needs. Specifically:

Dad testified that since January 2023, he has been solely responsible for providing for Jake's primary care, to include, providing for Jake's financial support, taking Jake to his karate classes and therapy, paying for Jake's karate classes and therapy, taking Jake to doctors and dental appointments, and coordinating with Jake's school.[82] When questioned as to why he believed Mom was unable to maintain her parental responsibilities for Jake

[80] *Id*. at 4:33:48 p.m.
[81] *Id*. at 4:34:47 p.m.
[82] *Id*. at 4:34:47 p.m.

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since January 2023, Dad testified that he believed that Mom's ongoing struggles with her addiction was adversely impacting her ability to be present and actively parent Jake.[83]

Although Mom's testimony confirmed that Dad has been solely responsible for providing for Jake's primary care, including providing Jake's transportation to and from Karate classes and therapy (as well as paying for same), providing for Jake's transportation to all supervised visits, and taking Jake to all medical and dental appointments since Mom left the marital home, Mom also testified that she has consistently maintained ongoing electronic communications with Jake's school. [84]

Dad demonstrated that he is willing and capable of cooperating with Mom to meet Jake's day-to-day needs. Mom failed to establish that she has cooperated with Dad to meet Jake's day-to-day needs. For these reasons, based on the evidence presented at trial, this factor favors Dad.

(f) The mental and physical health of the parents.

At trial, Dad testified that notwithstanding his prior history of addiction, which has been successfully managed for approximately 13 years, and his current back injury sustained during the course of his employment, which is presently being treated and does not impact his ability to meet Jake's day-to-day needs, Dad has no mental or physical health conditions that adversely impact his ability to be present, to parent Jake and to meet Jake's day-to-day needs.[85]

[83] *Id*. at 4:35:02 p.m.
[84] *Id*. at 3:19:46 p.m.
[85] *Id*. at 4:10:46-4:10:49, 4:11:56, and 4:12:16 p.m.

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Conversely, when questioned about Mom's mental and physical health, Dad testified that he believed that Mom's ongoing struggles with addiction adversely impact and preclude her ability to parent a typical teenage boy.[86] Dad further testified as to his beliefs that Mom's ongoing struggle with illicit drug abuse was the actual reason why Mom abandoned the marriage and her family. Dad also testified that Mom's current residence at her mother's house is not a conducive environment for a teenage boy because all of the adults who reside with Mom have documented histories of illicit drug abuse, including maternal grandmother.

During her cross-examination, Mom's testimony confirmed that during the pre-trial phase of these proceedings, Mom twice tested positive for drugs and/or illicit substances on her court-ordered drug tests.[87] Mom testified that her first drug test came back positive for Amphetamine and Methamphetamine – at extremely high levels, and her second drug test came back positive for Cocaine, Cocaine Metabolite, hydrocodone, hydromorphone, THC, Amphetamine and Methamphetamine.[88] Additionally, and of notable concern, Mom provided no testimony as to any remedial efforts she has taken – *or will take* -- to eliminate her illicit substance abuse. Furthermore, at trial, Mom testified that she takes four prescribed drugs, though she could not identity all four of these prescribed drugs by name.

For these reasons, based on the evidence presented at trial, this factor favors Dad.

(g) The physical, developmental and emotional needs of the child.

[86] *Id*. at 4:35:06 p.m.
[87] *Id*. at 3:13:48 p.m.
[88] *Id*. at 3:14:31 p.m.

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Both parties testified that Jake is a happy, healthy, well-adjusted typical teenage boy, who is thriving in his present school and home environments.[89] Jake presently attends the Joy Academy, a small private school (K-12) located less than one-hundred yards from the marital residence. The parties' respective testimonies confirm it was their mutual desire and intention for Jake to graduate from the Joy Academy.

As set forth in factor (e), *supra*, although Mom was primarily responsible for Jake's day-to-day care during his infancy, early and middle childhood phases of his child development, ever since she left the marital home in January 2023, Mom has played no part in providing for Jake's day-to-day needs for almost two years.[90] It is undisputed that Dad has been exclusively responsible for meeting Jake's day-to-day needs. Specifically:

Dad testified that since January 2023, he has been solely responsible for providing for Jake's primary care, to include, providing for Jake's financial support, taking Jake to his karate classes and therapy, paying for Jake's karate classes and therapy, taking Jake to doctors and dental appointments, and coordinating with Jake's school. [91]

Based on the evidence presented at trial, this factor favors Dad.

(h) The nature of the relationship of the child with each parent.

In the Child Interview, Jake rated his relationship with Mom as a "7" out of ten because "Sometimes, she argues, gets very distant and sad" and he wishes she would stop accusing him of being on his dad's "side."[92] Jake rated his relationship with his Dad as a

[89] *Id*. at 4:25:21 p.m.
[90] *Id*. at 4:34:47 p.m.
[91] *Id*. at 4:34:47 p.m.
[92] Jake Randolph's Child Interview dated April 18, 2025, page 6.

"9" out of ten because "He's very outgoing and nice to other people. Before, he had a lot of road rage. Sometimes he can have anger in his voice. But, he calms himself."[93] Jake stated he would not change anything about his father.

At trial, MOM admitted that her relationship with Jake is strained right now. Regarding their communication, Mom testified as follows:

> **ATTORNEY SIMMONS:** Have you ever told Jake that he doesn't call you enough?
> **MOM:** Doesn't call me enough? I wouldn't say it like that. I would say that him and I need to call each other more often. It goes both ways.
> **ATTORNEY SIMMONS:** How many times a week do you call Jake presently?
> **MOM:** Probably every other day.
> **ATTORNEY SIMMONS:** And how many times do you speak to Jake during that time?
> **MOM:** Depends on when he calls me back.
> **ATTORNEY SIMMONS:** And during your conversations, what is the tone?
> **MOM:** Jake is – uh – what is the tone? Loving, um. Waiting for this to be over.[94]

When questioned about Mom's parent/child bond with Jake, Dad testified as to his beliefs that Jake loves his mother and that Mom loves Jake.[95] Dad also testified as to his beliefs that Mom was having difficulties transitioning from parenting Jake, as a young child, to parenting Jake, as a teenage boy, who is becoming more autonomous, self-reliant and independent every day.[96] Dad demonstrated a good faith basis for his beliefs, by testifying about Mom's expressed frustration regarding Jake's limited willingness to participate in frequent phone/FaceTime contact with Mom, given her always-changing

[93] *Id.*
[94] *Id.* at 3:21:30 p.m.
[95] *Id.* at 4:25:21 p.m.
[96] *Id.* at 4:25:33 p.m.

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daily work schedule and that Jake is now a teenaged boy. Dad also testified to his beliefs that Mom gave Jake a hard time about not contacting her every day.[97]

Dad testified that he and Jake have become extremely close since Mom abandoned the marriage and her family. Dad also testified that for the better part of two years, he has been Jake's sole primary custodian, who has been responsible for meeting all of Jake's day-to-day needs.

For these reasons, based on the evidence presented at trial, this factor favors Dad.

(i) The ability of the child to maintain a relationship with any sibling.

This factor is inapplicable.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

This factor is inapplicable.

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

Although Mom ***did not*** include allegations of domestic violence in her Complaint, and although both of her Motions filed in the underlying action expressly stated "N/A" in her NRS 125C.0035(4)(k) best interest factor analysis, Mom spent the lion's share of her direct testimony testifying as to previously unpled, sua sponte allegations of domestic violence against Dad, over Dad's objection.[98] Pursuant to *Castle v. Simmons, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004)*, the Court must "hear *all* information regarding domestic violence

[97] *Id*. at 4:27:53 p.m.
[98] EHVC at 2:06:39, 2:07:51, and 2:08:26 p.m.

in order to determine the child's best interests."[99] The Supreme Court of Nevada recently reemphasized the importance of district courts' careful review and consideration of *all* evidence related to domestic violence in *Soldo-Allesio v. Ferguson*, 141 Nev. Adv. Op. 9 (Nev. App. 2025).

At trial, Mom testified, for the very first time in this divorce action, that Dad was very angry and abusive.[100] Mom further testified that sometime in 2021, while she was recuperating from a breast lumpectomy, Dad punched her in the breast/chest area where she had recently been operated on causing her to sustain physical injuries requiring additional medical treatment, which included a subsequent mammogram and a digital ultrasound of her breast.[101]

While Mom testified that she told her oncologist, who treated her for domestic violence injuries, that said injuries were caused by Dad's acts of domestic violence perpetrated against her, she made no mention in her testimony as to the oncologist reporting her injuries to law enforcement, or Dad being criminally investigated and/or charged. Given that mammograms and digital ultrasound imaging machines are not medically recognized tools utilized in the diagnosis and treatment of physical injuries sustained from acts of physical domestic violence, and because oncologists, as medical treatment providers, are mandatory reporters under Nevada law, Mom's sua sponte allegations lack credibility and provide no probative value in this case.

[99] *Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004).
[100] EHVC at 2:14:07 p.m.
[101] *Id*. at 2:19:21 p.m.

Additionally, Mom testified about an incident prior to 2019, that involved alleged acts of domestic violence that transpired one evening when Dad came home angry and the parties got into a fight, which ultimately resulted in Mom's admission that she kicked Dad in the head and gave him two black eyes.[102] This, in turn, effectively renders Mom, by her own admission, the actual perpetrator of acts of domestic violence in this case.

Although Mom alleged that Dad perpetrated acts of domestic violence against her throughout the marriage, Mom's testimony was not supported by any documentary evidence. Mom, by her own admission, never reported Dad to law enforcement, she never sought a Temporary Protection Order against Dad, and she (and Jake) never went to a domestic violence shelter. In fact, the only facts demonstrated through Mom's testimony regarding domestic violence was that Mom, by her own admission, perpetrated ongoing acts of domestic violence against Dad.[103]

On cross-examination, Dad's counsel asked Mom why she did not call the police, seek a protective order against Dad, or go to a domestic violence shelter, and instead continued to remain in the home with the child, Mom answered that she was "scared… scared enough that [Dad would] find me."[104] During Mom's testimony regarding domestic violence, the following exchange occurred:

> **ATTORNEY SIMMONS:** And you testified that due to such acts of domestic violence, at one point, you required a mammogram to confirm your sutures were in tact? [*unintelligible*] internal bleeding? Mammograms detect cancerous tumors, correct?
> **MOM:** Yes, digital ultrasounds also detect internal bleeding.
> **ATTORNEY SIMMONS:** And you testified to having a mammogram, correct?

[102] *Id*. at 2:19:22 p.m.
[103] *Id*. at 2:19:25, 2:20: 03, and 2:20:20 p.m.
[104] *Id*. at 3:07:07 p.m.

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MOM: Yes, and –
ATTORNEY SIMMONS: Moving on. You testified that throughout the marriage, the marriage was tough because my client as very angry. Well, what was the source of the anger, if you know?
MOM: What was the source?
ATTORNEY SIMMONS: Why was he angry?
MOM: Cause he was guilty, cheating on me, infidelity, for so long.
ATTOREY SIMMONS: Isn't it true that he was angry because you were habitually using methamphetamine?
MOM: We *both* are drug addicts.
ATTORNEY SIMMONS: Nonresponsive, objection.
COURT: So stricken.[105]

Based on the Court's observation of Mom's demeanor, behavior, body language and testimony at trial – not to mention her interplay with her attorney at trial – THE COURT FINDS AND CONCLUDES THAT Mom's testimony regarding the domestic violence incident was not credible and lacked probative value. THE COURT FINDS AND CONCLUDES that MOM provided self-serving, non-credible testimony on the subject of domestic violence. For these reasons, based on the evidence presented at trial, THE COURT FINDS AND CONCLUDES that – *just as MOM wrote in her two underlying custodial Motions*[106] -- this factor is "N/A" which stands for not applicable.

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

This factor is inapplicable.

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[105] *Id*. at 3:07:26 p.m.
[106] Mom filed her first Motion seeking Primary Physical Custody of Jake on January 18, 2024, and her second such motion on October 8, 2024.

Based on the evidence presented at trial, THE COURT FINDS AND CONCLUDES that the NRS 125C.0035(4), best interest factors unequivocally favor Dad.

THE COURT FURTHER FINDS AND CONCLUDES that NRS 125C.0035(5) is not applicable for there was not clear and convincing evidence establishing that either party has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child.

THE COURT FURTHER FINDS that it must "consider the least restrictive parenting time arrangement possible to avoid constraining the parent-child relationship any more than is necessary to prevent potential harm caused by an unfit parent and meet the best interest of the child."[107] THEREFORE, pursuant to *Roe v. Roe*, THE COURT FINDS AND CONCLUDES that, considering MOM's ongoing drug use vis-à-vis the potential harm to the child, it is in Jake's best interest for Dad to have Sole Physical Custody, subject to Mom having progressively increased supervised visitation as defined herein, *infra*. The COURT FINDS that this custodial timeshare is the least restrictive so as to ensure the safety and well-being of Jake vis-à-vis his mother's drug treatment and monitoring. THE COURT FURTHER FINDS AND CONCLUDES that although the Court had granted MOM liberal supervised visits with JAKE, MOM has only exercised her visits for a few hours each week, per DAD's credible testimony. THEREFORE, MOM's visits shall remain status quo, supervised by Dad at least once per week for a minimum of four hours per week, at Dad's discretion.

[107] *Roe v. Roe*, 139 Nev. Adv. Op. 21, 535 P.3d 274, 281 (Nev. App. 2023).

While the goal is for Mom to share Joint Physical Custody of Jake, THE COURT FINDS AND CONCLUDES that based on the COURT's preliminary NRS 125C.0035(4) Findings memorialized in the Order from the Hearing of August 30, 2024, on-file, herein, and incorporated herein by reference, and Mom's positive drug tests at the onset of this case, coupled with the evidence admitted at trial, THE COURT FINDS AND CONCLUDES that as a condition precedent to MOM exercising Joint Physical Custody of Jake, Mom must successfully complete a drug treatment program (which includes random drug tests, drug treatment, goals and milestones). Specifically:

Mom shall engage in drug treatment and complete the Options Patch Program, consisting of not less than thirty-six (36) consecutive weeks and/or nine (9) months of uninterrupted drug monitoring, prior to being awarded any unsupervised overnight visitation with Jake. Additionally, once Mom successfully engages in drug treatment and completes not less than thirty-six consecutive weeks of the Options Patch Program, Mom shall be subject to ongoing monitoring and random drug testing upon Dad's request, for an additional three (3) months; thereby totaling twelve (12) months of monitoring and treatment.

Phase 1: MOM's supervised visits shall remain status quo, at least once per week for at least 4 hours supervised at Dad's discretion. After MOM engages in four (4) consecutive months of drug treatment and clean Options test results ("patches"), Mom's supervised visits shall expand to two (2) four (4) hour blocks of unsupervised visitation each week.

Phase 2: After six (6) consecutive months of drug treatment and clean patches, Mom's unsupervised visits shall be expanded to two (2) eight (8) hour blocks of unsupervised visitation each week.

Phase 3: After nine (9) consecutive months of drug treatment and clean patches, Mom may submit a request for referral order to FMC to allow the parties to attempt to formulate a schedule for unsupervised visitation that will afford Mom an average of not less than eight (8) full days (with overnights) each calendar month, excluding holidays, and to attempt to formulate a holiday visitation schedule for Mom (which shall presume Mom shall continue to be drug free), with the new unsupervised visitation to become effective upon Mom's successful completion of nine (9) consecutive months of drug treatment and clean Options test results. The parties shall acknowledge and stipulate that their use of FMC, after Mom meets the nine (9) month benchmark milestone, shall be for the limited purpose of attempting to formulate an unsupervised visitation schedule and shall not include discussions regarding the modification of physical custody.

If the parties are unable to formulate a schedule at FMC, Mom shall file a motion in accordance with this agreement setting forth her requested visitation schedule. So long as Mom has successfully completed the required total of nine (9) consecutive months of drug treatment and clean tests results through Options Monitoring Program, the Court may deem there to be sufficient adequate cause for the Court to consider Mom's requested visitation schedule.

Phase 4: If Mom successfully completes the nine (9) consecutive months of drug treatment and clean test results through the Options Monitoring Program, Mom shall then

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be subject to random hair and urine drug testing at American Toxicology, Inc. ("ATI") for a period of three (3) additional months thereafter. During this 3-month period, Dad and/or his counsel can contact Mom or her counsel, via email and/or talking parents, requesting for Mom to submit for testing at any time during this three (3) month period. Mom shall report for testing within eight (8) hours from the time of the request being made. If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances Mom shall be solely responsible for all costs associated with testing stipulated to into his agreement.

Global Rule: If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances. Mom shall be solely responsible for all costs associated with testing stipulated to into his agreement. If Mom should test dirty and/or positive and/or relapse, at any time during this 12-month monitoring period, the "Candyland" provision shall be triggered and Mom's visitation and required monitoring shall revert back to Phase 1, and Mom shall be required to successfully follow the graduated plan in this agreement until Mom successfully completes 12 consecutive months of monitoring.

THE COURT FINDS AND CONCLUDES that it is in the best interest of Jake for Mom's expanded visitation plan to be contingent on Mom's successful completion of at least 12 months in a drug treatment program and Options Monitoring. THE COURT FURTHER FINDS AND CONCLUDES that the visitation schedule described herein is the least restrictive timeshare consistent with Jake's best interests, as it permits Mom and

Jake to gradually work up to unsupervised quality time together while simultaneously ensuring Mom is maintaining sobriety for Jake's safety and wellbeing.[108]

CHILD SUPPORT

Nevada Administrative Code (NAC) 425.025
"Gross income" defined. (NRS 425.620)

1. "Gross income" includes, without limitation:

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

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

(c) Social security disability benefits and old-age insurance benefits under federal law.

(d) Any periodic payment from a pension, retirement plan or annuity which is considered remuneration for employment.

(e) Net proceeds resulting from workers' compensation or other personal injury awards intended to replace income.

(f) Unemployment insurance.

(g) Income continuation benefits.

(h) Voluntary contributions to a deferred compensation plan, employee contributions to an employee benefit or profit-sharing plan, and voluntary employee contributions to any pension or retirement account, regardless of whether the account provides for tax deferral or avoidance.

(i) Military allowances and veterans' benefits.

(j) Compensation for lost wages.

(k) Undistributed income of a business entity in which a party has an ownership interest sufficient to individually exercise control over or access the earnings of the business, unless the income is included as an asset for the purposes of imputing income pursuant to NAC 425.125. As used in this paragraph:

(1) "Reasonable allowance for economic depreciation" means the amount of depreciation on assets computed using the straight-line method and useful lives as determined under federal income tax laws and regulations.

(2) "Undistributed income" means federal taxable income of a

[108] *Roe*, 139 Nev. Adv. Op. 21, 535 P.3d 274 at 281 (Nev. App. 2023).

business entity plus depreciation claimed on the federal income tax return of the business less a reasonable allowance for economic depreciation.

(l) Child care subsidy payments if a party is a child care provider.

(m) Alimony.

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

2. The term does not include:

(a) Child support received.

(b) Foster care or kinship care payments.

(c) Benefits received under the federal Supplemental Nutrition Assistance Program.

(d) Cash benefits paid by a county.

(e) Supplemental security income benefits and state supplemental payments.

(f) Except as otherwise provided in paragraph (l) of subsection 1, payments made for social services or any other public assistance benefits.

(g) Compensation for losses, including, without limitation, both general and special damages, from personal injury awards not intended to replace income.

3. This section must not be construed to limit income withholding or the assignment of workers' compensation benefits for the collection of child support.

NAC 425.140 Schedule for determining base child support obligation based on number of children and monthly gross income of obligor. (NRS 425.620**)**

Except as otherwise provided in NAC 425.145, the base child support obligation of an obligor must be determined according to the following schedule:

1. For one child, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 16 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 8 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 4 percent of such a portion.

2. For two children, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 22 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 11 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 6 percent of such a portion.

NAC 425.150 Adjustment of child support obligation in accordance with specific needs of child and economic circumstances of parties. (NRS 425.620**)**

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

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

Consistent with the provisions of NAC 425.115 and NAC 425.140, Mom must be ordered to pay Dad child support at the monthly rate of 16% of her gross monthly income. Pursuant to Mom's Financial Disclosure Form, on-file, herein, and her testimony, Mom currently earns a gross monthly income of $3,986. Accordingly, Mom's child support obligation calculates as follows:

$3,986 x .16 = $637.76

As it pertains to child support deviations, THE COURT FINDS AND CONCLUDES that the Court did not receive any credible evidence regarding childcare, transportation costs, or necessary medical care for the children in accordance with NAC 425.150; thus, there are no further deviations from the statutory amount pursuant to NAC

425. Mom may receive a downward deviation for half of her out-of-pocket costs of the child's health insurance premium, subject to proof.

Additionally, because Mom willfully disregarded her parental financial responsibilities for the minor child since she left the marital home in January 2023, THE COURT FINDS AND CONCLUDES that Dad is entitled to child support arrears retroactive to when he began solely providing for and attending to Jake's daily needs in January 2023.

District Courts have discretion to award child support arrears for the "reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian."[109] However, "[i]n the absence of a court order for the support of a child, the parent who has physical custody may recover not more than 4 years' support furnished before the bringing of the action to establish an obligation for the support of the child."[110]

It is undisputed that DAD has been providing solely for Jake's needs without any assistance from Mom since January 2023. DAD did not offer any evidence of the "reasonable portion of the cost of care, support, education, and maintenance" that he spent on Jake since January 2023. It is undisputed that Dad's family trust pays for Jake's private school tuition. It is further undisputed that Dad has provided for Jake's daily needs, to include his shelter, food, and clothing, among other things. Dad filed an FDF on January 17, 2024 and November 12, 2024. Therefore, based on DAD's FDF, he is entitled to half the cost of the food, shelter and clothing for Jake, to the extent it was delineated in DAD's

[109] NRS 125B.030.

[110] *Perez v. Haywood*, 522 P.3d 463 (Nev. App. 2022) (citing NRS 125B.030).

FDF. Apart from DAD's FDF, no other evidence was admitted vis-à-vis the reasonable portion of Jake's care, support and maintenance. THEREFORE, THE COURT FINDS AND CONCLUDES that DAD must file a Schedule of Arrears for any constructive arrears consistent with this Decree (i.e. constructive arrears shall be based on the amounts delineated on DAD's FDF for Jake's food, shelter, and clothing). DAD's award of child support shall be retroactive to January 2023, as neither party disputes that Dad has been solely providing for Jake's needs without any assistance from Mom since that date.

At trial, Mom testified that she presently has access to health insurance benefits for the minor child made available to her through her current employer.[111] Conversely, Dad testified that due to his present long-term disability classification and/or status, he does not presently have access to health insurance benefits for the minor child available through his employer.

Accordingly, consistent with provisions of NAC 425.135, Mom is ordered to maintain health insurance benefits for the minor child for the remainder of his minority, through benefits made available to her through her employer. Mom shall receive a downward deviation for half of this amount, subject to proof, pursuant to NAC 425.150(g).

CONSTRUCTIVE TRUST

Dad requests that the marital home be placed in a constructive trust for the duration of Jake's minority. The Supreme Court of Nevada established that a constructive trust will arise and affect property acquisitions under the following circumstances: "(1) a confidential relationship exists between the parties; (2) retention of legal title by the holder thereof

[111] EHVC at 3:33:12 p.m.

against another would be inequitable; and (3) the existence of such a trust is essential to the effectuation of justice."[112] The Supreme Court further clarified that a confidential relationship

> may arise by reason of kinship or professional, business, or social relationships between the parties. Such a relationship "*exists when one party gains the confidence of the other and purports to act or advise with the other's interests in mind*; it may exist although there is no fiduciary relationship; it is particularly likely to exist when there is a family relationship or one of *friendship*." When a confidential relationship exists, the person in whom the *special trust* is placed owes a duty to the other party similar to the duty of a fiduciary, requiring the person to act in good faith and with due regard to the interests of the other party.[113]

Further, pursuant to *Bemis v. Estate of Bemis*, implied trusts are equitable remedies recognizing and protecting property rights of an innocent party.[114] A constructive trust does not require the parties' specific intent to create such a trust; "the constructive trust is no longer limited to fraud and misconduct cases; it redresses ***unjust enrichment***, not wrongdoing."[115] (Emphasis Added) Thus, a court must find that there has been ***unjust enrichment*** in order to impose a constructive trust.

While, in theory, the Court agrees with Dad's equitable arguments for imposition of a constructive trust, it is incumbent on this Court to strictly apply the *Locken* factors to the case at bar. In doing so, THE COURT FINDS AND CONCLUDES that the requirements for a constructive trust are not met in this case.

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[112] *Locken v. Locken*, 98 Nev. 369, 372, 650 P.2d 803, 805 (1982).
[113] *Wilson v. Grundy*, 536 P.3d 913 (Nev. 2023) (citing *Perry v. Jordan*, 111 Nev. 943, 947, 900 P.2d 335, 337 – 38 (1995) (emphases added)).
[114] *Bemis v. Estate of Bemis*, 114 Nev. 1021, 1027, 967 P.2d 437, 441 (1998).
[115] *Id*. (citing Dan B. Dobbs, *Law of Remedies* § 4.3(2) (2d ed.1993).

Here, the first factor for establishing a constructive trust is clearly met: Mom and Dad had a confidential relationship as evidenced by their 15-year marriage and their co-parenting relationship as they have worked together to raise Jake. As to the second factor, the Court would have to find that equal division of the proceeds from the sale of the marital home would be inequitable, and would result in unjust enrichment of Mom. This is simply not the case here, as the Nevada policy for equal division of community assets upon divorce is explicitly delineated in NRS 125.150(1)(b); Mom's receipt of her share of funds from the sale of the home would certainly not constitute unjust enrichment. Rather, such a distribution would be well in line with the policy and preference of the State of Nevada. Because this Court has not found that retention of the legal title of the marital home (in the form of her possession of half of the sale proceeds) by Mom would be inequitable, this Court cannot impose a constructive trust in this case.

This Court's paramount concern is the best interest of Jake. Jake has lived in the marital home for his entire life; his private school is located in close proximity to the marital residence. Jake is thriving in his current home and school environments, and sale of the marital home would constitute further disruption to what has already been a tumultuous experience in Jake's adolescent years. Furthermore, Dad has established his credible concern that Mom's share of proceeds from the sale of the marital home may be utilized to fund purchase of illicit drugs. This concern is corroborated by the several ATI drug test results received by the Court in this case, and the Court echoes Dad's concern. Thus, while this Court agrees with Dad that establishment of a constructive trust would benefit Jake, this Court disagrees that Dad has satisfied the requisite *Locken* factors.

At trial, the parties both testified that the during the marriage they purchased the marital residence located at 5409 Contera Court, which is located less than one block away from Jake's current school, the JOY Academy of Southern Nevada.[116] Dad testified that the current fair market value of the marital residence is approximately $438,900. Dad's testimony and the documentary evidence admitted as Exhibit "G" and Exhibit "F" demonstrated that there is presently an outstanding note of $161,750.98 associated therewith and there is approximately $277,149.02 in equity in the marital residence held by the community.

Dad's testimony further demonstrated that he and Jake are residing in the marital residence and the marital residence is the only home that Jake has ever known. Likewise, Dad's testimony demonstrated that Jake's private school that he will be attending through high school is located directly adjacent to/across the street from home, and Jake is presently thriving in his current home and school environments.

Dad's testimony also demonstrated Mom's history of illicit drug use, and his serious concerns about Mom's ability to responsibly utilize any community property assets that may be awarded to her vis-à-vis her illicit substance abuse. Additionally, Dad testified that he fears that Mom will forego the entirety of her one-half interest in any proceeds realized from the sale of the marital residence awarded to her pursuant to the Decree to fund and sustain her illicit substance abuse, without regard for her ongoing parental financial obligations owed to Jake for the remainder of his minority. DAD's testimony is

[116] The JOY Academy of Southern Nevada is a K-12 private school located at 3883 E Mesa Vista Way, Las Vegas, Nevada, is less than one block away from the marital residence located at 5409 Concerta Court, Las Vegas, Nevada.

corroborated by the undisputed fact that since MOM left DAD to provide solely for Jake's needs in January 2023, MOM has not provided any financial support for her son.

THE COURT FINDS AND CONCLUDES that Dad provided credible, consistent and compelling testimony corroborated by the evidence, whereas Mom did not. MOM presented inconsistent, self-serving testimony throughout the proceedings. She looked to her counsel while answering questions during cross-examination, changed her answers, and expressed exasperation during her testimony. THE COURT had to ADMONISH MOM to look at the Judge when she was answering questions, and not to look to her attorney. THE COURT expressed concern about Mom looking at her counsel, Jennifer Isso (and/or her mom). THE COURT FURTHER expressed concerns about what appeared to be corresponding gestures between Attorney Isso and Mom during her testimony. THE COURT reminded MOM that if she did not understand the question, she must let the Court know.[117]

THE COURT FURTHER FINDS AND CONCLUDES that the only time MOM presented a clean drug test was when she voluntarily took the test. This is contrasted with the three dirty drug tests that Mom submitted in compliance with the Court's Orders. THE COURT FINDS AND CONCLUDES that MOM's August 20, 2024 drug test is not credible. THE COURT FURTHER FINDS AND CONCLUDES that the drug test results from MOM's March 28, June 4 and November 22, 2024 drug tests are credible and delineated herein:

[117] EHVC at 3:48:00 p.m.

TEST DATE	SUBSTANCE	RESULT	LOCATION
28-Mar-24	Amphetamine	9775 pg/mg	Hair
	Methamphetamine	15980 pg/mg	Hair
4-Jun-24	Hydromorphone	561 ng/ml	Urine
	Hydrocodone	635 mg/ml	Urine
	THC Metabolite	267 ng/ml	Urine
	Cocaine	2150 pg/mg	Hair
	Cocaine Metabolite	75 pg/mg	Hair
	Amphetamine	2165 pg/mg	Hair
	Methamphetamine	3485 pg/mg	Hair
20-Aug-24	N/A	Negative	Hair and Urine
22-Nov-24	Hydrocodone	5525 pg/mg	Hair
	Methamphetamine	1615 pg/mg	Hair

Based on the evidence presented at trial and Mom's three positive drug test results, THE COURT FINDS Dad's concerns -- *that Mom may utilize the substantial sum of proceeds from the sale of the marital home to sustain her illicit substance abuse* -- to be credible. However, as discussed *supra*, this Court cannot impose a constructive trust, as the second *Locken* factor is not satisfied in this case.

Rather, so as to ensure that Jake is allowed to remain in the only childhood home he has ever known and that ongoing best interests are continuously met for remainder of his minority, THE COURT FINDS, CONCLUDES AND ORDERS compelling reasons to award DAD the marital residence as his sole and separate property, subject to DAD refinancing within 120 days of entry of this Decree, and giving Mom an equalization payment that will be calculated as follows:

HALF OF THE NET EQUITY IN THE MARITAL HOME

- ***MINUS*** MOM'S CONSTRUCTIVE ARREARS TO DAD
- ***MINUS*** HALF OF THE NEGATIVE EQUITY IN THE JEEP WRANGLER

- ***MINUS*** DAD'S REASONABLE ATTORNEY FEES

= DAD'S EQUALIZATION PAYMENT TO MOM

Any necessary and material fees associated with the refinance (i.e. appraisal fees, lender fees, etc.) shall be equally born between the parties and deducted from the net equity proceeds of the refinance prior to distribution. MOM shall execute any legal documents pertinent to transferring title to the property to DAD. DAD shall maintain the mortgage so that the property may be refinanced within 120 days of entry of the decree, with MOM receiving her equalization payment delineated herein.

This disposition of the marital residence would permit Jake to remain in the only childhood home he has ever known for the remainder of his minority, while distributing to Mom her net equitable share of the community asset. Mom and Dad shall cooperate to facilitate the execution of all conveyance instruments necessary to fulfill their obligations pursuant to the Decree.

TAX DEDUCTION

THE COURT FURTHER FINDS that as Jake's Primary Physical Custodian, and pursuant to federal law, Dad shall receive the tax deduction credit for the minor child Jake each and every year.

HEALTH INSURANCE

THE COURT FURTHER FINDS that the minor child will continue to be medically covered through MOM, subject to a downward deviation in child support for any out-of-pocket premium costs for the child. The parties shall work together to ensure Jake remains insured.

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Health insurance shall continue until such time as each child reaches 18 years of age if no longer enrolled in high school, otherwise until the child graduates from high school or reaches 19 years of age, dies, marries, or otherwise becomes emancipated pursuant to Nevada law, whichever occurs first.

THE COURT FURTHER FINDS AND CONCLUDES that all unreimbursed out-of-pocket expenses shall be shared equally pursuant to the 30/30 rule, i.e., any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the other party within thirty days of incurring such expenses, if not tendered within the thirty-day period, the Court may consider it a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period the party may be subject to a finding of contempt and appropriate sanctions.

THE COURT FURTHER FINDS AND CONCLUDES that the parties shall equally bear the child's routine medical costs, to include mental health, dental and vision expenses.

DIVISION OF PROPERTY AND DEBT

NRS 125.150(1)(b) states that in granting a divorce, the Court:

> Shall, to the extent practicable, make an equal disposition of the community property of the parties, including, without limitation, any community property transferred into an irrevocable trust pursuant to NRS 123.125 over which the court

> acquires jurisdiction pursuant to NRS 164.010, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

The Court must make an equal disposition of community property unless there is a "compelling reason" to make an unequal disposition. NRS 125.150(1)(b).

Division of the marital home shall occur as discussed *supra*.

VEHICLES & DEBTS

According to Mom's Financial Disclosure Form dated November 21, 2024, she currently has approximately $14,000 of community property credit card debt held in her individual name.[118] According to Dad's Financial Disclosure Form dated November 12, 2024 states, he has approximately $19,000 of community property credit card debt held in his individual name. The parties have been living separate and apart since January 2023, THEREFORE EACH PARTY SHALL BEAR THE DEBTS AND ENCUMBRANCES IN THEIR NAME AS THEIR SOLE AND SEPARATE DEBT.

Both parties testified to there being two community property vehicles, namely, a 2023 Jeep Wrangler, with a current fair market value of approximately $29,400, and an outstanding encumbrance of approximately $35,838, associated therewith, and a 2018 Ford Edge, with a current fair market value of approximately $14,000, and an outstanding encumbrance of $16,824.61, associated therewith - both of which are financed in Dad's individual name. THE COURT was inclined to award the parties their respective vehicles, subject to the encumbrance thereon; however, MOM returned the JEEP back to Dad

[118] See Jaime's November 12, 2024 FDF.

because she cannot afford to maintain it.[119] THEREFORE, THE COURT awards both vehicles – which are in DAD's name – to DAD as his sole and separate property, subject to the encumbrances thereon. FURTHERMORE, as set forth herein, *supra*, half of the negative equity in the JEEP shall be attributed back to DAD and deducted from MOM's equalization payment.

SPOUSAL SUPPORT

NRS 125.150(a) states that in granting a divorce, the court may award such alimony to either spouse, in a specified principal sum or as specified periodic payments, as appears just and equitable.

Determining the amount of alimony a spouse should be awarded falls "within the sound discretion of the trial court." *Sprenger v. Sprenger*, 110 Nev. 855, 859, 878 P.2d 284, 287 (1994). The trial court's discretion, however, is not limitless. The "court must award such alimony as appears 'just and equitable,' having regard to the conditions in which the parties will be left by the divorce." *Id.* at 859, 287 (citing NRS 125.150(1)(a)).

Alimony, in its most elementary form, is based on the receiving spouse's need and the paying spouse's ability to pay. The Nevada Legislature created alimony awards to keep recipient spouses "off the welfare rolls." *Gilman v. Gilman*, 114 Nev. 416, 423-424, 956 P. 2d 761, 765 (1998).

In addition to economic need, alimony may also be awarded to "compensate for economic loss as a result of a marriage and subsequent divorce, particularly one spouse's loss in standard of living or earning capacity." *Kogod vs. Cliff-Kogod*, 135 Nev. 64,70, 439

[119] Mom's Supplement to her Closing Brief, page 1, filed on December 23, 2024

P.3d 397, 403 (2019). See also Collins, *The Theory of Marital Residuals*, 24 Harv. Women's L.J. at 49 ("[T]here should be some degree of post-divorce incomes to reflect the returns flowing from efforts made while the marital joint-venture was operational – an equitable sharing of the residual economic benefits from work done during the marriage.") Therefore, alimony may be awarded to compensate for economic loss as the result of a marriage and subsequent divorce, particularly one spouse's loss in standard of living or earning capacity.[120]

Alimony can be "just and equitable" both when necessary to support the economic needs of a spouse and to compensate for a spouse's economic losses from the marriage and divorce, including to equalize post-divorce earnings or help maintain the marital standard of living.[121]

Enabling the lower-income-earning spouse to maintain a lifestyle as close as possible to the lifestyle enjoyed during the marriage has consistently been an important aim of the Nevada Supreme Court.[122]

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[120] *Kogod vs. Cliff-Kogod*, 135 Nev. 64, 439 P.3d 397 (2019).

[121] *Id.*

[122] *Id.*, citing the following: (*"*See, e.g., *Wright v. Osburn*, 114 Nev. 1367, 1369, 970 P.2d 1071, 1072 (1998) (deeming the spousal support award insufficient because the wife would not be able to "maintain the lifestyle she enjoyed during the marriage or a lifestyle commensurate with" her former husband); *Sprenger v. Sprenger*, 110 Nev. 855, 860, 878 P.2d 284, 287 (1994) (remanding with instructions to award alimony such that the spouse may "live as nearly as fairly possible to the station in life she enjoyed before the divorce") (internal quotation marks omitted); *Gardner v. Gardner*, 110 Nev. 1053, 1058, 881 P.2d 645, 648 (1994) (increasing alimony by ten years because the wife's "contribution to the community over many years [was] not fairly recognized by the two-year alimony award"); *Rutar v. Rutar*, 108 Nev. 203, 208, 827 P.2d 829, 832 (1992) (increasing the alimony award where the previous award only provided "a standard of living far below that to which [the wife and children] have been accustomed"). This court reaffirmed this goal in *Shydler v. Shydler*, 114 Nev. 192, 954 P.2d 37 (1998), by noting that two of the primary purposes of alimony "are to narrow any large gaps between the post-divorce earning capacities of the parties and to allow the recipient spouse to live 'as nearly as

The Nevada Supreme Court has held that the purpose of spousal support is not to equalize post-divorce incomes, but "to allow the recipient to live as nearly as fairly as possible to the station in life enjoyed before the divorce." *Shydler v. Shydler*, l14 Nev. 192, 198, 954 P.2d 37, 40 (1998). Further, the Court should not consider the respective "merits" of the parties in adjudicating the issue of spousal support. *Rodriguez v. Rodriguez*, 116 Nev. 993, 13 P.3d 415 (2000). It is not a "sword to level the wrongdoer," nor is it a "prize to reward virtue." *Id.*116 Nev. at 999, 13 P3d 419. Rather, "alimony is financial support paid from one spouse to the other whenever justice and equity require it." *Id.*

When determining whether to award alimony and the amount of such an award, NRS 125.150(9) sets forth the factors that the Court shall consider, in addition to any other factors the court considers relevant. The requisite factors are analyzed accordingly:

a. The financial condition of each spouse;

At trial, Dad testified that he is currently unable to maintain full-time employment due to injuries he sustained at work, and that he is presently receiving monthly long-term disability payments of approximately $2,000.00, per month. Dad also testified that he presently receives approximately $2.000.00 per month in and as for a monthly distribution payment from his family's Trust. Dad further testified that his family's trust's assets have been dwindling in recent years and that he cannot depend on the trust to supplement his income in the long-term.

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fairly possible to the station in life [ ] enjoyed before the divorce." Id. at 198, 954 P.2d at 40 (alteration in original) (citations omitted) (quoting Sprenger, 110 Nev. at 860, 878 P.2d at 287-88).")

At trial, Mom testified that she is currently working full-time swing-shift at Blake Shelton's Ole Red Restaurant as a Kitchen Supervisor earning approximately $3,986 per month.

Based on the evidence derived from the parties' testimonies at trial, the parties presently earn substantially similar incomes, to such the extent that any claims for alimony asserted by the parties should be deemed as nonmeritourious and baseless, as the parties are already on equal financial footing. Furthermore, based on mom surrendering the 2023 Jeep Wrangler, with a current fair market value of approximately $29,400, and an outstanding encumbrance of approximately $35,838, associated therewith, to DAD; DAD is left with a vehicle that has negative equity in amount of $6,438.00, not including the monthly payments. This is in addition to DAD making the monthly payments on the 2018 Ford Edge, with a current fair market value of approximately $14,000, and an outstanding encumbrance of $16,824.61; as well as DAD maintaining the mortgage, property taxes, and any expenses pertinent to the marital home; in addition to the $19,000.00 credit card debts in DAD's name. For these reasons, this factor does not favor granting an award of alimony in Mom's favor.

b. The nature and value of the respective property of each spouse,

Dad's testimony at trial confirmed that Mom would be entitled to receive one-half of the equity held in the home. Mom will duly receive her interest in the marital home subject to the provisions of this Decree.

Mom has $14,000.00 credit card debt in her name. This pales in comparison to the $19,000.00 credit card debt in Dad's name, plus the two encumbered vehicles in Dad's

name. As stated hereinabove, *supra*, Mom surrendered the 2023 Jeep Wrangler to DAD; which has negative equity in amount of $6,438.00. In addition, Dad has the 2018 Ford Edge, which has negative equity in amount of $2,824.61. For these reasons, based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

c. ***The contribution of each spouse to the marriage's community property,***

THE COURT did not hear evidence on this factor, other than that both parties purchased the marriage with community funds during the marriage.

d. The duration of the marriage,

Both parties testified at trial that they were married on October 30, 2010, in Las Vegas, Nevada, and have been husband and wife for fourteen years. Based on the evidence presented at trial, this factor favors an award of alimony in Mom's favor.

e. The income, earning capacity, age, and health of each spouse,

As indicated above, the parties are presently generating substantially similar incomes, with Dad testifying that he is currently generating approximately $4,000.00 per month, and Mom testifying that she is currently generating approximately $3,986.00 per month. Dad testified that he is presently 53 years and Mom is presently 47 years old. Dad also testified that he is presently unable to work full-time due to a work-related injury he sustained in January 2024, and to the best of his knowledge Mom has no physical conditions that adversely impact her ability work full time and self-support.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

f. ***The standard of living to which the spouses were accustomed during the marriage,***

No credible evidence as to the standard of living maintained by the parties during the marriage was presented by either party through their respective testimonies proffered at trial.

Based on the lack of evidence presented at trial as to the standard of living enjoyed by the parties during the marriage, this factor is neutral and favors neither party.

g. The career, before the marriage, of the spouse receiving alimony,

No credible evidence was offered on this factor; therefore, it is neutral.

h. Any specialized education or training or marketable skills obtained by either spouse during the marriage,

At trial, Mom testified that she obtained her associate's degree in culinary arts during the marriage, and by virtue thereof, she has specialized marketable commercial skills, which are in high demand the Las Vegas hospitality market, and the ability of self-support post-divorce.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

i. The contribution of either spouse as a homemaker,

While the respective testimonies of the parties confirmed that Mom was a stay-at-home mom prior to Jake becoming school-aged, Mom's testimony regarding her receipt of her associate's degree in culinary arts during marriage, and the various jobs she held once Jake began school confirms that Mom's brief time as a homemaker at the onset of the

marriage, did not adversely impact her ability to obtain specialized commercial skills during the marriage and her ability for self-support post-divorce.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

j. Any property granted by the court to each spouse in the divorce,

As delineated hereinabove, supra, Mom surrendered the Jeep to Dad; thereby leaving Dad with two underwater vehicles in his name, $19,000.00 of credit card debt and the mortgage, property taxes and maintenance of the marital home his financial responsibility. Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

k. The physical and mental condition of each party as it relates to his or her financial condition and ability to work, and

Although she testified positive for numerous illicit substances during these proceedings, Mom testified that she has never missed work or been late to work, received write ups or been disciplined as a result of her struggles with addiction. Mom's testimony confirms she is able to sustain full-time employment and self-support, despite her ongoing substance abuse struggles.

Conversely, Dad testified that as a result of his current back injuries, he is presently unable to maintain full-time employment, he is currently on long-term disability, and his monthly disability benefits reflect only a portion of his full-time monthly income. Dad's testimony confirms that his present physical condition and back injuries are presently

adversely impacting Dad's ability to work, and thus, in turn adversely impact his ability to pay alimony to Mom, post-divorce.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

NRS 123.100 provides that a "spouse abandoned by his or her spouse is not liable for the support of the abandoning spouse until such spouse offers to return unless the misconduct of the abandoned spouse justified the abandonment."

At trial, both parties' testimonies confirmed that Mom voluntarily abandoned the marriage and her family in January 2023, due to her ongoing struggles with drug addiction. Mom testified that she left the home because of DAD's infidelity. MOM also alleged that she left because of DAD's domestic violence. DAD testified that MOM left because of her drug use. THE COURT FINDS AND CONCLUDES that DAD provided credible, consistent, compelling and corroborated testimony; whereas MOM did not. THE COURT FINDS AND CONCLUDES that because Mom abandoned the marriage and her family, without cause, consistent with the provisions of NRS 123.100, Mom is not entitled to seek alimony, as a matter of law.

THEREFORE, THE COURT FINDS AND CONCLUDES that based on the evidence presented at trial, consistent with the provisions of NRS 125.150(9) and NRS 123.100, Mom's request for alimony is summarily denied, as a matter of law.

THE COURT FINDS AND CONCLUDES that based on the evidence admitted, there was no credible evidence to establish a need for rehabilitative alimony pursuant to NRS 125.150(10).

THE COURT FINDS AND CONCLUDES that neither party shall receive alimony.

ATTORNEY FEES

NRS 18.010 Award of attorney's fees.

1. The compensation of an attorney and counselor for his or her services is governed by agreement, express or implied, which is not restrained by law.

2. In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party:

(a) When the prevailing party has not recovered more than $20,000; or

(b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party. The court shall liberally construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

3. In awarding attorney's fees, the court may pronounce its decision on the fees at the conclusion of the trial or special proceeding without written motion and with or without presentation of additional evidence.

4. Subsections 2 and 3 do not apply to any action arising out of a written instrument or agreement which entitles the prevailing party to an award of reasonable attorney's fees.

NRS 125C.250 Attorney's fees and costs.

Except as otherwise provided in NRS 125C.0689, in an action to determine legal custody, physical custody or visitation with respect to a child, the court may order reasonable fees of counsel and experts and other costs of the proceeding to be paid in proportions and at times determined by the court.

THE COURT FINDS AND CONCLUDES that MOM filed two custodial Motions[123] that were DENIED wherein DAD has been awarded temporary Primary Physical Custody of Jake throughout the proceedings. Dad's requests for attorney fees were DEFERRED to trial.

FURTHERMORE, based on the evidence presented at trial, THE COURT FINDS AND CONCLUDES THAT pursuant **NRS 125C.250** the court may order reasonable fees and other costs of the proceeding to be paid in proportions to DAD. THE COURT FURTHER FINDS AND CONCLUDES that Mom's two positive pre-trial drug tests and the corresponding evidence establishes that MOM's two unsuccessful Motions[124] were brought or maintained without reasonable ground or to harass DAD, whom this COURT FINDS AND CONCLUDES is the prevailing party in accordance with the provisions of NRS 18.010 and EDCR 5.219(a). Accordingly, THE COURT FINDS AND CONCLUDES that Dad is entitled to reasonable attorney fees and costs, subject to a Memorandum of Fees and Costs, *Brunzell* Analysis, and corresponding legal authority. Such supporting documentation must be filed with the Court within 5 days with regard to costs pursuant to NRS 18.110 and within 28 days with regard to attorney's fees pursuant to NRCP 52(b).

If any of these Conclusions of Law are more correctly interpreted as Findings of Fact, they shall be so construed.

[123] Mom filed her first Motion seeking Primary Physical Custody of Jake on January 18, 2024, and her second such motion on October 8, 2024.
[124] *Id*.

MARI D. PARLADÉ
DISTRICT JUDGE
Family Division
Department A

IV. FINAL ORDERS

Based on the foregoing Findings of Fact and Conclusions of Law:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the parties are incompatible in marriage due to irreconcilable differences; neither party is pregnant, the parties request an equal division of community property and debt, and the parties desire this Court to enter a Decree of Divorce. THEREFORE, the bonds of matrimony are heretofore DISSOLVED and the parties and are hereby restored to their status as single unmarried persons.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that it is in Jake's best interest for Dad to have Modified Legal Custody wherein Dad must communicate any important decisions or information regarding Jake (i.e., education, medical, religious, etc.) to Mom via TalkingParents. If Mom fails to respond to Dad within 48 hours, then Dad may proceed with his decision-making. If the parties reach an impasse, then Dad may proceed with his decision-making and Mom may seek court intervention.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, considering MOM's ongoing drug use vis-à-vis the potential harm to the child, it is in Jake's best interest for Dad to have Sole Physical Custody, subject to Mom having progressively increased supervised visitation as defined herein, *infra*. Mom shall engage in drug treatment and complete the Options Patch Program, consisting of not less than thirty-six (36) consecutive weeks and/or nine (9) months of uninterrupted drug monitoring, prior to being awarded any unsupervised overnight visitation with Jake. Additionally, once Mom successfully engages in drug treatment and completes not less than thirty-six consecutive

weeks of the Options Patch Program, Mom shall be subject to ongoing monitoring and random drug testing upon Dad's request, for an additional three (3) months; thereby totaling twelve (12) months of drug treatment and monitoring comprised of the following Phases:

Phase 1: MOM's supervised visits shall remain status quo, at least once per week for at least 4 hours supervised at Dad's discretion. After MOM engages in four (4) consecutive months of drug treatment and clean Options test results ("patches"), Mom's supervised visits shall expand to two (2) four (4) hour blocks of unsupervised visitation each week.

Phase 2: After six (6) consecutive months of drug treatment and clean patches, Mom's unsupervised visits shall be expanded to two (2) eight (8) hour blocks of unsupervised visitation each week.

Phase 3: After nine (9) consecutive months of drug treatment and clean patches, Mom may submit a request for referral order to FMC to allow the parties to attempt to formulate a schedule for unsupervised visitation that will afford Mom an average of not less than eight (8) full days (with overnights) each calendar month, excluding holidays, and to attempt to formulate a holiday visitation schedule for Mom (which shall presume Mom shall continue to be drug free), with the new unsupervised visitation to become effective upon Mom's successful completion of nine (9) consecutive months of drug treatment and clean Options test results. The parties shall acknowledge and stipulate that their use of FMC, after Mom meets the nine (9) month benchmark milestone, shall be for the limited

purpose of attempting to formulate an unsupervised visitation schedule and shall not include discussions regarding the modification of physical custody.

If the parties are unable to formulate a schedule at FMC, Mom shall file a motion in accordance with this agreement setting forth her requested visitation schedule. So long as Mom has successfully completed the required total of nine (9) consecutive months of drug treatment and clean tests results through Options Monitoring Program, the Court may deem there to be sufficient adequate cause for the Court to consider Mom's requested visitation schedule.

Phase 4: If Mom successfully completes the nine (9) consecutive months of drug treatment and clean test results through the Options Monitoring Program, Mom shall then be subject to random hair and urine drug testing at American Toxicology, Inc. ("ATI") for a period of three (3) additional months thereafter. During this 3-month period, Dad and/or his counsel can contact Mom or her counsel, via email and/or talking parents, requesting for Mom to submit for testing at any time during this three (3) month period. Mom shall report for testing within eight (8) hours from the time of the request being made. If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances Mom shall be solely responsible for all costs associated with testing stipulated to into his agreement.

Global Rule: If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances. Mom shall be solely responsible for all costs associated with

testing stipulated to into his agreement. If Mom should test dirty and/or positive and/or relapse, at any time during this 12-month monitoring period, the "Candyland" provision shall be triggered and Mom's visitation and required monitoring shall revert back to Phase 1, and Mom shall be required to successfully follow the graduated plan in this agreement until Mom successfully completes 12 consecutive months of monitoring.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that it is in the best interest of Jake for Mom's expanded visitation plan to be contingent on Mom's successful completion of at least 12 months in drug treatment and monitoring through the Options Monitoring Program. In the interim. MOM's visits shall remain status quo, which means, supervised by Dad at least once per week for a minimum of four hours per week, at Dad's discretion.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the visitation schedule described herein is the least restrictive timeshare possible consistent with Jake's best interests, as it permits Mom and Jake to gradually work up to unsupervised quality time together while simultaneously ensuring Mom is maintaining sobriety for Jake's safety and wellbeing.[125]

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that consistent with the provisions of NAC 425.115 and NAC 425.140, Mom must be ordered to pay Dad child support at the monthly rate of 16% of her gross monthly income. Pursuant to Mom's Financial Disclosure Form dated November 21, 2024 and her testimony, Mom currently

[125] *Roe*, 139 Nev. Adv. Op. 21, 535 P.3d 274 at 281 (Nev. App. 2023).

earns a gross monthly income of $3,986. Accordingly, Mom's child support obligation is **$637.76**[126] per month, effective seven (7) days upon entry of this Decree, and on the 1st day of every month thereafter. MOM is entitled to a downward deviation in child support for half of any out-of-pocket premium costs for the child, subject to proof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that DAD must file a Schedule of Arrears for any constructive arrears consistent with this Decree. Based on what Dad reported on his November 12, 2024 and January 18, 2024 FDFs, Dad is eligible to receive half of the cost of food, shelter and clothing to the child, excluding any school tuition payments (which are covered by DAD's family trust). DAD's award of child support shall be retroactive to January 2023, as neither party disputes that Dad has been solely providing for Jake's needs without any assistance from Mom since January 2023.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that minor child will continue to be medically covered through MOM, subject to a downward deviation in child support for any out-of-pocket premium costs for the child. The parties shall work together to ensure Jake remains insured. Health insurance shall continue until such time as the child reaches 18 years of age if no longer enrolled in high school, otherwise until the child graduates from high school or reaches 19 years of age, dies, marries, or otherwise becomes emancipated pursuant to Nevada law, whichever occurs first.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all unreimbursed out-of-pocket expenses shall be shared equally pursuant to the 30/30 rule,

[126] The calculation is as follows: $3,986 x .16 = $637.76.

i.e., any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the other party within thirty days of incurring such expenses, if not tendered within the thirty-day period, the Court may consider it a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period the party may be subject to a finding of contempt and appropriate sanctions.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall equally bear the child's routine medical costs, to include mental health, dental and vision expenses subject to the 30/30 Rule.[127]

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to federal law, Dad shall receive the tax deduction credit for the minor child Jake each and every year.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there are compelling reasons to award DAD the marital residence as his sole and separate property,

[127] Any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the other party within thirty days of incurring such expenses, if not tendered within the thirty-day period, the Court may consider it a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period the party may be subject to a finding of contempt and appropriate sanctions.

subject to DAD refinancing within 120 days of entry of this Decree, and giving Mom an equalization payment that will be calculated as follows:

HALF OF THE NET EQUITY IN THE MARITAL HOME

- ***MINUS*** MOM'S CONSTRUCTIVE ARREARS TO DAD
- ***MINUS*** HALF OF THE NEGATIVE EQUITY IN THE JEEP WRANGLER
- ***MINUS*** DAD'S REASONABLE ATTORNEY FEES

= **DAD'S EQUALIZATION PAYMENT TO MOM**

Any necessary and material fees associated with the refinance (i.e. appraisal fees, lender fees, etc.) shall be equally born between the parties and deducted from the net equity proceeds of the refinance prior to distribution. MOM shall execute any legal documents pertinent to transferring title to the property to DAD. DAD shall maintain the mortgage so that the property may be refinanced within 120 days of entry of the decree, with MOM receiving her equalization payment delineated herein.

This disposition of the marital residence would permit Jake to remain in the only childhood home he has ever known for the remainder of his minority, while distributing to Mom her net equitable share of the community asset. Mom and Dad shall cooperate to facilitate the execution of all conveyance instruments necessary to fulfill their obligations pursuant to the Decree.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that DAD shall be awarded the 2023 Jeep Wrangler and the 2018 Ford Edge, as his sole and separate property, subject to the encumbrances thereon. As of the date of entry of this Decree, half of the

negative equity in the JEEP WRANGLER shall be attributed to Dad and deducted from MOM's equalization payment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be awarded their credit card debts, liabilities and encumbrances in their name as their sole and separate liabilities.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be awarded the personal belongings in their possessions and any bank accounts or assets in their name as their sole and separate property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that neither party shall receive alimony.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dad is entitled to reasonable attorney fees and costs, subject to a Memorandum of Fees and Costs, *Brunzell* Analysis, and corresponding legal authority. Such supporting documentation must be filed with the Court within 5 days with regard to costs pursuant to NRS 18.110 and within 28 days with regard to attorney's fees pursuant to NRCP 52(b).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are given notice of the following:

NOTICE IS HEREBY GIVEN that the following statutory notices relating to the custody and visitation of the minor children are applicable to the parties herein:

STATUTORY NOTICES

Approved by Presiding Judge Pursuant to EDCR 5.707

NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.0045(6):

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.0045(7)(8):

The terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country as follows:

If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning the child to his or her habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

NOTICE IS HEREBY GIVEN that, pursuant to NRS 125C.006:

1. If PRIMARY PHYSICAL CUSTODY has been established pursuant to an order, judgment or decree of a court and the custodial parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the custodial parent desires to take the child with him or her, the custodial parent shall, before relocating:

(a) Attempt to obtain the written consent of the noncustodial parent to relocate with the child; and

(b) If the noncustodial parent refuses to give that consent, petition the court for permission to relocate with the child.

2. The court may award reasonable attorney's fees and costs to the custodial parent if the court finds that the noncustodial parent refused to consent to the custodial parent's relocation with the child:

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the custodial parent.

3. A parent who relocates with a child pursuant to this section without the written consent of the noncustodial parent or the permission of the court is subject to the provisions of NRS 200.359.

NOTICE IS HEREBY GIVEN that, pursuant to NRS 125C.0065:

1. If JOINT PHYSICAL CUSTODY has been established pursuant to an order, judgment or decree of a court and one parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the relocating parent desires to take the child with him or her, the relocating parent shall, before relocating:

(a) Attempt to obtain the written consent of the non-relocating parent to relocate with the child; and

(b) If the non-relocating parent refuses to give that consent, petition the court for primary physical custody for the purpose of relocating.

2. The court may award reasonable attorney's fees and costs to the relocating parent if the court finds that the non-relocating parent refused to consent to the relocating parent's relocation with the child:

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the relocating parent.

3. A parent who relocates with a child pursuant to this section before the court enters an order granting the parent primary physical custody of the child and permission to relocate with the child is subject to the provisions of NRS 200.359.

NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.010(1)(b), for purposes of visitation rights of a child, the State of Nevada or the state where the child resides within the United States of America is the habitual residence of the child.

NOTICE IS HEREBY GIVEN that the parent having the child support obligation is subject to NAC 425.025 and NRS 31A.020 through 31A.230, inclusive, regarding the immediate withholding or assignment of wages, commissions or bonuses for payment of child support, whether current or delinquent.

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 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.

NOTICE IS HEREBY GIVEN that each party shall submit the information required in NRS 125B.055, NRS 125.130, and 125.230 on a separate form to the Court and the Welfare Division of the Department of Human Resources within ten days from the date this Decree is filed. Such information shall be maintained by the Clerk in a confidential manner and not part of the public record. The parties shall update the information filed with the Court and the Welfare Division of the Department of Human Resources within ten days should any of that information become inaccurate.

NOTICE IS HEREBY GIVEN that you have an affirmative duty to update any changes in your personal information by filing a Notice of Change of Address form. The form can be found at the following link: https://www.familylawselfhelpcenter.org/images/forms/misc/address-change-pdf-fillable.pdf

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated this 12th day of March, 2025

HONORABLE MARI D. PARLADÉ
DISTRICT JUDGE
766 3A9 B879 ED41
Mari D. Parlade
District Court Judge

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Jamie irene Randolph, Plaintiff vs. Michael David Randolph, Defendant.	CASE NO: D-23-678957-D DEPT. NO. Department A

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Decree of Divorce 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: 3/12/2025

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Robert Blau	Robertb@hoflandlaw.com
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If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 3/13/2025

Jennifer Isso

The Isso & Hughes Law Firm
Attn: Jennifer Isso, Esq
8965 S. Eastern Ave Ste 120
Las Vegas, NV, 89123

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EIGHTH JUDICIAL DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

JAMIE RIRENE RANDOLPH, Plaintiff, vs. MICHAEL DAVID RANDOLPH, Defendant.	CASE NO.: D-23-678957-D DEPT. NO.: A **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF DIVORCE**

TO: ALL INTERESTED PARTIES

PLEASE TAKE NOTICE that the Notice of Entry of Findings of Fact, Conclusions of Law, and Decree of Divorce was entered in the above-entitled matter on the 13th day of March, 2025, a copy of which is attached hereto.

DATED this 26th day of March, 2025.

HOFLAND & TOMSHECK

By: */s/ Bradley J. Hofland*
Bradley J. Hofland, Esq.
Nevada Bar No. 6343
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
Telephone: (702) 895-6760
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Hofland & Tomsheck, that pursuant to Administrative Order 14-2, NEFCR 9, and NRCP 5(b), on the 26th day of March, 2025, I served the forgoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF DIVORCE** on the following parties by E-Service through the Odyssey filing system and/or U.S. Mail addressed as follows:

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DISTRICT COURT
CLARK COUNTY, NEVADA

JAMIE RANDOLPH, Plaintiff, vs. MICHAEL RANDOLPH, Defendant	Case No.: D-23-678957-D Dept. No.: A Trial Date: November 21, 2024 Time: 1:30 p.m.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF DIVORCE

This matter having come on for Evidentiary Hearing on November 21, 2024 at 1:30 p.m., Plaintiff JAMIE RANDOLPH ("Mom") being present in person and represented by her counsel of record, JENNIFER ISSO, ESQ., Defendant MICHAEL RANDOLPH ("Dad") being present in person and represented by MEREDITH SIMMONS, ESQ., the Court having heard the evidence presented, HAVING REVIEWED THE PARTIES' Closing Briefs and Proposed Findings of Fact and Conclusions of Law submitted on December 16, 2024, having taking the matter under advisement, hereby finds and orders as follows:

I. PROCEDURAL HISTORY

1. THE COURT FINDS that on November 22, 2023, Mom filed her *Complaint for Divorce*.
2. On December 21, 2023, Dad filed his *Answer to Complaint for Divorce and Counterclaim for Divorce*.

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3. On January 17, 2024, Dad filed his General Financial Disclosure Form (FDF).
4. On January 18, 2024, Mom filed her *Motion for Joint Legal and Primary Physical Custody, to Set Child Support, for Temporary Spousal Support and Attorney's Fees, and Other Related Relief.*
5. On February 1, 2024, Dad filed his *Opposition to Motion for Joint Legal and Primary Physical Custody, to Set Child Support, for Temporary Spousal Support and Attorney's Fees, and Other Related Relief.*
6. On February 26, 2024, this Court entered the parties' Stipulation and Order to continue the February 28, 2024 Case Management Conference and Return Hearing from the Family Mediation Center (FMC) to March 28, 2024 at 9:00 a.m.
7. On March 22, 2024, Mom filed her FDF.
8. On March 28, 2024, the parties came before this Court on Mom's *Motion for Joint Legal and Primary Physical Custody, to Set Child Support, for Temporary Spousal Support and Attorney's Fees, and Other Related Relief,* the corresponding Opposition, a Case Management Conference, and a Return Hearing from FMC. The Court reviewed the case, and upon the Court's inquiry, Dad's counsel stated that the parties had agreed that Dad would have Primary Physical Custody. Mom's counsel stated that Mom was requesting Primary Physical Custody. Each parties' counsel requested that the opposing party undergo drug testing. THE COURT ORDERED that everything shall remain STATUS QUO, and the child shall continue to remain in the home with Dad where his school is. THE COURT FURTHER ORDERED that based on Mom's objection, the Court shall not file the Parenting Agreement; however, temporarily, the Court shall

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honor the terms of the Parenting Agreement. THE COURT FOUND that Joint Legal Custody is in the best interest of the child, and temporarily, the terms of the Parenting Agreement are in the child's best interest; therefore, the child shall reside with Dad each week beginning Sunday at 9:00 a.m. until Thursday at 3:00 p.m., at which point the child shall reside with Mom. The child shall reside with Mom on alternating weekends beginning this weekend on Thursday at 3:00 p.m. and concluding Sunday at 9:00 a.m. Whenever there is a Staff Development Day or an extra day off for the child in conjunction with Mom's weekend, the extra day shall also be Mom's day with the child. Dad shall have the child on the 2nd and 4th weekends of each month, and Mom shall have the child on the 1st, 3rd, and 5th weekends of each month. THE COURT FURTHER ORDERED that Mom's visitation is subject to a clean drug test. MOM shall submit to a drug test and per stipulation, Dad shall pay for the testing. If the test is dirty, Dad shall be reimbursed by Mom. If Mom's drug test is dirty, her visits shall be at Donna's House. THE COURT FURTHER ORDERED that counsel's request for Dad to submit a drug test is DENIED. THE COURT FURTHER ORDERED that Mom's Motion for financial relief is DENIED pursuant to EDCR 5.507 at this time for Mom's failure to file an accurate and complete FDF. Mom shall file an FDF by end of business on Friday. The request for financial relief is DEFERRED to the Evidentiary Hearing. THE COURT FURTHER ORDERED that Discovery is OPEN. THE COURT FURTHER ORDERED that the parties are referred to FMC for a Child Interview. THE COURT FURTHER ORDERED that the request for attorney's fees is DEFERRED and the parties must follow the Mutual Behavior Order. Neither party shall use the child as

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a means of communication, and neither party shall communicate to the child about this case.

9. On March 28, 2024, the Court issued an Evidentiary Hearing Management Order setting Calendar Call for November 14, 2024 at 10:00 a.m., the Evidentiary Hearing for November 21, 2024 at 1:30 p.m., and the deadline for Pre-Trial Memorandums for November 7, 2024.

10. On June 3, 2024, Mom filed an updated FDF.

11. On June 4, 2024, the parties came before this Court for a Return Hearing from the Child Interview. THE COURT NOTED it had reviewed the Child Interview Report. Counsel confirmed they had reviewed the report with both parties. Mom's counsel represented that there was nothing in the Child Interview Report that was glaring, and that the child indicated he wanted to spend equal time with both parents. Mom's counsel indicated Mom previously drug tested and was on supervised visitation at Donna's House. She further stated Mom will do whatever it takes to not have supervised visits anymore, even if that entails taking another drug test. Dad's attorney represented that they reviewed the report, and while the minor child's preference is one of the factors, it is only one of the many the Court must utilize when making a best interest determination. Dad's counsel indicated that when Mom drug tested, her levels were high. She further indicated that Mom has not exercised visitation with the child since last year; there has been no contact, as Mom has declined to comply with the Court Orders for that contact. Dad's counsel requested Status Quo be preserved and that Mom should be placed on a drug monitoring program. THE COURT NOTED that Donna's House was ordered so

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the Court would have reports that show how visitation is going with Mom and the child. THE COURT FURTHER NOTED that if Mom is not even exercising her supervised visits at Donna's House, then she cannot go from supervised visits to unsupervised visits. Mom's counsel indicated that the only reason Mom did not exercise the supervised visitation at Donna's House was simply because she did not want it to adversely affect the minor child. Mom's counsel requested that a family member facilitate the supervised visits instead of Donna's House. Mom indicated that she is willing to submit to another drug test. THE COURT NOTED its concern with the child's knowledge about his parents' case. The parties acknowledge that the child had many questions about the case, but they encouraged him to just be honest and answer all the questions during the Child Interview. Dad's counsel indicated that Mom's mother (the child's maternal grandmother) uses drugs, and the child should not be in the home with the maternal grandmother. Mom explained that her mom is not using drugs; she is currently fighting breast cancer and no longer uses illicit drugs. THE COURT ORDERED that Mom's request to submit to a drug test has been GRANTED. Mom shall be drug tested by 4:15 p.m. today. THE COURT FURTHER ORDERED that all the Court's prior orders remain in effect; the only caveat is that Mom's visitation shall be subject to a clean drug test. If Mom's drug test comes back dirty, visitation shall be at Donna's House. If the drug test comes back clean, Mom's VISITATION shall be unsupervised from Thursdays at 3:00 p.m. to Sundays at 9:00 a.m. THE COURT FURTHER ORDERED that the Return Hearing is set for August 20, 2024 at 11:00 a.m. regarding Mom's ATI Drug Test Results.

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12. On August 20, 2024, the parties appeared before this Court for a Return Hearing on Mom's ATI Drug Test Results. THE COURT NOTED that Mom's ATI Results came back positive. The Court allowed argument by counsel. Following all arguments, testimony, and findings, THE COURT ORDERED that Dad shall have temporary Primary Physical Custody. MOM shall have liberal supervised visits with the child, to be supervised by Dad. THE COURT FURTHER ORDERED that MOM shall have 7:00 p.m. FACETIME VISITATIONS with the minor child. THE COURT FURTHER ORDERED that trial STANDS.
13. On October 8, 2024, Mom filed a *Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief.*
14. On October 21, 2024, Dad filed his *Opposition to Plaintiff's Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief.*
15. On November 7, 2024, Dad filed a Pre-Trial Memorandum.
16. On November 14, 2024, Mom filed her Pre-Trial Memorandum.
17. On November 14, 2024, the parties appeared before this Court for Calendar Call. The parties and their counsel confirmed that they were prepared to move forward with the trial in response to the Court's inquiry. Mom's counsel indicated that she would turn in the Pre-Trial Memorandum at the end of the day. THE COURT ORDERED that Pre-Trial Memorandums shall be filed by 6:00 p.m. on November 14, 2024.

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18. On November 20, 2024, Mom filed her *Reply to Defendant's Opposition to Plaintiff's Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief*.

19. On November 21, 2024, the parties came before this Court on Mom's *Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney's Fees and Costs and Other Related Relief* and the corresponding Opposition and Reply, as well as the Evidentiary Hearing. All parties appeared in person. Defendant's Exhibits A, B, C, D, F, and G were admitted. Jamie Randolph and Michael Randolph served as witnesses. THE COURT ORDERED that the parties' Closing Briefs, Proposed Findings of Fact, Conclusions of Law, and Final Orders are due on December 23, 2024 at 6:00 p.m.

20. On November 21, 2024, Mom filed an updated FDF.

21. On December 23, 2024, Mom filed her Closing Brief.

22. On December 23, 2024, Mom filed her Supplement to Closing Brief.

23. On December 23, 2024, Dad filed his Closing Brief.

II. FINDINGS OF FACT

24. THE COURT FINDS that Jamie Randolph (Mom) and Michael Randolph (Dad) were married in Las Vegas, Nevada on October 30, 2010, and have ever since been husband and wife. There is one child born the issue of this marriage, to wit: Jake Ryan Randolph (Jake), born November 15, 2010, who is currently 14 years old.

25. Mom and Dad physically separated in January 2023, when Mom left Dad and Jake

in the marital home and moved to her mother's home. Since January 2023, Dad and Jake have continuously resided in the marital residence, with Dad continuously maintaining primary physical custody of Jake subject to Mom's visits. Meanwhile, Mom has resided in her mother, Teresa Irene Belcher's, home.

26. Both Mom and Dad testified that Jake is a happy, healthy, well-adjusted boy, who is thriving in his current scholastic and home environment. Jake is in the eighth grade, and he presently attends the Joy Academy, a private Christian school, which is located in very close proximity to the marital residence. The parties' respective testimonies confirmed it was their mutual intention, desire, and plan for Jake to attend the Joy Academy though his high school graduation. The parties' testimony confirmed that Dad's family trust is paying for Jake's private school tuition.

27. Dad testified that he has consistently gone out of his way to create activities and different things for Mom to have frequent supervised visitation with Jake, such as, the Starbucks visits, bowling and park visits.[1] Dad also testified that he frequently encourages Jake to call and/or FaceTime with Mom.

28. Dad testified that he always accommodated ***all*** of Mom's requests for visitation by facilitating same, and that he never attempted to cancel or change or reschedule any visits scheduled. Dad further testified that it was never his understanding that Mom was limited to only one visit per week; but rather, Mom simply did not seek to exercise

[1] November 21, 2024 Evidentiary Hearing Video Citation (EHVC) at 4:28:39 p.m.

her visitation very often, but when she did, she was always the one who ended the visits after one or two hours.[2]

29. Dad testified that he made time for Mom to exercise her supervised visitation whenever she wanted but she did not take advantage of his willingness to make the child [and himself] available for her supervised visitation very often, but when Mom did, Dad made sure he and the child were available for the visit.

30. Dad testified that since January 2023, he has been solely responsible for providing for Jake's primary care, to include providing for Jake's financial support, taking Jake to his karate classes and therapy, paying for Jake's karate classes and therapy, taking Jake to doctors and dental appointments, and coordinating with Jake's school. [3]

31. When Dad was questioned as to why he believed Mom was unable to maintain her parental responsibilities for Jake since January 2023, Dad testified that he believed that Mom's ongoing struggles with her addiction was adversely impacting her ability to be present and actively parent Jake.[4]

32. Dad testified that aside from the high conflict caused by Mom's ongoing illicit drug abuse, there was little or no conflict existing between the parties.[5] Dad also testified that since Mom abandoned the marriage and her family in January 2023, there has been no conflict between the parties, and Mom's testimony confirmed the same.[6]

[2] *Id.* at 4:27:53 and 4:29:40 p.m.
[3] *Id.* at 4:34:47 p.m.
[4] *Id.* at 4:35:02 p.m.
[5] *Id.* at 4:33:39 p.m.
[6] *Id.* at 4:33:48 p.m.

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33. When questioned about Mom's parent/child bond with Jake, Dad testified as to his beliefs that Jake loves his mother and that Mom loves Jake.[7] Dad also testified as to his beliefs that Mom was having difficulties transitioning from parenting Jake, as a young child, to parenting Jake, as a teenage boy, who is becoming more autonomous, self-reliant and independent every day.[8]

34. Dad demonstrated a good faith basis for his beliefs, by testifying about Mom's expressed frustration regarding Jake's limited willingness to participate in frequent phone/FaceTime contact with Mom, given her always-changing daily work schedule and that Jake is now a teenaged boy.

35. Dad also testified to his beliefs that Mom gave Jake a hard time about not contacting her every day.[9]

36. Although Mom testified that she repeatedly offered to contribute to Jake's financial support since she left the marriage, the parties' respective testimonies ultimately confirmed that she has neither provided financial support for Jake, nor contributed to any of the community expenses, notwithstanding her car and vehicle insurance payments, since January 2023.[10]

37. The parties both testified that since January 2023, Dad has been exclusively responsible for attending to Jake's day-to-day needs, including, without limitation, taking Jake to medical and dental appointments, taking Jake to karate and therapy, helping Jake with

[7] *Id*. at 4:25:21 p.m.
[8] *Id*. at 4:25:33 p.m.
[9] *Id*. at 4:27:53 p.m.
[10] *Id*. at 2:02:16-2:02:47 p.m., and 2:36:12-2:36:31 p.m.

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his homework, providing for Jake's meals, and for providing Jake a safe and wholesome home environment.

38. Throughout the marriage, Dad, notwithstanding several brief periods of unemployment, was the primary breadwinner for the family, even though Mom was often employed full-time once Jake started school.[11]

39. Prior to Jake becoming school aged, Mom stayed home to care for Jake while Dad maintained full-time employment to financially provide for the community.[12]

40. Nevertheless, during the marriage, Mom obtained her associate's degree in culinary arts, which now contributes to her ability to self-support post-divorce.[13]

41. Once Jake began school, Mom obtained a job at a school, working in the cafeteria, and then at a hospital, where she worked in the kitchen as a cook for approximately six years.[14]

42. In January 2023, Mom began working as a Kitchen Supervisor at Blake Shelton's Ole Red Restaurant located on the Las Vegas Strip. As of the Non-Jury Trial, Mom was still employed at Ole Red as a full-time swing-shift Kitchen Supervisor, working from 3:00 p.m., to 11:00 p.m., five days per week.[15] Mom testified that she currently earns a gross monthly income of $3,986.00 and the same was stated in her Financial Disclosure Form dated November 21, 2024.[16]

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[11] *Id*. at 1:52:02 -1:52:38 p.m.
[12] *Id*. at 1:49:58-1:50:07 p.m.
[13] *Id*. at: 1:50:18 p.m.
[14] *Id*. at 1:55:35-1:56:17, and 3:09:31- 3:09:34 p.m.
[15] *Id*. at 2:34:15-2:34:23 p.m.
[16] *Id*. at 3:35:36-3:36:28 p.m.

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43. In 2020, Dad obtained full-time employment at Clearwater Paper. Dad further testified that in January 2024, he was injured on the job during the course of his employment at Clearwater Paper.[17] As a result of his on-the-job injury, Dad was placed on short-term disability in January 2024, and subsequently reassigned to long-term disability on August 8, 2024.[18]

44. While Dad testified that he earned approximately $50,000 in 2002, which was corroborated by the parties 2022 federal income tax returns marked and admitted as Exhibit "A," he also testified that he is presently earning no income because of his current inability to work due to his back injury and long-term disability designation. Dad further testified that in addition to a monthly trust distribution and/or disbursement payment of approximately $2,000.00 per month, which was sustained as non-income separate property inheritance over Mom's counsel's objection, he is presently receiving approximately $2,000.00 per month in and as for disability pay.[19]

45. Both parties testified that the community residence located at 5409 Concerta Court, Las Vegas, Nevada 89120, was purchased during the marriage and funded with community property proceeds. Likewise, Exhibit "F" and Exhibit "G" admitted in the proceedings demonstrates the mortgage associated with the marital residence is jointly held in both parties' names.

46. Although Mom did not address the disposition of the community credit card debt in her testimony, her Financial Disclosure Form dated November 21, 2024 states that she

[17] *Id*. at 1:53:07 p.m.
[18] *Id*. at 1:53:14, 2:05:35, and 3:52:50 – 3:53:48 p.m.
[19] *Id*. at 4:53:18-4:53:33 p.m.

currently has approximately $14,000 of community property credit card debt held in her individual name.[20] Dad testified, and his Financial Disclosure Form dated November 12, 2024 states, that he currently has approximately $19,000 of community property credit card debt held in his individual name.

47. Both parties testified to there being two community property vehicles, namely, a 2023 Jeep Wrangler, with a current fair market value of approximately $29,400, and an outstanding encumbrance of approximately $35,838, associated therewith, and a 2018 Ford Edge, with a current fair market value of approximately $14,000, and an outstanding encumbrance of $16,824.61, associated therewith - both of which are financed in Dad's individual name.

48. At trial, the parties both testified that the during the marriage they purchased the marital residence located at 5409 Contera Court, which is located less than one block away from Jake's current school, the JOY Academy of Southern Nevada.[21] Dad testified that the current fair market value of the marital residence is approximately $438,900. Dad's testimony and the documentary evidence admitted as Exhibit "G" and Exhibit "F" demonstrated that there is presently an outstanding note of $161,750.98 associated therewith and there is approximately $277,149.02 in equity in the marital residence held by the community.

[20] See Jaime's November 12, 2024 FDF.

[21] The JOY Academy of Southern Nevada is a K-12 private school located at 3883 E Mesa Vista Way, Las Vegas, Nevada, is less than one block away from the marital residence located at 5409 Concerta Court, Las Vegas, Nevada.

49. Dad's testimony further demonstrated that he and Jake are residing in the marital residence and the marital residence is the only home that Jake has ever known. Likewise, Dad's testimony demonstrated that Jake's private school that he will be attending through high school is located directly adjacent to/across the street from home, and Jake is presently thriving in his current home and school environments.

50. Dad's testimony also demonstrated Mom's history of illicit drug use, and his serious concerns about Mom's ability to responsibly utilize any community property assets that may be awarded to her vis-à-vis her drug addiction. Additionally, Dad testified that he fears that Mom will forego the entirety of her one-half interest in any proceeds realized from the sale of the marital residence awarded to her pursuant to the Decree to fund and sustain her illicit drug habit, without regard for her ongoing parental financial obligations owed to Jake for the remainder of his minority.

51. Mom commenced the instant divorce action against Dad on November 22, 2023, by way of filing her Complaint for Divorce in the above-named action. It is critical to note that at Trial, this Court confirmed neither Mom's Complaint, nor either of the custodial Motions[22] Mom filed in the above-named action alleged that Dad engaged in acts of domestic violence against her. Specifically, under the domestic violence best interest factor of NRS 125C.0035(4), Mom listed "N/A" for not applicable, under factor (k).

52. Specifically, on January 18, 2024, Mom's *Motion for Joint Legal Custody, to Set Child Support, for Temporary Support and Attorney's Fees* was filed in the above-named

[22] Mom filed her first Motion seeking Primary Physical Custody of Jake on January 18, 2024, and her second such motion on October 8, 2024.

action, wherein, Mom sought Joint Legal and Physical Custody of the minor child, child support, temporary support and attorney fees and costs. Mom did not allege domestic violence by Dad in this Motion; instead she wrote "N/A", for not applicable, in the corresponding domestic violence best interest factor NRS 125C.0035(4)(k).

53. On February 1, 2024, Dad filed his Opposition to Mom's Motion and Countermotion alleging that Mom's chronic heavy drug abuse rendered her not fit and not proper to be awarded Joint Physical Custody of the minor child.

54. Due to Dad's allegations as to Mom's chronic heavy drug abuse, at the hearing of March 28, 2024, the Court entered Orders directing Mom to submit for drug testing, and likewise, made the enforcement of the parties' stipulated custody timeshare agreement negotiated at mediation at the Family Mediation Center ("FMC") contingent upon Mom having a clean drug test.[23] At no time in the hearing did Mom allege domestic violence as to Dad.

55. In accordance with the Court's Orders, Mom appeared at ATI for court-ordered drug testing on March 28, 2024.

56. On April 1, 2024, Mom's hair test came back positive for Amphetamine at 9775pg/mg; and Methamphetamine at 15980 pg/mg.[24] As a result of Mom's positive drug test, Dad

[23] *See* Order from the Hearing of March 28, 2024, on-file, herein, page 2, lines 8-21, and page 3, lines 19- 21.

[24] EHVC at 3:14:16 p.m.

was awarded temporary primary physical custody of the minor child, subject to Mom's supervised visitation.[25]

57. On June 4, 2024, the parties came back before the Court for a status check hearing re: Child Interview. At no time during this hearing did Mom allege domestic violence as to Dad. At the onset of the proceedings, the Court reviewed the Child Interview and confirmed that Mom's drug tests results came back positive for amphetamine and methamphetamine – at extremely high levels. At Mom's counsel's request, the Court entered Orders directing Mom to submit for a second drug test, and likewise, ordered for Mom's supervised visitation to take place at Donna's House if her drug test results came back positive again because Donna's House would issue Visitation Reports to the Court.[26] Although Mom complied with the Court's Orders by appearing at ATI for her second court-ordered drug test on June 4, 2024, she refused to exercise her supervised visitation at Donna's House, which, in turn, effectively frustrated any visitation reporting to the Court.

58. On June 11, 2024, Mom's hair test came back positive for: (1) Cocaine at 2150 pg/mg; (2) Cocaine Metabolite at 75pg/mg; (3) Amphetamine at 2165pg/mg; and (4) Methamphetamine at 3485 pg/mg, and her urine test came back positive for: (1) Hydromorphone at 561 ng/ml; (2); Hydrocodone at 635 ng/ml; and THC at 257 ng/ml.[27]

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[25] Pursuant to the Order from the Hearing of March 28, 2024, Michael and Jaime were awarded Joint Legal and Joint Physical Custody of the minor child, ***subject to Jaime having a clean drug test.***

[26] *See* Court Minutes from the Hearing of June 4, 2024.

[27] Although Mom testified at trial to having medical prescriptions for hydrocodone and an anti-anxiety medications, no verified medical prescriptions were produced during the pre-trial phase of these proceedings to confirm Mom's alleged prescriptions.

As a result of Mom's second positive drug test, Dad's designation as the minor child's Primary Physical Custodian, subject to Mom's supervised visitation [at Donna's House] remained the status quo.

59. On August 20, 2024, the parties came back before the Court for a return hearing/status check re: Mom's second drug test results. At no time during this hearing did Mom allege domestic violence as to Dad. At the onset of the proceedings, the Court, having reviewed Mom's drug test results, entered the following Judicial Findings and Orders, in pertinent part:

FINDINGS:

The Court hereby FINDS that the purpose of today's hearing is to go over Jaime's second drug test results.[28]

The Court hereby FINDS that at the previous hearing of June 4, 2024, Jaime's drug test results came back positive for methamphetamine -at extremely high levels.[29]

The Court further FINDS that as a result of her positive drug test results, Jaime, through counsel, volunteered to submit for a subsequent drug testing.[30]

The Court further FINDS that Jaime's subsequent drug test results came back positive for multiple controlled substances, namely, hydromorphone, hydrocodone, amphetamine, methamphetamine, and cocaine.[31]

The Court further FINDS that consistent with the provisions of NRS 125C.0035(4), Jaime's two consecutive positive drug test results warrant a modification of the temporary physical custody orders in this case, as same will serve the best interests of the child and ensure that his home environment remains safe and drug free.[32]

ORDERS:

[28] Order from the Hearing of August 20, 2024, on-file, herein, page 2, lines 4-5.
[29] *Id*. at lines 6-7.
[30] *Id*. at lines 8-9.
[31] *Id*. at lines 10-12.
[32] *Id*. at lines 13-17.

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NOW, THEREFORE, IT IS HEREBY ORDERED that the temporary physical custody orders are hereby modified to award Michael Primary Physical Custody of the minor child, subject to Jaime's liberal supervised visitation, with Michael acting as the supervisor for said visitation(s).[33]

It is further ORDERED that Jaime shall have daily FaceTime visitation with the child at 7:00 p.m.[34]

It is further ORDERED that Michael's previous request for attorney fees for having to: (1) respond, brief and appear at the hearing of March 21, 2024, to oppose and/or argue against Jaime's Motion; (2) appear at the return hearing of June 4, 2024, for Jaime's [first] drug test results; and (3) appear at the hearing of August 20, 2024, for Jaime's [second] drug test results is hereby granted.[35]

It is further ORDERED that Michael's counsel shall submit a Memorandum of Fees for the fees and costs incurred for the March 21, 2024, June 4, 2024, and August 20, 2024, hearings for this Court's consideration and review…[36]

60. On November 21, 2024, immediately prior to the start of the Non-Jury Trial, the Court heard arguments on Mom's *Motion for a Change of the Visitation Schedule Based on Changed Circumstances to a Joint Legal and Joint Physical Custody Arrangement, for Attorney Fees, and Dad's Opposition and Countermotion for Sanctions Pursuant to EDCR 5.219(a), for Attorney Fees and Costs, and for Other Related Relief*. Mom did not allege domestic violence in this Motion. Following arguments from the parties' counsel, the Court, having found that consistent with the provisions of NRS 125C.0035(4)(f), Mom's ongoing illicit drug abuse demonstrated by her second positive drug test results warrants maintaining the current Primary Physical Custodial

[33] *Id*. at lines 18-21.
[34] *Id*. at 22-23.
[35] *Id*. at page 3, lines 1-5.
[36] *Id*. at lines 6-8.

Timeshare with Dad, subject to Mom's supervised visitation, THEREFORE, THE COURT DENIED Mom's Motion in its entirety.

Domestic Violence

61. At trial, Mom alleged domestic violence against Dad for the first time. At no time did Mom plead domestic violence in her papers and pleadings. At no time did Mom mention domestic violence in prior Hearings. At trial, Mom testified for the very first time that Dad was very angry and abusive.[37]

62. Mom testified: "Michael is very abusive."[38] Mom stated, "I don't know what it meant, but what I'm saying to you is he was physically, emotionally, and financially abusive to me, period."[39]

63. Mom further testified that sometime in 2021, while she was recuperating from a breast lumpectomy, Dad punched her in the breast/chest area where she had recently been operated on causing her to sustain physical injuries requiring additional medical treatment, which included a subsequent mammogram and a digital ultrasound of her breast.[40]

64. While Mom testified that she told her oncologist, who treated her for domestic violence injuries, that said injuries were caused by Dad's acts of domestic violence perpetrated against her, she made no mention in her testimony as to the oncologist reporting her injuries to law enforcement, or Dad being criminally investigated and/or charged. Given

[37] EHVC at 2:14:07 p.m.
[38] *Id*. at 2:06:36 p.m.
[39] *Id*. at 2:11:24 p.m.
[40] *Id*. at 2:19:21 p.m.

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that mammograms and digital ultrasound imaging machines are not medically recognized tools utilized in the diagnosis and treatment of physical injuries sustained from acts of physical domestic violence, and because oncologists, as medical treatment providers, are mandatory reporters under Nevada law.

65. DAD's counsel moved to strike Mom's testimony, but was overruled by the Court. The Court allowed Mom's testimony so that it could assess its probative value and credibility vis-à-vis NRS 125C.0035(4)(k) and NRS 125C.0035(5).

66. Mom testified that the parties "had three physical altercations throughout [their] marriage,"[41] and explained that two occurred before 2019. She described the parties' marriage and communication as "not easy." Mom explained that Dad worked long hours, "he was gone forever and he would come home very angry."[42]

67. Mom explained that the parties had an altercation in their spare bedroom, and she "gave [Dad] two black eyes to defend [herself]."[43] When Mom's counsel asked her what Dad was doing to her, Mom stated that ***Dad was trying to keep her away from him***. (Emphasis added) Mom testified that Dad was punching her, and that the whole room was a wreck from him "tossing" her around in that room. For a second time, Mom's counsel asked her to tell the judge what Dad did to her. Mom looked at the Court and testified, "He's punched me a few times. It was in the jaw mainly. Then I kicked him in the face."[44]

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[41] *Id*. at 2:19:02 p.m.
[42] *Id*. at 2:19:38 p.m.
[43] *Id*. at 2:19:44 p.m.
[44] *Id*. at 2:20:02 p.m.

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68. Mom's testified that throughout the marriage, the parties fought, yelled, and screamed at each other for years. Mom testified that the parties "were banging up against the nightstands, the pictures on the walls. I think we even broke the door."[45]

69. Mom blamed Dad for these altercations, stating that he is "angry, he's a very angry person."[46] She further described Dad as "funny but he's also very angry and very emotional, he's angry. He's an angry man."[47]

70. Based on the Court's observation of Mom's body language, demeanor and testimony at trial concerning the alleged domestic violence, THE COURT FINDS that Mom's sua sponte allegations of domestic violence lack credibility and provide no probative value in this case.

71. Mom testified that Dad's infidelity is what led her to leave Dad in 2023. She explained, "I'm not asking for much. I just want the child half the time, I want the dog half the time, and I want half the house. The equity."[48] Mom indicated that she would like the dog to come with Jake when he visits Mom. She added, "I don't want this to happen. This is bad."[49]

72. Mom's counsel, Jennifer Isso, had to be admonished multiple times for testifying and leading her witness. As a result, several portions of Mom's testimony were stricken.[50]

73. Mom became emotional and cried when asked if she believes she and Dad can

[45] *Id*. at 2:21:10 p.m.
[46] *Id*. at 2:21:20 p.m.
[47] *Id*. at 2:22:09 p.m.
[48] *Id*. at 2:27:06 p.m.
[49] *Id*. at 2:27:52 p.m.
[50] *Id*. at 2:40:00 p.m.

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cooperate for the sake of the child.[51] She described her relationship with Jake as being strained right now, but that he knows things will get better, and Mom knows he loves her. Jake tells her all the time that he loves her; they still have that connection.[52]

74. On cross-examination, Dad's counsel asked Mom why she did not call the police, seek a protective order against Dad, or go to a domestic violence shelter, and instead continued to remain in the home with the child. Mom answered that she was "scared… scared enough that [Dad would] find me."[53]

75. During Mom's testimony regarding domestic violence, the following exchange occurred:

> **ATTORNEY SIMMONS:** And you testified that due to such acts of domestic violence, at one point, you required a mammogram to confirm your sutures were in tact, is that right?
> **MOM:** Internal bleeding-
> **ATTORNEY SIMMONS:** Internal bleeding. Mammograms detect cancerous tumors, correct?
> **MOM:** Yes, digital ultrasounds also detect internal bleeding.
> **ATTORNEY SIMMONS:** And you testified to having a mammogram, correct?
> **MOM:** Yes, and –
> **ATTORNEY SIMMONS:** Moving on. You testified that throughout the marriage, the marriage was tough because my client as very angry. Well, what was the source of the anger, if you know?
> **MOM:** What was the source?
> **ATTORNEY SIMMONS:** Why was he angry?
> **MOM:** Cause he was guilty, cheating on me, infidelity, for so long.
> **ATTOREY SIMMONS:** Isn't it true that he was angry because you were habitually using methamphetamine?
> **MOM:** We *both* are drug addicts.
> **ATTORNEY SIMMONS:** Nonresponsive, objection.
> **COURT:** So stricken.[54]

[51] *Id*. at 2:45:12 p.m.
[52] *Id*. at 2:45:54 p.m.
[53] *Id*. at 3:07:07 p.m.
[54] *Id*. at 3:07:26 p.m.

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76. Mom admitted that she had not provided day-to-day care to Jake because "he hasn't accepted any."[55]

77. During her cross-examination, the Court had to admonish Mom to answer the questions asked of her several times; Mom apologized.[56]

78. THE COURT FINDS that MOM did not provide credible testimony about her relationship with Jake. Mom testified as follows:

> **ATTORNEY SIMMONS:** Have you ever told Jake that he doesn't call you enough?
> **MOM:** Doesn't call me enough? I wouldn't say it like that. I would say that him and I need to call each other more often. It goes both ways.
> **ATTORNEY SIMMONS:** How many times a week do you call Jake presently?
> **MOM:** Probably every other day.
> **ATTORNEY SIMMONS:** And how many times do you speak to Jake during that time?
> **MOM:** Depends on when he calls me back.
> **ATTORNEY SIMMONS:** And during your conversations, what is the tone?
> **MOM:** Jake is – uh – what is the tone? Loving, um. Waiting for this to be over.[57]

79. THE COURT FINDS that Mom provided inconsistent testimony at trial. MOM testified that she asked DAD for more visits with JAKE which he denied. At trial DAD testified that he facilitated visits with MOM and JAKE, he even planned several of them at various locations; oftentimes, MOM cut the visit short. Based on the Court's observations of the parties' body language, demeanor and testimony at trial, THE COURT FINDS that DAD's testimony is more credible than MOM's testimony.

80. During cross-examination, MOM was asked about her opposition to the imposition of a constructive trust on the marital residence during Jake's minority wherein Mom

[55] *Id*. at 3:17:55 p.m.
[56] *Id*. at 3:18:27 p.m.
[57] *Id*. at 3:21:30 p.m.

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would not have to make any payments on the mortgage, taxes or any expense pertinent to maintaining the residence during the constructive trust, but when Jake reaches majority, Mom will receive half of the net equity in the marital home. MOM denied that a brief delay to her financial gain is secondary to Jake's best interest:

ATTORNEY SIMMONS: And you would agree with me that a brief delay to your financial gains is secondary to Jake's best interest?
MOM: No.
ATTORNEY SIMMONS: So your financial gains are priority?
MOM: Jake comes first. Jake comes first for me.
ATTORNEY SIMMONS: I'm confused, you just – when I asked you –
MOM: Yes, I need the money, but I need my son first.[58]
…
ATTORNEY SIMMONS: From your perspective, your temporary financial deferred receipt of assets is prioritized over Jake's best interests.
MOM: Yes.
ATTORNEY SIMMONS: I'm sorry, I didn't hear you.
MOM: Yes.[59]

81. THE COURT NOTES that while MOM credibly looked at the Court and stated, "Yes," at 3:47:45 p.m., she then looked at her attorney, Jennifer Isso, who shook her head in disapproval at 3:47:50 p.m., to which MOM explained to her counsel, "I mean my… I – I don't know." While her counsel shook her head from side to side, Mom expressed exasperation by throwing both arms up in the air and covering her face. She advised the Court that "it's just a little stressful," while looking at her counsel the entire time, who kept stating, "Do you need a break?"

82. THE COURT ADMONISHED MOM to look at the Judge when she is answering questions, and not to look to her attorney. THE COURT expressed concern about MOM

[58] *Id*. at 3:46:37 p.m.
[59] *Id*. at 3:47:30 p.m.

looking at Attorney Isso and/or her mom (who sat behind Attorney Isso) for answers. THE COURT further expressed concern about what appeared to be corresponding gestures from Ms. Isso and Mom. THE COURT reminded Mom that if she did not understand the question, she must let the Court know.[60]

83. THE COURT TAKES JUDICIAL NOTICE OF ALL OF MOM'S DRUG TESTS FILED AND SERVED IN THIS MATTER, which have been incorporated into this Decision and delineated in the chart below:

TEST DATE	SUBSTANCE	RESULT	LOCATION
28-Mar-24	Amphetamine	9775 pg/mg	Hair
	Methamphetamine	15980 pg/mg	Hair
4-Jun-24	Hydromorphone	561 ng/ml	Urine
	Hydrocodone	635 mg/ml	Urine
	THC Metabolite	267 ng/ml	Urine
	Cocaine	2150 pg/mg	Hair
	Cocaine Metabolite	75 pg/mg	Hair
	Amphetamine	2165 pg/mg	Hair
	Methamphetamine	3485 pg/mg	Hair
20-Aug-24	N/A	Negative	Hair and Urine
22-Nov-24	Hydrocodone	5525 pg/mg	Hair
	Methamphetamine	1615 pg/mg	Hair

84. THE COURT FINDS that whereas MOM tested positive in both her hair and urine on March 28, 2024 and June 4, 2024 (which were court-ordered immediately following the Court Hearing), the only time MOM presented a clean drug test was when she voluntarily took the test. FURTHERMORE, on November 22, 2024, MOM tested positive in her hair for Hydrocodone and Methamphetamine. THE COURT FURTHER FINDS that (with the exception of the August 20, 2024 voluntary drug test), MOM'S

[60] *Id.* at 3:48:00 p.m.

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methamphetamine levels in her hair have been steadily decreasing from 15,980 pg/mg on March 28, 2024 to 3,485 pg/mg on June 4, 2024 to 1615 pg/mg on November 22, 2024 (which was the day after trial). THE COURT FINDS THAT the August 20, 2024 voluntary drug test results are not credible.

85. THE COURT FINDS that MOM presented inconsistent, self-serving testimony throughout the proceedings. FURTHERMORE, MOM appeared to have been led by her counsel in much of her testimony to the point where MOM changed her answers after looking at her counsel who expressed disapproval. THE COURT ADMONISHED Ms. Isso for leading her witness and testifying, among other things. THE COURT FINDS that MOM's testimony was not credible and lacked probative value.

86. THE COURT FURTHER FINDS that DAD provided clear, consistent and credible testimony that was further corroborated by the evidence.

87. THE COURT TAKES JUDICIAL NOTICE of the Child Interview in FMC case FMC-23-678957-D, wherein Jake disclosed that he wanted his interview to be "equal" because he loves both of his parents.[61] When asked what time he begins to reside with his mother every other Saturday, Jake replied, "The time depends. Mom will say a time, but it means 30 minutes or an hour later."[62] Jake reported being on this timeshare "since mom left the house last January."[63] Jake disclosed that he has a cell phone and can freely call his parents; he has privacy when he calls them. Jake explained that he wanted

[61] Jake Randolph's Child Interview dated April 18, 2024, page 2.
[62] *Id*. at 3.
[63] *Id*.

his time with each parent to be equal.[64] He did not want his mother to have all the weekends with him "because Dad works during the week and is off weekends and he'd get no weekend with me."[65]

88. THE COURT NOTES that the Child Interview was conducted April 15, 2024, which was prior to Mom's visitation becoming supervised due to her positive drug tests. For these reasons, the child's initial preferences stated in the child interview may not be as relevant, or probative, considering Mom's drug use and corresponding absence from her son's life.

89. THE COURT FURTHER FINDS that in the Child Interview, Jake rated his relationship with Mom as a "7" out of ten because "Sometimes, she argues, gets very distant and sad" and he wishes she would stop accusing him of being on his dad's "side."[66] Jake rated his relationship with his Dad as a "9" out of ten because "He's very outgoing and nice to other people. Before, he had a lot of road rage. Sometimes he can have anger in his voice. But, he calms himself."[67] Jake stated he would not change anything about his father.

90. ***If any of these Findings of Fact are more correctly interpreted as a Conclusion of Law, they shall be so construed.***

[64] *Id*. at 7.
[65] *Id*.
[66] *Id*. at 6.
[67] *Id*.

III. CONCLUSIONS OF LAW

Jurisdiction

The parties were legally married on October 30, 2010. The parties have one minor child, JAKE RYAN RANDOLPH, ("JAKE"), born November 15, 2010. This Court has jurisdiction in the premises, both as to the subject matter thereof as well as to the parties thereto under Chapter 125 of the Nevada Revised Statutes. Mom and Dad have been, and are now, actual and bona fide residents of the County of Clark, State of Nevada, and have been domiciled therein for more than six weeks immediately prior to the commencement of this action. Pursuant to NRS 125A.305(1)(a), Nevada is the home state of the minor child at the time the proceedings were commenced. This Court maintains subject matter jurisdiction over this child custody case; personal jurisdiction over the parties; and exclusive and continuing personal jurisdiction over the minor child, JAKE. The custody and visitation orders made herein are in the best interest of the child. The amount of child support ordered herein is in compliance with NAC 425.

THE COURT HEREBY FINDS AND CONCLUDES that the parties are incompatible in marriage due to irreconcilable differences; neither party is pregnant, the parties request an equal division of community property and debt, and the parties desire this Court to enter a Decree of Divorce. THEREFORE, the bonds of matrimony are heretofore DISSOLVED and the parties and are hereby restored to their status as single unmarried persons.

Legal Custody

Legal custody involves having basic legal responsibility for a child and making major decisions regarding the child, including the child's health, education, and religious upbringing. *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009).

Pursuant to NRS 125C.001:

The Legislature declares that it is the policy of this State:

1. To ensure that minor children have frequent associations and a continuing relationship with both parents after the parents have ended their relationship, become separated or dissolved their marriage;
2. To encourage such parents to share the rights and responsibilities of child rearing; and
3. To establish that such parents have an equivalent duty to provide their minor children with necessary maintenance, health care, education, and financial support. As used in this subsection, "equivalent" must not be construed to mean that both parents are responsible for providing the same amount of financial support to their children.

NRS 125C.002 provides direction to the Court in deciding legal custody of a child as follows:

1. When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if:
(a) The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or
(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.
2. The court may award joint legal custody without awarding joint physical custody.

THE COURT FINDS that Mom and Dad both want what is best for Jake. However, Dad has been the one solely providing for Jake's physical, emotional, developmental needs since January 2023 due to Mom's decision to leave her son in Dad's care, coupled with

Mom's ongoing drug use, as evidenced by her positive drug tests; THEREFORE, THE COURT FINDS AND CONCLUDES that it is in Jake's best interest for Dad to have Modified Legal Custody wherein Dad must communicate any important legal decisions regarding Jake (i.e., education, medical, religious, etc.) to Mom via TalkingParents. If Mom fails to respond to Dad within 48 hours, then Dad may proceed with his decision-making. In the event the parties reach an impasse, Dad may proceed with his decision-making and Mom shall seek court intervention.

Physical Custody

NRS 125C.0025 Joint physical custody.

1. When a court is making a determination regarding the physical custody of a child, there is a preference that joint physical custody would be in the best interest of a minor child if:

(a) The parents have agreed to an award of joint physical custody or so agree in open court at a hearing for the purpose of determining the physical custody of the minor child; or

(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.

Evaluating the child's best interest in determining custody is designed to place the child's welfare and developmental needs at the forefront of all child custody decisions, ensuring that the outcomes support their physical, emotional, and psychological well-

being.[68] The best interest of the child standard is a polestar of judicial decision making in family law matters.[69]

In analyzing the best interest of the children, the Court must analyze the factors enumerated in NRS 125C.0035(4):

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her custody.

At trial, Dad testified that Jake is a happy, healthy and bright child, who thriving in his present home and school environment, but he has been adversely impacted by Mom's extensive absence from his life.[70] Additionally, Dad testified that it was his belief that the child's preference was to preserve the status quo by maintaining the current timeshare arrangement in place in this case.[71]

THE COURT TAKES JUDICIAL NOTICE of the Child Interview in FMC case FMC-23-678957-D, wherein Jake disclosed that he wanted his interview to be "equal" because he loves both of his parents.[72] When asked what time he begins to reside with his mother every other Saturday, Jake replied, "The time depends. Mom will say a time, but it means 30 minutes or an hour later."[73] Jake reported being on this timeshare "since mom left the house last January."[74] Jake disclosed that he has a cell phone and can freely call his

[68] *Soldo-Allesio v. Ferguson*, 141 Nev., Advance Opinion 9 (2025) (unpublished disposition) (citing *Monahan v. Hogan, 138 Nev. 58, 62, 507 P.3d 588, 592 (Ct. App. 2022)*
[69] *Id.*
[70] EHVC at 4:25:21 and 4:25: 07 p.m.
[71] *Id*. at 4:27:29 p.m.
[72] Jake Randolph's Child Interview Report dated April 18, 2024, page 2.
[73] *Id*. at 3.
[74] *Id*.

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parents; he has privacy when he calls them. Jake explained that he wanted his time with each parent to be equal.[75] He did not want his mother to have all the weekends with him "because Dad works during the week and is off weekends and he'd get no weekend with me."[76]

THE COURT NOTES that the Child Interview was conducted April 15, 2024, which was prior to Mom's visitation becoming supervised due to her positive drug tests. This was also prior to Mom's decision not to exercise her visitation at Donna's House. For these reasons, the child's initial preferences stated in the child interview may not be as relevant, or probative, considering Mom's two dirty drug tests, and notable absence from her son's life, after the Child Interview.

For these reasons, based on the evidence presented at trial, this factor is neutral.

(b) Any nomination by a parent or a guardian for the child.

This factor is not applicable.

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

At trial, Dad testified that he has always supported, encouraged and fostered Mom's parent/child relationship with the minor child. Particularly:

Dad testified that he has consistently gone out of his way to create activities and different things for Mom to have frequent supervised visitation with the child, such as, the

[75] *Id*. at 7.
[76] *Id*.

Starbucks visits, bowling and park visits.[77] Dad also testified that he frequently encourages the child to call and/or FaceTime with Mom. Dad testified that he always accommodated ***all*** of Mom's requests for visitation by facilitating same, he never attempted to cancel or change or reschedule any visits scheduled, it was never his understanding that Mom was limited to only one visit per week, but rather, Mom simply did not seek to exercise her visitation very often, but when she did, she was always the one who ended the visits after one or two hours.[78] Most importantly, Dad testified that he basically made time for Mom to exercise her supervised visitation whenever she wanted but she did not take advantage of his willingness to make the child [and himself] available for her supervised visitation very often, but when Mom did, Dad made sure he and the child were available for the visit.

Conversely, while Mom testified as to her beliefs as to the minor child loving his father, aside from acknowledging Dad's strong parent/child bond with the child and praising Dad as a father, she proffered no testimony pertaining to her efforts to support, foster and encourage the child's relationship with Dad.

For these reasons, based on the evidence presented at trial, this factor favors Dad.

(d) The level of conflict between the parents.

At trial, Dad testified that aside from the high conflict caused by Mom's ongoing illicit drug abuse, there was little or no conflict existing between the parties. [79] Dad also

[77] EHVC at 4:28:39 p.m.
[78] *Id*. at 4:27:53 and 4:29:40 p.m.
[79] *Id*. at 4:33:39 p.m.

testified that since Mom abandoned the marriage and her family in January 2023, there has been no conflict between the parties, and Mom's testimony confirmed same.[80]

Mom testified that Dad brought high conflict into their relationship. Mom alleged domestic violence for the first time at trial. Mom's domestic violence allegations were not found to be credible by the Court. This will be discussed more, *infra* factor (k).

Based on the evidence presented at Trial, this factor is neutral.

(e) The ability of the parents to cooperate to meet the needs of the child.

While the parties' respective testimonies unequivocally confirmed that Mom was primarily responsible for Jake's day-to-day care during his infancy, early and middle childhood phases of his child development, the parties' respective testimonies also unequivocally confirmed that since leaving the marriage and her family in January 2023, Mom has played no part in providing for Jake's day-to-day needs for two years.[81] Additionally, the parties' respective testimonies confirmed that since Mom left the marital home, Dad has been exclusively responsible for meeting Jake's day-to-day needs. Specifically:

Dad testified that since January 2023, he has been solely responsible for providing for Jake's primary care, to include, providing for Jake's financial support, taking Jake to his karate classes and therapy, paying for Jake's karate classes and therapy, taking Jake to doctors and dental appointments, and coordinating with Jake's school.[82] When questioned as to why he believed Mom was unable to maintain her parental responsibilities for Jake

[80] *Id*. at 4:33:48 p.m.
[81] *Id*. at 4:34:47 p.m.
[82] *Id*. at 4:34:47 p.m.

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since January 2023, Dad testified that he believed that Mom's ongoing struggles with her addiction was adversely impacting her ability to be present and actively parent Jake.[83]

Although Mom's testimony confirmed that Dad has been solely responsible for providing for Jake's primary care, including providing Jake's transportation to and from Karate classes and therapy (as well as paying for same), providing for Jake's transportation to all supervised visits, and taking Jake to all medical and dental appointments since Mom left the marital home, Mom also testified that she has consistently maintained ongoing electronic communications with Jake's school. [84]

Dad demonstrated that he is willing and capable of cooperating with Mom to meet Jake's day-to-day needs. Mom failed to establish that she has cooperated with Dad to meet Jake's day-to-day needs. For these reasons, based on the evidence presented at trial, this factor favors Dad.

(f) The mental and physical health of the parents.

At trial, Dad testified that notwithstanding his prior history of addiction, which has been successfully managed for approximately 13 years, and his current back injury sustained during the course of his employment, which is presently being treated and does not impact his ability to meet Jake's day-to-day needs, Dad has no mental or physical health conditions that adversely impact his ability to be present, to parent Jake and to meet Jake's day-to-day needs.[85]

[83] *Id*. at 4:35:02 p.m.
[84] *Id*. at 3:19:46 p.m.
[85] *Id*. at 4:10:46-4:10:49, 4:11:56, and 4:12:16 p.m.

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Conversely, when questioned about Mom's mental and physical health, Dad testified that he believed that Mom's ongoing struggles with addiction adversely impact and preclude her ability to parent a typical teenage boy.[86] Dad further testified as to his beliefs that Mom's ongoing struggle with illicit drug abuse was the actual reason why Mom abandoned the marriage and her family. Dad also testified that Mom's current residence at her mother's house is not a conducive environment for a teenage boy because all of the adults who reside with Mom have documented histories of illicit drug abuse, including maternal grandmother.

During her cross-examination, Mom's testimony confirmed that during the pre-trial phase of these proceedings, Mom twice tested positive for drugs and/or illicit substances on her court-ordered drug tests.[87] Mom testified that her first drug test came back positive for Amphetamine and Methamphetamine – at extremely high levels, and her second drug test came back positive for Cocaine, Cocaine Metabolite, hydrocodone, hydromorphone, THC, Amphetamine and Methamphetamine.[88] Additionally, and of notable concern, Mom provided no testimony as to any remedial efforts she has taken – *or will take* -- to eliminate her illicit substance abuse. Furthermore, at trial, Mom testified that she takes four prescribed drugs, though she could not identity all four of these prescribed drugs by name.

For these reasons, based on the evidence presented at trial, this factor favors Dad.

(g) The physical, developmental and emotional needs of the child.

[86] *Id*. at 4:35:06 p.m.
[87] *Id*. at 3:13:48 p.m.
[88] *Id*. at 3:14:31 p.m.

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Both parties testified that Jake is a happy, healthy, well-adjusted typical teenage boy, who is thriving in his present school and home environments.[89] Jake presently attends the Joy Academy, a small private school (K-12) located less than one-hundred yards from the marital residence. The parties' respective testimonies confirm it was their mutual desire and intention for Jake to graduate from the Joy Academy.

As set forth in factor (e), *supra*, although Mom was primarily responsible for Jake's day-to-day care during his infancy, early and middle childhood phases of his child development, ever since she left the marital home in January 2023, Mom has played no part in providing for Jake's day-to-day needs for almost two years.[90] It is undisputed that Dad has been exclusively responsible for meeting Jake's day-to-day needs. Specifically:

Dad testified that since January 2023, he has been solely responsible for providing for Jake's primary care, to include, providing for Jake's financial support, taking Jake to his karate classes and therapy, paying for Jake's karate classes and therapy, taking Jake to doctors and dental appointments, and coordinating with Jake's school. [91]

Based on the evidence presented at trial, this factor favors Dad.

(h) The nature of the relationship of the child with each parent.

In the Child Interview, Jake rated his relationship with Mom as a "7" out of ten because "Sometimes, she argues, gets very distant and sad" and he wishes she would stop accusing him of being on his dad's "side."[92] Jake rated his relationship with his Dad as a

[89] *Id*. at 4:25:21 p.m.
[90] *Id*. at 4:34:47 p.m.
[91] *Id*. at 4:34:47 p.m.
[92] Jake Randolph's Child Interview dated April 18, 2025, page 6.

"9" out of ten because "He's very outgoing and nice to other people. Before, he had a lot of road rage. Sometimes he can have anger in his voice. But, he calms himself."[93] Jake stated he would not change anything about his father.

At trial, MOM admitted that her relationship with Jake is strained right now. Regarding their communication, Mom testified as follows:

> **ATTORNEY SIMMONS:** Have you ever told Jake that he doesn't call you enough?
> **MOM:** Doesn't call me enough? I wouldn't say it like that. I would say that him and I need to call each other more often. It goes both ways.
> **ATTORNEY SIMMONS:** How many times a week do you call Jake presently?
> **MOM:** Probably every other day.
> **ATTORNEY SIMMONS:** And how many times do you speak to Jake during that time?
> **MOM:** Depends on when he calls me back.
> **ATTORNEY SIMMONS:** And during your conversations, what is the tone?
> **MOM:** Jake is – uh – what is the tone? Loving, um. Waiting for this to be over.[94]

When questioned about Mom's parent/child bond with Jake, Dad testified as to his beliefs that Jake loves his mother and that Mom loves Jake.[95] Dad also testified as to his beliefs that Mom was having difficulties transitioning from parenting Jake, as a young child, to parenting Jake, as a teenage boy, who is becoming more autonomous, self-reliant and independent every day.[96] Dad demonstrated a good faith basis for his beliefs, by testifying about Mom's expressed frustration regarding Jake's limited willingness to participate in frequent phone/FaceTime contact with Mom, given her always-changing

[93] *Id.*
[94] *Id.* at 3:21:30 p.m.
[95] *Id.* at 4:25:21 p.m.
[96] *Id.* at 4:25:33 p.m.

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daily work schedule and that Jake is now a teenaged boy. Dad also testified to his beliefs that Mom gave Jake a hard time about not contacting her every day.[97]

Dad testified that he and Jake have become extremely close since Mom abandoned the marriage and her family. Dad also testified that for the better part of two years, he has been Jake's sole primary custodian, who has been responsible for meeting all of Jake's day-to-day needs.

For these reasons, based on the evidence presented at trial, this factor favors Dad.

(i) The ability of the child to maintain a relationship with any sibling.

This factor is inapplicable.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

This factor is inapplicable.

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

Although Mom ***did not*** include allegations of domestic violence in her Complaint, and although both of her Motions filed in the underlying action expressly stated "N/A" in her NRS 125C.0035(4)(k) best interest factor analysis, Mom spent the lion's share of her direct testimony testifying as to previously unpled, sua sponte allegations of domestic violence against Dad, over Dad's objection.[98] Pursuant to *Castle v. Simmons, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004)*, the Court must "hear *all* information regarding domestic violence

[97] *Id*. at 4:27:53 p.m.
[98] EHVC at 2:06:39, 2:07:51, and 2:08:26 p.m.

in order to determine the child's best interests."[99] The Supreme Court of Nevada recently reemphasized the importance of district courts' careful review and consideration of *all* evidence related to domestic violence in *Soldo-Allesio v. Ferguson*, 141 Nev. Adv. Op. 9 (Nev. App. 2025).

At trial, Mom testified, for the very first time in this divorce action, that Dad was very angry and abusive.[100] Mom further testified that sometime in 2021, while she was recuperating from a breast lumpectomy, Dad punched her in the breast/chest area where she had recently been operated on causing her to sustain physical injuries requiring additional medical treatment, which included a subsequent mammogram and a digital ultrasound of her breast.[101]

While Mom testified that she told her oncologist, who treated her for domestic violence injuries, that said injuries were caused by Dad's acts of domestic violence perpetrated against her, she made no mention in her testimony as to the oncologist reporting her injuries to law enforcement, or Dad being criminally investigated and/or charged. Given that mammograms and digital ultrasound imaging machines are not medically recognized tools utilized in the diagnosis and treatment of physical injuries sustained from acts of physical domestic violence, and because oncologists, as medical treatment providers, are mandatory reporters under Nevada law, Mom's sua sponte allegations lack credibility and provide no probative value in this case.

[99] *Castle v. Simmons*, 120 Nev. 98, 105, 86 P.3d 1042, 1047 (2004).
[100] EHVC at 2:14:07 p.m.
[101] *Id*. at 2:19:21 p.m.

Additionally, Mom testified about an incident prior to 2019, that involved alleged acts of domestic violence that transpired one evening when Dad came home angry and the parties got into a fight, which ultimately resulted in Mom's admission that she kicked Dad in the head and gave him two black eyes.[102] This, in turn, effectively renders Mom, by her own admission, the actual perpetrator of acts of domestic violence in this case.

Although Mom alleged that Dad perpetrated acts of domestic violence against her throughout the marriage, Mom's testimony was not supported by any documentary evidence. Mom, by her own admission, never reported Dad to law enforcement, she never sought a Temporary Protection Order against Dad, and she (and Jake) never went to a domestic violence shelter. In fact, the only facts demonstrated through Mom's testimony regarding domestic violence was that Mom, by her own admission, perpetrated ongoing acts of domestic violence against Dad.[103]

On cross-examination, Dad's counsel asked Mom why she did not call the police, seek a protective order against Dad, or go to a domestic violence shelter, and instead continued to remain in the home with the child, Mom answered that she was "scared… scared enough that [Dad would] find me."[104] During Mom's testimony regarding domestic violence, the following exchange occurred:

> **ATTORNEY SIMMONS:** And you testified that due to such acts of domestic violence, at one point, you required a mammogram to confirm your sutures were in tact? [*unintelligible*] internal bleeding? Mammograms detect cancerous tumors, correct?
> **MOM:** Yes, digital ultrasounds also detect internal bleeding.
> **ATTORNEY SIMMONS:** And you testified to having a mammogram, correct?

[102] *Id*. at 2:19:22 p.m.
[103] *Id*. at 2:19:25, 2:20: 03, and 2:20:20 p.m.
[104] *Id*. at 3:07:07 p.m.

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MOM: Yes, and –
ATTORNEY SIMMONS: Moving on. You testified that throughout the marriage, the marriage was tough because my client as very angry. Well, what was the source of the anger, if you know?
MOM: What was the source?
ATTORNEY SIMMONS: Why was he angry?
MOM: Cause he was guilty, cheating on me, infidelity, for so long.
ATTOREY SIMMONS: Isn't it true that he was angry because you were habitually using methamphetamine?
MOM: We *both* are drug addicts.
ATTORNEY SIMMONS: Nonresponsive, objection.
COURT: So stricken.[105]

Based on the Court's observation of Mom's demeanor, behavior, body language and testimony at trial – not to mention her interplay with her attorney at trial – THE COURT FINDS AND CONCLUDES THAT Mom's testimony regarding the domestic violence incident was not credible and lacked probative value. THE COURT FINDS AND CONCLUDES that MOM provided self-serving, non-credible testimony on the subject of domestic violence. For these reasons, based on the evidence presented at trial, THE COURT FINDS AND CONCLUDES that – *just as MOM wrote in her two underlying custodial Motions*[106] -- this factor is "N/A" which stands for not applicable.

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

This factor is inapplicable.

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[105] *Id*. at 3:07:26 p.m.
[106] Mom filed her first Motion seeking Primary Physical Custody of Jake on January 18, 2024, and her second such motion on October 8, 2024.

Based on the evidence presented at trial, THE COURT FINDS AND CONCLUDES that the NRS 125C.0035(4), best interest factors unequivocally favor Dad.

THE COURT FURTHER FINDS AND CONCLUDES that NRS 125C.0035(5) is not applicable for there was not clear and convincing evidence establishing that either party has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child.

THE COURT FURTHER FINDS that it must "consider the least restrictive parenting time arrangement possible to avoid constraining the parent-child relationship any more than is necessary to prevent potential harm caused by an unfit parent and meet the best interest of the child."[107] THEREFORE, pursuant to *Roe v. Roe*, THE COURT FINDS AND CONCLUDES that, considering MOM's ongoing drug use vis-à-vis the potential harm to the child, it is in Jake's best interest for Dad to have Sole Physical Custody, subject to Mom having progressively increased supervised visitation as defined herein, *infra*. The COURT FINDS that this custodial timeshare is the least restrictive so as to ensure the safety and well-being of Jake vis-à-vis his mother's drug treatment and monitoring. THE COURT FURTHER FINDS AND CONCLUDES that although the Court had granted MOM liberal supervised visits with JAKE, MOM has only exercised her visits for a few hours each week, per DAD's credible testimony. THEREFORE, MOM's visits shall remain status quo, supervised by Dad at least once per week for a minimum of four hours per week, at Dad's discretion.

[107] *Roe v. Roe*, 139 Nev. Adv. Op. 21, 535 P.3d 274, 281 (Nev. App. 2023).

While the goal is for Mom to share Joint Physical Custody of Jake, THE COURT FINDS AND CONCLUDES that based on the COURT's preliminary NRS 125C.0035(4) Findings memorialized in the Order from the Hearing of August 30, 2024, on-file, herein, and incorporated herein by reference, and Mom's positive drug tests at the onset of this case, coupled with the evidence admitted at trial, THE COURT FINDS AND CONCLUDES that as a condition precedent to MOM exercising Joint Physical Custody of Jake, Mom must successfully complete a drug treatment program (which includes random drug tests, drug treatment, goals and milestones). Specifically:

Mom shall engage in drug treatment and complete the Options Patch Program, consisting of not less than thirty-six (36) consecutive weeks and/or nine (9) months of uninterrupted drug monitoring, prior to being awarded any unsupervised overnight visitation with Jake. Additionally, once Mom successfully engages in drug treatment and completes not less than thirty-six consecutive weeks of the Options Patch Program, Mom shall be subject to ongoing monitoring and random drug testing upon Dad's request, for an additional three (3) months; thereby totaling twelve (12) months of monitoring and treatment.

Phase 1: MOM's supervised visits shall remain status quo, at least once per week for at least 4 hours supervised at Dad's discretion. After MOM engages in four (4) consecutive months of drug treatment and clean Options test results ("patches"), Mom's supervised visits shall expand to two (2) four (4) hour blocks of unsupervised visitation each week.

Phase 2: After six (6) consecutive months of drug treatment and clean patches, Mom's unsupervised visits shall be expanded to two (2) eight (8) hour blocks of unsupervised visitation each week.

Phase 3: After nine (9) consecutive months of drug treatment and clean patches, Mom may submit a request for referral order to FMC to allow the parties to attempt to formulate a schedule for unsupervised visitation that will afford Mom an average of not less than eight (8) full days (with overnights) each calendar month, excluding holidays, and to attempt to formulate a holiday visitation schedule for Mom (which shall presume Mom shall continue to be drug free), with the new unsupervised visitation to become effective upon Mom's successful completion of nine (9) consecutive months of drug treatment and clean Options test results. The parties shall acknowledge and stipulate that their use of FMC, after Mom meets the nine (9) month benchmark milestone, shall be for the limited purpose of attempting to formulate an unsupervised visitation schedule and shall not include discussions regarding the modification of physical custody.

If the parties are unable to formulate a schedule at FMC, Mom shall file a motion in accordance with this agreement setting forth her requested visitation schedule. So long as Mom has successfully completed the required total of nine (9) consecutive months of drug treatment and clean tests results through Options Monitoring Program, the Court may deem there to be sufficient adequate cause for the Court to consider Mom's requested visitation schedule.

Phase 4: If Mom successfully completes the nine (9) consecutive months of drug treatment and clean test results through the Options Monitoring Program, Mom shall then

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be subject to random hair and urine drug testing at American Toxicology, Inc. ("ATI") for a period of three (3) additional months thereafter. During this 3-month period, Dad and/or his counsel can contact Mom or her counsel, via email and/or talking parents, requesting for Mom to submit for testing at any time during this three (3) month period. Mom shall report for testing within eight (8) hours from the time of the request being made. If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances Mom shall be solely responsible for all costs associated with testing stipulated to into his agreement.

Global Rule: If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances. Mom shall be solely responsible for all costs associated with testing stipulated to into his agreement. If Mom should test dirty and/or positive and/or relapse, at any time during this 12-month monitoring period, the "Candyland" provision shall be triggered and Mom's visitation and required monitoring shall revert back to Phase 1, and Mom shall be required to successfully follow the graduated plan in this agreement until Mom successfully completes 12 consecutive months of monitoring.

THE COURT FINDS AND CONCLUDES that it is in the best interest of Jake for Mom's expanded visitation plan to be contingent on Mom's successful completion of at least 12 months in a drug treatment program and Options Monitoring. THE COURT FURTHER FINDS AND CONCLUDES that the visitation schedule described herein is the least restrictive timeshare consistent with Jake's best interests, as it permits Mom and

Jake to gradually work up to unsupervised quality time together while simultaneously ensuring Mom is maintaining sobriety for Jake's safety and wellbeing.[108]

CHILD SUPPORT

Nevada Administrative Code (NAC) 425.025
"Gross income" defined. (NRS 425.620)

1. "Gross income" includes, without limitation:

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

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

(c) Social security disability benefits and old-age insurance benefits under federal law.

(d) Any periodic payment from a pension, retirement plan or annuity which is considered remuneration for employment.

(e) Net proceeds resulting from workers' compensation or other personal injury awards intended to replace income.

(f) Unemployment insurance.

(g) Income continuation benefits.

(h) Voluntary contributions to a deferred compensation plan, employee contributions to an employee benefit or profit-sharing plan, and voluntary employee contributions to any pension or retirement account, regardless of whether the account provides for tax deferral or avoidance.

(i) Military allowances and veterans' benefits.

(j) Compensation for lost wages.

(k) Undistributed income of a business entity in which a party has an ownership interest sufficient to individually exercise control over or access the earnings of the business, unless the income is included as an asset for the purposes of imputing income pursuant to NAC 425.125. As used in this paragraph:

(1) "Reasonable allowance for economic depreciation" means the amount of depreciation on assets computed using the straight-line method and useful lives as determined under federal income tax laws and regulations.

(2) "Undistributed income" means federal taxable income of a

[108] *Roe*, 139 Nev. Adv. Op. 21, 535 P.3d 274 at 281 (Nev. App. 2023).

business entity plus depreciation claimed on the federal income tax return of the business less a reasonable allowance for economic depreciation.

(l) Child care subsidy payments if a party is a child care provider.

(m) Alimony.

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

2. The term does not include:

(a) Child support received.

(b) Foster care or kinship care payments.

(c) Benefits received under the federal Supplemental Nutrition Assistance Program.

(d) Cash benefits paid by a county.

(e) Supplemental security income benefits and state supplemental payments.

(f) Except as otherwise provided in paragraph (l) of subsection 1, payments made for social services or any other public assistance benefits.

(g) Compensation for losses, including, without limitation, both general and special damages, from personal injury awards not intended to replace income.

3. This section must not be construed to limit income withholding or the assignment of workers' compensation benefits for the collection of child support.

NAC 425.140 Schedule for determining base child support obligation based on number of children and monthly gross income of obligor. (NRS 425.620**)**

Except as otherwise provided in NAC 425.145, the base child support obligation of an obligor must be determined according to the following schedule:

1. For one child, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 16 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 8 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 4 percent of such a portion.

2. For two children, the sum of:

(a) For the first $6,000 of an obligor's monthly gross income, 22 percent of such income;

(b) For any portion of an obligor's monthly gross income that is greater than $6,000 and equal to or less than $10,000, 11 percent of such a portion; and

(c) For any portion of an obligor's monthly gross income that is greater than $10,000, 6 percent of such a portion.

NAC 425.150 Adjustment of child support obligation in accordance with specific needs of child and economic circumstances of parties. (NRS 425.620**)**

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

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

Consistent with the provisions of NAC 425.115 and NAC 425.140, Mom must be ordered to pay Dad child support at the monthly rate of 16% of her gross monthly income. Pursuant to Mom's Financial Disclosure Form, on-file, herein, and her testimony, Mom currently earns a gross monthly income of $3,986. Accordingly, Mom's child support obligation calculates as follows:

$3,986 x .16 = $637.76

As it pertains to child support deviations, THE COURT FINDS AND CONCLUDES that the Court did not receive any credible evidence regarding childcare, transportation costs, or necessary medical care for the children in accordance with NAC 425.150; thus, there are no further deviations from the statutory amount pursuant to NAC

425. Mom may receive a downward deviation for half of her out-of-pocket costs of the child's health insurance premium, subject to proof.

Additionally, because Mom willfully disregarded her parental financial responsibilities for the minor child since she left the marital home in January 2023, THE COURT FINDS AND CONCLUDES that Dad is entitled to child support arrears retroactive to when he began solely providing for and attending to Jake's daily needs in January 2023.

District Courts have discretion to award child support arrears for the "reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian."[109] However, "[i]n the absence of a court order for the support of a child, the parent who has physical custody may recover not more than 4 years' support furnished before the bringing of the action to establish an obligation for the support of the child."[110]

It is undisputed that DAD has been providing solely for Jake's needs without any assistance from Mom since January 2023. DAD did not offer any evidence of the "reasonable portion of the cost of care, support, education, and maintenance" that he spent on Jake since January 2023. It is undisputed that Dad's family trust pays for Jake's private school tuition. It is further undisputed that Dad has provided for Jake's daily needs, to include his shelter, food, and clothing, among other things. Dad filed an FDF on January 17, 2024 and November 12, 2024. Therefore, based on DAD's FDF, he is entitled to half the cost of the food, shelter and clothing for Jake, to the extent it was delineated in DAD's

[109] NRS 125B.030.

[110] *Perez v. Haywood*, 522 P.3d 463 (Nev. App. 2022) (citing NRS 125B.030).

FDF. Apart from DAD's FDF, no other evidence was admitted vis-à-vis the reasonable portion of Jake's care, support and maintenance. THEREFORE, THE COURT FINDS AND CONCLUDES that DAD must file a Schedule of Arrears for any constructive arrears consistent with this Decree (i.e. constructive arrears shall be based on the amounts delineated on DAD's FDF for Jake's food, shelter, and clothing). DAD's award of child support shall be retroactive to January 2023, as neither party disputes that Dad has been solely providing for Jake's needs without any assistance from Mom since that date.

At trial, Mom testified that she presently has access to health insurance benefits for the minor child made available to her through her current employer.[111] Conversely, Dad testified that due to his present long-term disability classification and/or status, he does not presently have access to health insurance benefits for the minor child available through his employer.

Accordingly, consistent with provisions of NAC 425.135, Mom is ordered to maintain health insurance benefits for the minor child for the remainder of his minority, through benefits made available to her through her employer. Mom shall receive a downward deviation for half of this amount, subject to proof, pursuant to NAC 425.150(g).

CONSTRUCTIVE TRUST

Dad requests that the marital home be placed in a constructive trust for the duration of Jake's minority. The Supreme Court of Nevada established that a constructive trust will arise and affect property acquisitions under the following circumstances: "(1) a confidential relationship exists between the parties; (2) retention of legal title by the holder thereof

[111] EHVC at 3:33:12 p.m.

against another would be inequitable; and (3) the existence of such a trust is essential to the effectuation of justice."[112] The Supreme Court further clarified that a confidential relationship

> may arise by reason of kinship or professional, business, or social relationships between the parties. Such a relationship "*exists when one party gains the confidence of the other and purports to act or advise with the other's interests in mind*; it may exist although there is no fiduciary relationship; it is particularly likely to exist when there is a family relationship or one of *friendship*." When a confidential relationship exists, the person in whom the *special trust* is placed owes a duty to the other party similar to the duty of a fiduciary, requiring the person to act in good faith and with due regard to the interests of the other party.[113]

Further, pursuant to *Bemis v. Estate of Bemis*, implied trusts are equitable remedies recognizing and protecting property rights of an innocent party.[114] A constructive trust does not require the parties' specific intent to create such a trust; "the constructive trust is no longer limited to fraud and misconduct cases; it redresses ***unjust enrichment***, not wrongdoing."[115] (Emphasis Added) Thus, a court must find that there has been ***unjust enrichment*** in order to impose a constructive trust.

While, in theory, the Court agrees with Dad's equitable arguments for imposition of a constructive trust, it is incumbent on this Court to strictly apply the *Locken* factors to the case at bar. In doing so, THE COURT FINDS AND CONCLUDES that the requirements for a constructive trust are not met in this case.

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[112] *Locken v. Locken*, 98 Nev. 369, 372, 650 P.2d 803, 805 (1982).
[113] *Wilson v. Grundy*, 536 P.3d 913 (Nev. 2023) (citing *Perry v. Jordan*, 111 Nev. 943, 947, 900 P.2d 335, 337 – 38 (1995) (emphases added)).
[114] *Bemis v. Estate of Bemis*, 114 Nev. 1021, 1027, 967 P.2d 437, 441 (1998).
[115] *Id*. (citing Dan B. Dobbs, *Law of Remedies* § 4.3(2) (2d ed.1993).

Here, the first factor for establishing a constructive trust is clearly met: Mom and Dad had a confidential relationship as evidenced by their 15-year marriage and their co-parenting relationship as they have worked together to raise Jake. As to the second factor, the Court would have to find that equal division of the proceeds from the sale of the marital home would be inequitable, and would result in unjust enrichment of Mom. This is simply not the case here, as the Nevada policy for equal division of community assets upon divorce is explicitly delineated in NRS 125.150(1)(b); Mom's receipt of her share of funds from the sale of the home would certainly not constitute unjust enrichment. Rather, such a distribution would be well in line with the policy and preference of the State of Nevada. Because this Court has not found that retention of the legal title of the marital home (in the form of her possession of half of the sale proceeds) by Mom would be inequitable, this Court cannot impose a constructive trust in this case.

This Court's paramount concern is the best interest of Jake. Jake has lived in the marital home for his entire life; his private school is located in close proximity to the marital residence. Jake is thriving in his current home and school environments, and sale of the marital home would constitute further disruption to what has already been a tumultuous experience in Jake's adolescent years. Furthermore, Dad has established his credible concern that Mom's share of proceeds from the sale of the marital home may be utilized to fund purchase of illicit drugs. This concern is corroborated by the several ATI drug test results received by the Court in this case, and the Court echoes Dad's concern. Thus, while this Court agrees with Dad that establishment of a constructive trust would benefit Jake, this Court disagrees that Dad has satisfied the requisite *Locken* factors.

At trial, the parties both testified that the during the marriage they purchased the marital residence located at 5409 Contera Court, which is located less than one block away from Jake's current school, the JOY Academy of Southern Nevada.[116] Dad testified that the current fair market value of the marital residence is approximately $438,900. Dad's testimony and the documentary evidence admitted as Exhibit "G" and Exhibit "F" demonstrated that there is presently an outstanding note of $161,750.98 associated therewith and there is approximately $277,149.02 in equity in the marital residence held by the community.

Dad's testimony further demonstrated that he and Jake are residing in the marital residence and the marital residence is the only home that Jake has ever known. Likewise, Dad's testimony demonstrated that Jake's private school that he will be attending through high school is located directly adjacent to/across the street from home, and Jake is presently thriving in his current home and school environments.

Dad's testimony also demonstrated Mom's history of illicit drug use, and his serious concerns about Mom's ability to responsibly utilize any community property assets that may be awarded to her vis-à-vis her illicit substance abuse. Additionally, Dad testified that he fears that Mom will forego the entirety of her one-half interest in any proceeds realized from the sale of the marital residence awarded to her pursuant to the Decree to fund and sustain her illicit substance abuse, without regard for her ongoing parental financial obligations owed to Jake for the remainder of his minority. DAD's testimony is

[116] The JOY Academy of Southern Nevada is a K-12 private school located at 3883 E Mesa Vista Way, Las Vegas, Nevada, is less than one block away from the marital residence located at 5409 Concerta Court, Las Vegas, Nevada.

corroborated by the undisputed fact that since MOM left DAD to provide solely for Jake's needs in January 2023, MOM has not provided any financial support for her son.

THE COURT FINDS AND CONCLUDES that Dad provided credible, consistent and compelling testimony corroborated by the evidence, whereas Mom did not. MOM presented inconsistent, self-serving testimony throughout the proceedings. She looked to her counsel while answering questions during cross-examination, changed her answers, and expressed exasperation during her testimony. THE COURT had to ADMONISH MOM to look at the Judge when she was answering questions, and not to look to her attorney. THE COURT expressed concern about Mom looking at her counsel, Jennifer Isso (and/or her mom). THE COURT FURTHER expressed concerns about what appeared to be corresponding gestures between Attorney Isso and Mom during her testimony. THE COURT reminded MOM that if she did not understand the question, she must let the Court know.[117]

THE COURT FURTHER FINDS AND CONCLUDES that the only time MOM presented a clean drug test was when she voluntarily took the test. This is contrasted with the three dirty drug tests that Mom submitted in compliance with the Court's Orders. THE COURT FINDS AND CONCLUDES that MOM's August 20, 2024 drug test is not credible. THE COURT FURTHER FINDS AND CONCLUDES that the drug test results from MOM's March 28, June 4 and November 22, 2024 drug tests are credible and delineated herein:

[117] EHVC at 3:48:00 p.m.

TEST DATE	SUBSTANCE	RESULT	LOCATION
28-Mar-24	Amphetamine	9775 pg/mg	Hair
	Methamphetamine	15980 pg/mg	Hair
4-Jun-24	Hydromorphone	561 ng/ml	Urine
	Hydrocodone	635 mg/ml	Urine
	THC Metabolite	267 ng/ml	Urine
	Cocaine	2150 pg/mg	Hair
	Cocaine Metabolite	75 pg/mg	Hair
	Amphetamine	2165 pg/mg	Hair
	Methamphetamine	3485 pg/mg	Hair
20-Aug-24	N/A	Negative	Hair and Urine
22-Nov-24	Hydrocodone	5525 pg/mg	Hair
	Methamphetamine	1615 pg/mg	Hair

Based on the evidence presented at trial and Mom's three positive drug test results, THE COURT FINDS Dad's concerns -- *that Mom may utilize the substantial sum of proceeds from the sale of the marital home to sustain her illicit substance abuse* -- to be credible. However, as discussed *supra*, this Court cannot impose a constructive trust, as the second *Locken* factor is not satisfied in this case.

Rather, so as to ensure that Jake is allowed to remain in the only childhood home he has ever known and that ongoing best interests are continuously met for remainder of his minority, THE COURT FINDS, CONCLUDES AND ORDERS compelling reasons to award DAD the marital residence as his sole and separate property, subject to DAD refinancing within 120 days of entry of this Decree, and giving Mom an equalization payment that will be calculated as follows:

HALF OF THE NET EQUITY IN THE MARITAL HOME

- ***MINUS*** MOM'S CONSTRUCTIVE ARREARS TO DAD
- ***MINUS*** HALF OF THE NEGATIVE EQUITY IN THE JEEP WRANGLER

- ***MINUS*** DAD'S REASONABLE ATTORNEY FEES

= DAD'S EQUALIZATION PAYMENT TO MOM

Any necessary and material fees associated with the refinance (i.e. appraisal fees, lender fees, etc.) shall be equally born between the parties and deducted from the net equity proceeds of the refinance prior to distribution. MOM shall execute any legal documents pertinent to transferring title to the property to DAD. DAD shall maintain the mortgage so that the property may be refinanced within 120 days of entry of the decree, with MOM receiving her equalization payment delineated herein.

This disposition of the marital residence would permit Jake to remain in the only childhood home he has ever known for the remainder of his minority, while distributing to Mom her net equitable share of the community asset. Mom and Dad shall cooperate to facilitate the execution of all conveyance instruments necessary to fulfill their obligations pursuant to the Decree.

TAX DEDUCTION

THE COURT FURTHER FINDS that as Jake's Primary Physical Custodian, and pursuant to federal law, Dad shall receive the tax deduction credit for the minor child Jake each and every year.

HEALTH INSURANCE

THE COURT FURTHER FINDS that the minor child will continue to be medically covered through MOM, subject to a downward deviation in child support for any out-of-pocket premium costs for the child. The parties shall work together to ensure Jake remains insured.

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Health insurance shall continue until such time as each child reaches 18 years of age if no longer enrolled in high school, otherwise until the child graduates from high school or reaches 19 years of age, dies, marries, or otherwise becomes emancipated pursuant to Nevada law, whichever occurs first.

THE COURT FURTHER FINDS AND CONCLUDES that all unreimbursed out-of-pocket expenses shall be shared equally pursuant to the 30/30 rule, i.e., any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the other party within thirty days of incurring such expenses, if not tendered within the thirty-day period, the Court may consider it a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period the party may be subject to a finding of contempt and appropriate sanctions.

THE COURT FURTHER FINDS AND CONCLUDES that the parties shall equally bear the child's routine medical costs, to include mental health, dental and vision expenses.

DIVISION OF PROPERTY AND DEBT

NRS 125.150(1)(b) states that in granting a divorce, the Court:

> Shall, to the extent practicable, make an equal disposition of the community property of the parties, including, without limitation, any community property transferred into an irrevocable trust pursuant to NRS 123.125 over which the court

> acquires jurisdiction pursuant to NRS 164.010, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

The Court must make an equal disposition of community property unless there is a "compelling reason" to make an unequal disposition. NRS 125.150(1)(b).

Division of the marital home shall occur as discussed *supra*.

VEHICLES & DEBTS

According to Mom's Financial Disclosure Form dated November 21, 2024, she currently has approximately $14,000 of community property credit card debt held in her individual name.[118] According to Dad's Financial Disclosure Form dated November 12, 2024 states, he has approximately $19,000 of community property credit card debt held in his individual name. The parties have been living separate and apart since January 2023, THEREFORE EACH PARTY SHALL BEAR THE DEBTS AND ENCUMBRANCES IN THEIR NAME AS THEIR SOLE AND SEPARATE DEBT.

Both parties testified to there being two community property vehicles, namely, a 2023 Jeep Wrangler, with a current fair market value of approximately $29,400, and an outstanding encumbrance of approximately $35,838, associated therewith, and a 2018 Ford Edge, with a current fair market value of approximately $14,000, and an outstanding encumbrance of $16,824.61, associated therewith - both of which are financed in Dad's individual name. THE COURT was inclined to award the parties their respective vehicles, subject to the encumbrance thereon; however, MOM returned the JEEP back to Dad

[118] See Jaime's November 12, 2024 FDF.

because she cannot afford to maintain it.[119] THEREFORE, THE COURT awards both vehicles – which are in DAD's name – to DAD as his sole and separate property, subject to the encumbrances thereon. FURTHERMORE, as set forth herein, *supra*, half of the negative equity in the JEEP shall be attributed back to DAD and deducted from MOM's equalization payment.

SPOUSAL SUPPORT

NRS 125.150(a) states that in granting a divorce, the court may award such alimony to either spouse, in a specified principal sum or as specified periodic payments, as appears just and equitable.

Determining the amount of alimony a spouse should be awarded falls "within the sound discretion of the trial court." *Sprenger v. Sprenger*, 110 Nev. 855, 859, 878 P.2d 284, 287 (1994). The trial court's discretion, however, is not limitless. The "court must award such alimony as appears 'just and equitable,' having regard to the conditions in which the parties will be left by the divorce." *Id.* at 859, 287 (citing NRS 125.150(1)(a)).

Alimony, in its most elementary form, is based on the receiving spouse's need and the paying spouse's ability to pay. The Nevada Legislature created alimony awards to keep recipient spouses "off the welfare rolls." *Gilman v. Gilman*, 114 Nev. 416, 423-424, 956 P. 2d 761, 765 (1998).

In addition to economic need, alimony may also be awarded to "compensate for economic loss as a result of a marriage and subsequent divorce, particularly one spouse's loss in standard of living or earning capacity." *Kogod vs. Cliff-Kogod*, 135 Nev. 64,70, 439

[119] Mom's Supplement to her Closing Brief, page 1, filed on December 23, 2024

P.3d 397, 403 (2019). See also Collins, *The Theory of Marital Residuals*, 24 Harv. Women's L.J. at 49 ("[T]here should be some degree of post-divorce incomes to reflect the returns flowing from efforts made while the marital joint-venture was operational – an equitable sharing of the residual economic benefits from work done during the marriage.") Therefore, alimony may be awarded to compensate for economic loss as the result of a marriage and subsequent divorce, particularly one spouse's loss in standard of living or earning capacity.[120]

Alimony can be "just and equitable" both when necessary to support the economic needs of a spouse and to compensate for a spouse's economic losses from the marriage and divorce, including to equalize post-divorce earnings or help maintain the marital standard of living.[121]

Enabling the lower-income-earning spouse to maintain a lifestyle as close as possible to the lifestyle enjoyed during the marriage has consistently been an important aim of the Nevada Supreme Court.[122]

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[120] *Kogod vs. Cliff-Kogod*, 135 Nev. 64, 439 P.3d 397 (2019).

[121] *Id.*

[122] *Id.*, citing the following: (*"*See, e.g., *Wright v. Osburn*, 114 Nev. 1367, 1369, 970 P.2d 1071, 1072 (1998) (deeming the spousal support award insufficient because the wife would not be able to "maintain the lifestyle she enjoyed during the marriage or a lifestyle commensurate with" her former husband); *Sprenger v. Sprenger*, 110 Nev. 855, 860, 878 P.2d 284, 287 (1994) (remanding with instructions to award alimony such that the spouse may "live as nearly as fairly possible to the station in life she enjoyed before the divorce") (internal quotation marks omitted); *Gardner v. Gardner*, 110 Nev. 1053, 1058, 881 P.2d 645, 648 (1994) (increasing alimony by ten years because the wife's "contribution to the community over many years [was] not fairly recognized by the two-year alimony award"); *Rutar v. Rutar*, 108 Nev. 203, 208, 827 P.2d 829, 832 (1992) (increasing the alimony award where the previous award only provided "a standard of living far below that to which [the wife and children] have been accustomed"). This court reaffirmed this goal in *Shydler v. Shydler*, 114 Nev. 192, 954 P.2d 37 (1998), by noting that two of the primary purposes of alimony "are to narrow any large gaps between the post-divorce earning capacities of the parties and to allow the recipient spouse to live 'as nearly as

The Nevada Supreme Court has held that the purpose of spousal support is not to equalize post-divorce incomes, but "to allow the recipient to live as nearly as fairly as possible to the station in life enjoyed before the divorce." *Shydler v. Shydler*, l14 Nev. 192, 198, 954 P.2d 37, 40 (1998). Further, the Court should not consider the respective "merits" of the parties in adjudicating the issue of spousal support. *Rodriguez v. Rodriguez*, 116 Nev. 993, 13 P.3d 415 (2000). It is not a "sword to level the wrongdoer," nor is it a "prize to reward virtue." *Id.*116 Nev. at 999, 13 P3d 419. Rather, "alimony is financial support paid from one spouse to the other whenever justice and equity require it." *Id.*

When determining whether to award alimony and the amount of such an award, NRS 125.150(9) sets forth the factors that the Court shall consider, in addition to any other factors the court considers relevant. The requisite factors are analyzed accordingly:

a. The financial condition of each spouse;

At trial, Dad testified that he is currently unable to maintain full-time employment due to injuries he sustained at work, and that he is presently receiving monthly long-term disability payments of approximately $2,000.00, per month. Dad also testified that he presently receives approximately $2.000.00 per month in and as for a monthly distribution payment from his family's Trust. Dad further testified that his family's trust's assets have been dwindling in recent years and that he cannot depend on the trust to supplement his income in the long-term.

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fairly possible to the station in life [ ] enjoyed before the divorce." Id. at 198, 954 P.2d at 40 (alteration in original) (citations omitted) (quoting Sprenger, 110 Nev. at 860, 878 P.2d at 287-88).")

At trial, Mom testified that she is currently working full-time swing-shift at Blake Shelton's Ole Red Restaurant as a Kitchen Supervisor earning approximately $3,986 per month.

Based on the evidence derived from the parties' testimonies at trial, the parties presently earn substantially similar incomes, to such the extent that any claims for alimony asserted by the parties should be deemed as nonmeritourious and baseless, as the parties are already on equal financial footing. Furthermore, based on mom surrendering the 2023 Jeep Wrangler, with a current fair market value of approximately $29,400, and an outstanding encumbrance of approximately $35,838, associated therewith, to DAD; DAD is left with a vehicle that has negative equity in amount of $6,438.00, not including the monthly payments. This is in addition to DAD making the monthly payments on the 2018 Ford Edge, with a current fair market value of approximately $14,000, and an outstanding encumbrance of $16,824.61; as well as DAD maintaining the mortgage, property taxes, and any expenses pertinent to the marital home; in addition to the $19,000.00 credit card debts in DAD's name. For these reasons, this factor does not favor granting an award of alimony in Mom's favor.

b. The nature and value of the respective property of each spouse,

Dad's testimony at trial confirmed that Mom would be entitled to receive one-half of the equity held in the home. Mom will duly receive her interest in the marital home subject to the provisions of this Decree.

Mom has $14,000.00 credit card debt in her name. This pales in comparison to the $19,000.00 credit card debt in Dad's name, plus the two encumbered vehicles in Dad's

name. As stated hereinabove, *supra*, Mom surrendered the 2023 Jeep Wrangler to DAD; which has negative equity in amount of $6,438.00. In addition, Dad has the 2018 Ford Edge, which has negative equity in amount of $2,824.61. For these reasons, based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

c. ***The contribution of each spouse to the marriage's community property,***

THE COURT did not hear evidence on this factor, other than that both parties purchased the marriage with community funds during the marriage.

d. The duration of the marriage,

Both parties testified at trial that they were married on October 30, 2010, in Las Vegas, Nevada, and have been husband and wife for fourteen years. Based on the evidence presented at trial, this factor favors an award of alimony in Mom's favor.

e. The income, earning capacity, age, and health of each spouse,

As indicated above, the parties are presently generating substantially similar incomes, with Dad testifying that he is currently generating approximately $4,000.00 per month, and Mom testifying that she is currently generating approximately $3,986.00 per month. Dad testified that he is presently 53 years and Mom is presently 47 years old. Dad also testified that he is presently unable to work full-time due to a work-related injury he sustained in January 2024, and to the best of his knowledge Mom has no physical conditions that adversely impact her ability work full time and self-support.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

f. ***The standard of living to which the spouses were accustomed during the marriage,***

No credible evidence as to the standard of living maintained by the parties during the marriage was presented by either party through their respective testimonies proffered at trial.

Based on the lack of evidence presented at trial as to the standard of living enjoyed by the parties during the marriage, this factor is neutral and favors neither party.

g. The career, before the marriage, of the spouse receiving alimony,

No credible evidence was offered on this factor; therefore, it is neutral.

h. Any specialized education or training or marketable skills obtained by either spouse during the marriage,

At trial, Mom testified that she obtained her associate's degree in culinary arts during the marriage, and by virtue thereof, she has specialized marketable commercial skills, which are in high demand the Las Vegas hospitality market, and the ability of self-support post-divorce.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

i. The contribution of either spouse as a homemaker,

While the respective testimonies of the parties confirmed that Mom was a stay-at-home mom prior to Jake becoming school-aged, Mom's testimony regarding her receipt of her associate's degree in culinary arts during marriage, and the various jobs she held once Jake began school confirms that Mom's brief time as a homemaker at the onset of the

marriage, did not adversely impact her ability to obtain specialized commercial skills during the marriage and her ability for self-support post-divorce.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

j. Any property granted by the court to each spouse in the divorce,

As delineated hereinabove, supra, Mom surrendered the Jeep to Dad; thereby leaving Dad with two underwater vehicles in his name, $19,000.00 of credit card debt and the mortgage, property taxes and maintenance of the marital home his financial responsibility. Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

k. The physical and mental condition of each party as it relates to his or her financial condition and ability to work, and

Although she testified positive for numerous illicit substances during these proceedings, Mom testified that she has never missed work or been late to work, received write ups or been disciplined as a result of her struggles with addiction. Mom's testimony confirms she is able to sustain full-time employment and self-support, despite her ongoing substance abuse struggles.

Conversely, Dad testified that as a result of his current back injuries, he is presently unable to maintain full-time employment, he is currently on long-term disability, and his monthly disability benefits reflect only a portion of his full-time monthly income. Dad's testimony confirms that his present physical condition and back injuries are presently

adversely impacting Dad's ability to work, and thus, in turn adversely impact his ability to pay alimony to Mom, post-divorce.

Based on the evidence presented at trial, this factor does not favor an award of alimony in Mom's favor.

NRS 123.100 provides that a "spouse abandoned by his or her spouse is not liable for the support of the abandoning spouse until such spouse offers to return unless the misconduct of the abandoned spouse justified the abandonment."

At trial, both parties' testimonies confirmed that Mom voluntarily abandoned the marriage and her family in January 2023, due to her ongoing struggles with drug addiction. Mom testified that she left the home because of DAD's infidelity. MOM also alleged that she left because of DAD's domestic violence. DAD testified that MOM left because of her drug use. THE COURT FINDS AND CONCLUDES that DAD provided credible, consistent, compelling and corroborated testimony; whereas MOM did not. THE COURT FINDS AND CONCLUDES that because Mom abandoned the marriage and her family, without cause, consistent with the provisions of NRS 123.100, Mom is not entitled to seek alimony, as a matter of law.

THEREFORE, THE COURT FINDS AND CONCLUDES that based on the evidence presented at trial, consistent with the provisions of NRS 125.150(9) and NRS 123.100, Mom's request for alimony is summarily denied, as a matter of law.

THE COURT FINDS AND CONCLUDES that based on the evidence admitted, there was no credible evidence to establish a need for rehabilitative alimony pursuant to NRS 125.150(10).

THE COURT FINDS AND CONCLUDES that neither party shall receive alimony.

ATTORNEY FEES

NRS 18.010 Award of attorney's fees.

1. The compensation of an attorney and counselor for his or her services is governed by agreement, express or implied, which is not restrained by law.

2. In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party:

(a) When the prevailing party has not recovered more than $20,000; or

(b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party. The court shall liberally construe the provisions of this paragraph in favor of awarding attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award attorney's fees pursuant to this paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

3. In awarding attorney's fees, the court may pronounce its decision on the fees at the conclusion of the trial or special proceeding without written motion and with or without presentation of additional evidence.

4. Subsections 2 and 3 do not apply to any action arising out of a written instrument or agreement which entitles the prevailing party to an award of reasonable attorney's fees.

NRS 125C.250 Attorney's fees and costs.

Except as otherwise provided in NRS 125C.0689, in an action to determine legal custody, physical custody or visitation with respect to a child, the court may order reasonable fees of counsel and experts and other costs of the proceeding to be paid in proportions and at times determined by the court.

THE COURT FINDS AND CONCLUDES that MOM filed two custodial Motions[123] that were DENIED wherein DAD has been awarded temporary Primary Physical Custody of Jake throughout the proceedings. Dad's requests for attorney fees were DEFERRED to trial.

FURTHERMORE, based on the evidence presented at trial, THE COURT FINDS AND CONCLUDES THAT pursuant **NRS 125C.250** the court may order reasonable fees and other costs of the proceeding to be paid in proportions to DAD. THE COURT FURTHER FINDS AND CONCLUDES that Mom's two positive pre-trial drug tests and the corresponding evidence establishes that MOM's two unsuccessful Motions[124] were brought or maintained without reasonable ground or to harass DAD, whom this COURT FINDS AND CONCLUDES is the prevailing party in accordance with the provisions of NRS 18.010 and EDCR 5.219(a). Accordingly, THE COURT FINDS AND CONCLUDES that Dad is entitled to reasonable attorney fees and costs, subject to a Memorandum of Fees and Costs, *Brunzell* Analysis, and corresponding legal authority. Such supporting documentation must be filed with the Court within 5 days with regard to costs pursuant to NRS 18.110 and within 28 days with regard to attorney's fees pursuant to NRCP 52(b).

If any of these Conclusions of Law are more correctly interpreted as Findings of Fact, they shall be so construed.

[123] Mom filed her first Motion seeking Primary Physical Custody of Jake on January 18, 2024, and her second such motion on October 8, 2024.
[124] *Id*.

MARI D. PARLADÉ
DISTRICT JUDGE
Family Division
Department A

IV. FINAL ORDERS

Based on the foregoing Findings of Fact and Conclusions of Law:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the parties are incompatible in marriage due to irreconcilable differences; neither party is pregnant, the parties request an equal division of community property and debt, and the parties desire this Court to enter a Decree of Divorce. THEREFORE, the bonds of matrimony are heretofore DISSOLVED and the parties and are hereby restored to their status as single unmarried persons.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that it is in Jake's best interest for Dad to have Modified Legal Custody wherein Dad must communicate any important decisions or information regarding Jake (i.e., education, medical, religious, etc.) to Mom via TalkingParents. If Mom fails to respond to Dad within 48 hours, then Dad may proceed with his decision-making. If the parties reach an impasse, then Dad may proceed with his decision-making and Mom may seek court intervention.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, considering MOM's ongoing drug use vis-à-vis the potential harm to the child, it is in Jake's best interest for Dad to have Sole Physical Custody, subject to Mom having progressively increased supervised visitation as defined herein, *infra*. Mom shall engage in drug treatment and complete the Options Patch Program, consisting of not less than thirty-six (36) consecutive weeks and/or nine (9) months of uninterrupted drug monitoring, prior to being awarded any unsupervised overnight visitation with Jake. Additionally, once Mom successfully engages in drug treatment and completes not less than thirty-six consecutive

weeks of the Options Patch Program, Mom shall be subject to ongoing monitoring and random drug testing upon Dad's request, for an additional three (3) months; thereby totaling twelve (12) months of drug treatment and monitoring comprised of the following Phases:

Phase 1: MOM's supervised visits shall remain status quo, at least once per week for at least 4 hours supervised at Dad's discretion. After MOM engages in four (4) consecutive months of drug treatment and clean Options test results ("patches"), Mom's supervised visits shall expand to two (2) four (4) hour blocks of unsupervised visitation each week.

Phase 2: After six (6) consecutive months of drug treatment and clean patches, Mom's unsupervised visits shall be expanded to two (2) eight (8) hour blocks of unsupervised visitation each week.

Phase 3: After nine (9) consecutive months of drug treatment and clean patches, Mom may submit a request for referral order to FMC to allow the parties to attempt to formulate a schedule for unsupervised visitation that will afford Mom an average of not less than eight (8) full days (with overnights) each calendar month, excluding holidays, and to attempt to formulate a holiday visitation schedule for Mom (which shall presume Mom shall continue to be drug free), with the new unsupervised visitation to become effective upon Mom's successful completion of nine (9) consecutive months of drug treatment and clean Options test results. The parties shall acknowledge and stipulate that their use of FMC, after Mom meets the nine (9) month benchmark milestone, shall be for the limited

purpose of attempting to formulate an unsupervised visitation schedule and shall not include discussions regarding the modification of physical custody.

If the parties are unable to formulate a schedule at FMC, Mom shall file a motion in accordance with this agreement setting forth her requested visitation schedule. So long as Mom has successfully completed the required total of nine (9) consecutive months of drug treatment and clean tests results through Options Monitoring Program, the Court may deem there to be sufficient adequate cause for the Court to consider Mom's requested visitation schedule.

Phase 4: If Mom successfully completes the nine (9) consecutive months of drug treatment and clean test results through the Options Monitoring Program, Mom shall then be subject to random hair and urine drug testing at American Toxicology, Inc. ("ATI") for a period of three (3) additional months thereafter. During this 3-month period, Dad and/or his counsel can contact Mom or her counsel, via email and/or talking parents, requesting for Mom to submit for testing at any time during this three (3) month period. Mom shall report for testing within eight (8) hours from the time of the request being made. If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances Mom shall be solely responsible for all costs associated with testing stipulated to into his agreement.

Global Rule: If Mom does not timely appear and submit for testing within eight hours of the request being made, it will be presumed that Mom's test is dirty/positive for illicit controlled substances. Mom shall be solely responsible for all costs associated with

testing stipulated to into his agreement. If Mom should test dirty and/or positive and/or relapse, at any time during this 12-month monitoring period, the "Candyland" provision shall be triggered and Mom's visitation and required monitoring shall revert back to Phase 1, and Mom shall be required to successfully follow the graduated plan in this agreement until Mom successfully completes 12 consecutive months of monitoring.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that it is in the best interest of Jake for Mom's expanded visitation plan to be contingent on Mom's successful completion of at least 12 months in drug treatment and monitoring through the Options Monitoring Program. In the interim. MOM's visits shall remain status quo, which means, supervised by Dad at least once per week for a minimum of four hours per week, at Dad's discretion.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the visitation schedule described herein is the least restrictive timeshare possible consistent with Jake's best interests, as it permits Mom and Jake to gradually work up to unsupervised quality time together while simultaneously ensuring Mom is maintaining sobriety for Jake's safety and wellbeing.[125]

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that consistent with the provisions of NAC 425.115 and NAC 425.140, Mom must be ordered to pay Dad child support at the monthly rate of 16% of her gross monthly income. Pursuant to Mom's Financial Disclosure Form dated November 21, 2024 and her testimony, Mom currently

[125] *Roe*, 139 Nev. Adv. Op. 21, 535 P.3d 274 at 281 (Nev. App. 2023).

earns a gross monthly income of $3,986. Accordingly, Mom's child support obligation is **$637.76**[126] per month, effective seven (7) days upon entry of this Decree, and on the 1st day of every month thereafter. MOM is entitled to a downward deviation in child support for half of any out-of-pocket premium costs for the child, subject to proof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that DAD must file a Schedule of Arrears for any constructive arrears consistent with this Decree. Based on what Dad reported on his November 12, 2024 and January 18, 2024 FDFs, Dad is eligible to receive half of the cost of food, shelter and clothing to the child, excluding any school tuition payments (which are covered by DAD's family trust). DAD's award of child support shall be retroactive to January 2023, as neither party disputes that Dad has been solely providing for Jake's needs without any assistance from Mom since January 2023.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that minor child will continue to be medically covered through MOM, subject to a downward deviation in child support for any out-of-pocket premium costs for the child. The parties shall work together to ensure Jake remains insured. Health insurance shall continue until such time as the child reaches 18 years of age if no longer enrolled in high school, otherwise until the child graduates from high school or reaches 19 years of age, dies, marries, or otherwise becomes emancipated pursuant to Nevada law, whichever occurs first.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all unreimbursed out-of-pocket expenses shall be shared equally pursuant to the 30/30 rule,

[126] The calculation is as follows: $3,986 x .16 = $637.76.

i.e., any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the other party within thirty days of incurring such expenses, if not tendered within the thirty-day period, the Court may consider it a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period the party may be subject to a finding of contempt and appropriate sanctions.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties shall equally bear the child's routine medical costs, to include mental health, dental and vision expenses subject to the 30/30 Rule.[127]

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to federal law, Dad shall receive the tax deduction credit for the minor child Jake each and every year.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that there are compelling reasons to award DAD the marital residence as his sole and separate property,

[127] Any unreimbursed medical, dental, optical, orthodontic or other health related expense incurred for the benefit of the minor child is to be divided equally between the parties. Either party incurring an out of pocket medical expense for the child shall provide a copy of the paid invoice/receipt to the other party within thirty days of incurring such expenses, if not tendered within the thirty-day period, the Court may consider it a waiver of reimbursement. The other party will then have thirty days from receipt within which to dispute the expense in writing or reimburse the incurring party for one-half of the out of pocket expense, if not disputed or paid within the thirty day period the party may be subject to a finding of contempt and appropriate sanctions.

subject to DAD refinancing within 120 days of entry of this Decree, and giving Mom an equalization payment that will be calculated as follows:

HALF OF THE NET EQUITY IN THE MARITAL HOME

- ***MINUS*** MOM'S CONSTRUCTIVE ARREARS TO DAD
- ***MINUS*** HALF OF THE NEGATIVE EQUITY IN THE JEEP WRANGLER
- ***MINUS*** DAD'S REASONABLE ATTORNEY FEES

= **DAD'S EQUALIZATION PAYMENT TO MOM**

Any necessary and material fees associated with the refinance (i.e. appraisal fees, lender fees, etc.) shall be equally born between the parties and deducted from the net equity proceeds of the refinance prior to distribution. MOM shall execute any legal documents pertinent to transferring title to the property to DAD. DAD shall maintain the mortgage so that the property may be refinanced within 120 days of entry of the decree, with MOM receiving her equalization payment delineated herein.

This disposition of the marital residence would permit Jake to remain in the only childhood home he has ever known for the remainder of his minority, while distributing to Mom her net equitable share of the community asset. Mom and Dad shall cooperate to facilitate the execution of all conveyance instruments necessary to fulfill their obligations pursuant to the Decree.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that DAD shall be awarded the 2023 Jeep Wrangler and the 2018 Ford Edge, as his sole and separate property, subject to the encumbrances thereon. As of the date of entry of this Decree, half of the

negative equity in the JEEP WRANGLER shall be attributed to Dad and deducted from MOM's equalization payment.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be awarded their credit card debts, liabilities and encumbrances in their name as their sole and separate liabilities.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall be awarded the personal belongings in their possessions and any bank accounts or assets in their name as their sole and separate property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that neither party shall receive alimony.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Dad is entitled to reasonable attorney fees and costs, subject to a Memorandum of Fees and Costs, *Brunzell* Analysis, and corresponding legal authority. Such supporting documentation must be filed with the Court within 5 days with regard to costs pursuant to NRS 18.110 and within 28 days with regard to attorney's fees pursuant to NRCP 52(b).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are given notice of the following:

NOTICE IS HEREBY GIVEN that the following statutory notices relating to the custody and visitation of the minor children are applicable to the parties herein:

STATUTORY NOTICES

Approved by Presiding Judge Pursuant to EDCR 5.707

NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.0045(6):

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.0045(7)(8):

The terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country as follows:

If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning the child to his or her habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

NOTICE IS HEREBY GIVEN that, pursuant to NRS 125C.006:

1. If PRIMARY PHYSICAL CUSTODY has been established pursuant to an order, judgment or decree of a court and the custodial parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the custodial parent desires to take the child with him or her, the custodial parent shall, before relocating:

(a) Attempt to obtain the written consent of the noncustodial parent to relocate with the child; and

(b) If the noncustodial parent refuses to give that consent, petition the court for permission to relocate with the child.

2. The court may award reasonable attorney's fees and costs to the custodial parent if the court finds that the noncustodial parent refused to consent to the custodial parent's relocation with the child:

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the custodial parent.

3. A parent who relocates with a child pursuant to this section without the written consent of the noncustodial parent or the permission of the court is subject to the provisions of NRS 200.359.

NOTICE IS HEREBY GIVEN that, pursuant to NRS 125C.0065:

1. If JOINT PHYSICAL CUSTODY has been established pursuant to an order, judgment or decree of a court and one parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the relocating parent desires to take the child with him or her, the relocating parent shall, before relocating:

(a) Attempt to obtain the written consent of the non-relocating parent to relocate with the child; and

(b) If the non-relocating parent refuses to give that consent, petition the court for primary physical custody for the purpose of relocating.

2. The court may award reasonable attorney's fees and costs to the relocating parent if the court finds that the non-relocating parent refused to consent to the relocating parent's relocation with the child:

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the relocating parent.

3. A parent who relocates with a child pursuant to this section before the court enters an order granting the parent primary physical custody of the child and permission to relocate with the child is subject to the provisions of NRS 200.359.

NOTICE IS HEREBY GIVEN that pursuant to NRS 125C.010(1)(b), for purposes of visitation rights of a child, the State of Nevada or the state where the child resides within the United States of America is the habitual residence of the child.

NOTICE IS HEREBY GIVEN that the parent having the child support obligation is subject to NAC 425.025 and NRS 31A.020 through 31A.230, inclusive, regarding the immediate withholding or assignment of wages, commissions or bonuses for payment of child support, whether current or delinquent.

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 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.

NOTICE IS HEREBY GIVEN that each party shall submit the information required in NRS 125B.055, NRS 125.130, and 125.230 on a separate form to the Court and the Welfare Division of the Department of Human Resources within ten days from the date this Decree is filed. Such information shall be maintained by the Clerk in a confidential manner and not part of the public record. The parties shall update the information filed with the Court and the Welfare Division of the Department of Human Resources within ten days should any of that information become inaccurate.

NOTICE IS HEREBY GIVEN that you have an affirmative duty to update any changes in your personal information by filing a Notice of Change of Address form. The form can be found at the following link: https://www.familylawselfhelpcenter.org/images/forms/misc/address-change-pdf-fillable.pdf

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated this 12th day of March, 2025

HONORABLE MARI D. PARLADÉ
DISTRICT JUDGE
766 3A9 B879 ED41
Mari D. Parlade
District Court Judge

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Jamie irene Randolph, Plaintiff vs. Michael David Randolph, Defendant.	CASE NO: D-23-678957-D DEPT. NO. Department A

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Decree of Divorce 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: 3/12/2025

Bradley Hofland	Bradh@hoflandlaw.com
Nikki Woulfe	clerk@hoflandlaw.com
Anna Stein	bhassistant@hoflandlaw.com
Meredith Simmons	msimmons@hoflandlaw.com
Staff IHL	efilenotifications@issohugheslaw.com
Jennifer Isso	ji@issohugheslaw.com
Robert Blau	Robertb@hoflandlaw.com
Kathy Gentry	kgentry@hoflandlaw.com

If indicated below, a copy of the above mentioned filings were also served by mail via United States Postal Service, postage prepaid, to the parties listed below at their last known addresses on 3/13/2025

Jennifer Isso

The Isso & Hughes Law Firm
Attn: Jennifer Isso, Esq
8965 S. Eastern Ave Ste 120
Las Vegas, NV, 89123

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint **COURT MINUTES** March 28, 2024

D-23-678957-D Jamie irene Randolph, Plaintiff
vs.
Michael David Randolph, Defendant.

March 28, 2024 **9:00 AM** **All Pending Motions**

HEARD BY: Parlade, Mari D **COURTROOM:** Courtroom 02

COURT CLERK: Helen Green

PARTIES:

Jake Randolph, Subject Minor, not present
Jamie Randolph, Plaintiff, Counter Defendant, present
Jennifer Isso, Attorney, Unbundled Attorney, not present
Michael Randolph, Defendant, Counter Claimant, present
Jennifer Isso, Attorney, Unbundled Attorney, not present
Meredith Simmons, Attorney, present

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR JOINT LEGAL AND PRIMARY PHYSICAL CUSTODY, TO SET CHILD SUPPORT, FOR TEMPORARY SPOUSAL SUPPORT AND ATTORNEY'S FEES, AND OTHER RELATED RELIEF DEFENDANT'S OPPOSITION TO MOTION FOR JOINT LEGAL AND PRIMARY CUSTODY, TO SET CHILD SUPPORT, FOR TEMPORARY SPOUSAL SUPPORT AND ATTORNEY FEES, AND OTHER RELATED RELIEF AND COUNTERMOTION FOR JOINT LEGAL CUSTODY, PRIMARY PHYSICAL CUSTODY, CHILD SUPPORT, AND RELATED RELIEF RETURN HEARING: FMC CASE MANAGEMENT CONFERENCE

Attorney Isso and Plaintiff appeared by Zoom.
Attorney Simmons and Defendant appeared in the Courtroom.

The Court reviewed the case. Upon the Court's inquiry, attorney Simmons stated that the parties had agreed that dad would have primary physical custody. Attorney Isso stated that mom was requesting primary physical custody.

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Attorney Simmons requested that mom be drug tested. Attorney Isso requested that dad be drug tested.

Argument by counsel and dad regarding Plaintiff's motion and Defendant's opposition and countermotion.

Upon the Court's inquiry, dad stated he was on short term disability and that he would be off until June.

COURT ORDERED:

Everything shall remain STATUS QUO. The child shall continue to remain in the home with dad where his school is.

Based on mom's objection, the Court shall not file the Parenting Agreement, however, temporarily, the Court shall honor the terms of the Parenting Agreement. The COURT FINDS that Legal Custody is in the BEST INTEREST of the child and that temporarily the terms of the Parenting Agreement is in the child's BEST INTEREST and therefore, the child shall reside with the father each week beginning Sunday at 9:00 A.M. and concluding until Thursday at 3:00 P.M. when the child shall reside with mother on alternating weekends beginning this weekend on Thursday at 3:00 P.M. and concluding Sunday at 9:00 A.M. Whenever there is a staff development day or an extra day off for the child in conjunction with mom's weekend that shall be mom's day with the child also. Dad shall have the child on the 2nd and 4th weekends of each month and mom shall have the child on the 1st, 3rd, and 5th weekends of each month.

Mom's VISITATION is subject to a clean DRUG TEST. Mom shall submit to a DRUG TEST and per STIPULATION dad shall pay for the testing. If the test is dirty, dad shall be reimbursed by mom. ATI referral Order SIGNED by the Court and a copy was e-mailed to both parties. If mom's drug test is dirty, mom's visits shall be at DONNA'S HOUSE.

Counsel's request for dad to submit to a DRUG TEST is DENIED.

Mom's motion for financial relief is DENIED pursuant to EDCR 5.507 at this time for mom's failure to file an accurate and complete FDF. Mom shall file an FDF by end of business on Friday. The request for FINANCIAL RELIEF is DEFERRED to the Evidentiary Hearing.

DISCOVERY is OPEN.

Parties referred to FMC for a CHILD INTERVIEW. Order for FMC shall be SIGNED AND FILED by the Court.

The request for ATTORNEYS FEES is DEFERRED.

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The Court's staff shall issue a MUTUAL BEHAVIOR ORDER. Neither party shall use the child as a means of communication and neither party shall communicate to the child about this case.

FMC Return Hearing SET for 6/4/24 @ 11:00 A.M. (child interview)

Calendar Call SET for 11/6/24 @ 10:00 A.M.

Evidentiary Hearing SET for 11/21/24 @ 1:30 P.M.

Attorney Simmons shall prepare the Order from today's hearing.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Jun 04, 2024 11:00AM Return Hearing
FMC-CHILD INTERVIEW
Courtroom 02 Parlade, Mari D

Nov 14, 2024 10:00AM Calendar Call
Courtroom 02 Parlade, Mari D

Nov 21, 2024 1:30PM Evidentiary Hearing
Courtroom 02 Parlade, Mari D

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DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint **COURT MINUTES** June 04, 2024

D-23-678957-D Jamie irene Randolph, Plaintiff
vs.
Michael David Randolph, Defendant.

June 04, 2024 **11:00 AM** **Return Hearing**

HEARD BY: Parlade, Mari D **COURTROOM:** Courtroom 02

COURT CLERK: ; Kristy Prim-Garcia

PARTIES:

Jake Randolph, Subject Minor, not present
Jamie Randolph, Plaintiff, Counter Defendant, present
Jennifer Isso, Attorney, Unbundled Attorney, not present
Michael Randolph, Defendant, Counter Claimant, present
Jennifer Isso, Attorney, Unbundled Attorney, not present
Meredith Simmons, Attorney, present

JOURNAL ENTRIES

- RETURN HEARING: FMC - CHILD INTERVIEW.

COURT CLERKS: Kristy Prim-Garcia (trainee kpg), Sheila Bourne

Plaintiff and Plaintiff's Attorney Patricia Marr # 8846 was present via VIDEO CONFERENCE through the Zoom application. Defendant and Defendant's Attorney Meredith Simmons #15817 was present IN PERSON.

COURT NOTED it had reviewed the child interview report.

Counsel confirmed they had review the report with both Parties.

Attorney Marr represented that there was nothing in the Child Interview that was glaring and that the child indicated he wanted to spend equal time with both Parents. Attorney Marr indicated the

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Plaintiff previously drug tested and was on supervised visitation at Donna's House. She further indicated the Plaintiff will do whatever it takes to not have supervised visitation anymore even if that entails taking another drug test.

Attorney Simmons represented they reviewed the report and while the minor child's preferences is one of the factors, its only one of the many the Court must utilize when making a best interest determination. Attorney Simmons indicated that when mom drug tested, her levels were high. She further indicated the Plaintiff has not exercised visitation with the minor child since last year, there has been no contact as mom has declined to comply with the Court Orders for that contact.

Attorney Simmons requested Status Quo be preserved and have Plaintiff put on a drug monitoring program.

COURT NOTED Donna's House was ordered so the Court would have reports that show how the visitation is going with the parent and minor child. COURT FURTHER NOTED without the visits and reports, it shows the parent is not utilizing the visitation time with minor child, and can't go from supervised visits to unsupervised visits.

Attorney Marr indicated the only reason the Plaintiff did not exercise the supervised visitation at Donna's House was simply because she did not want it to adversely affect the minor child. Attorney Marr requested that a family member do the supervised visitation instead of Donna's House.

Plaintiff is willing to submit to another drug test today.

COURT NOTED its concern with the minor child's knowledge about his parent s case.

Parties acknowledge the minor child had lots of questions about the case but they encouraged him just to be honest and answer all the questions in the Child Interview.

Colloquy regarding having a family member or friend assisting in supervised visitation.

Attorney Simmons indicated the Plaintiff's mother uses drugs and the minor child should not be in the home with maternal grandmother. Plaintiff indicated her mother is not using drugs, she is currently fighting breast cancer and no longer using illicit drugs.

COURT ORDERED the following:

1. Plaintiff's REQUEST to SUBMIT to drug test has been GRANTED. Plaintiff shall be drug tested by 4:15 p.m. today.

2. All prior Order's REMAIN in effect only caveat is Plaintiff's VISITATION shall be subject to a clean drug test. If Plaintiff's drug test comes back dirty VISITATION shall be at Donna's House. If the drug test comes back clean the Plaintiff's VISITATION shall be unsupervised from Thursdays at 3:00 p.m.

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to Sunday 9:00 a.m.

3. The Return Hearing is set for 08.20.24 at 11:00 a.m. regarding Mom s ATI Drug Test Results.

CLERK S NOTE: Court ISSUED AND ORDERED Mom to AMERICAN TOXICOLOGY INSTITUTE (ATI) DRUG TESTING REFERRAL, for a FULL DRUG TEST SCREENING, TODAY, June 04, 2024, IN OPEN COURT, ON THE RECORD. A copy of the ATI Referral was attached In Odyssey LEFT SIDE FILED-SEALED, distributed accordingly to both Attorney s and the Parties, and Emailed to ATI. (SWB_06.04.24)

INTERIM CONDITIONS:

FUTURE HEARINGS:

Jun 04, 2024 11:00AM Return Hearing
FMC-CHILD INTERVIEW
Courtroom 02 Parlade, Mari D

Nov 14, 2024 10:00AM Calendar Call
Courtroom 02 Parlade, Mari D

Nov 21, 2024 1:30PM Evidentiary Hearing
Courtroom 02 Parlade, Mari D

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint **COURT MINUTES** August 20, 2024

D-23-678957-D Jamie irene Randolph, Plaintiff
vs.
Michael David Randolph, Defendant.

August 20, 2024 **11:00 AM** **Return Hearing**

HEARD BY: Parlade, Mari D **COURTROOM:** Courtroom 02

COURT CLERK: Sheila Bourne

PARTIES:

Jake Randolph, Subject Minor, not present
Jamie Randolph, Plaintiff, Counter Defendant, present
Jennifer Isso, Attorney, Unbundled Attorney, not present
Michael Randolph, Defendant, Counter Claimant, present

Jennifer Isso, Attorney, Unbundled Attorney, not present
Meredith Simmons, Attorney, present

JOURNAL ENTRIES

- RETURN HEARING: MOM'S ATI DRUG TEST RESULTS

Present at the hearing and appearing In Person and via Zoom Videoconference and Javs Recording were Plaintiff/Mom, Defendant/Dad, Patricia Marr, Nevada Bar Number 8846, UNBUNDLED and Meredith Simmons, Nevada Bar Number 15817, UNBUNDLED. The Court appeared In Person.

Upon the matter being called and placed on the record, COURT NOTED on the record that Mom's ATI Results came back positive. The Court allowed arguments by both Attorney's.

The Court stated FINDINGS on the record that are incorporated by reference into this Order of the Court.

Following all ARGUMENTS, TESTIMONY, and FINDINGS, the COURT ORDERED the following:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

Dad shall have PRIMARY PHYSICAL CUSTODY. Mom shall have liberal SUPERVISED VISITATIONS with the minor supervised by Dad.

Mom shall have 7:00 p.m. FACETIME VISITATIONS with the minor child.

TRIAL STANDS.

MINUTES SUFFICE.

INTERIM CONDITIONS:

FUTURE HEARINGS: Aug 20, 2024 11:00AM Return Hearing
Mom's ATI Drug Test Results
Courtroom 02 Parlade, Mari D

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint **COURT MINUTES** November 14, 2024

D-23-678957-D Jamie irene Randolph, Plaintiff
vs.
Michael David Randolph, Defendant.

November 14, 2024 **10:00 AM** **Calendar Call**

HEARD BY: Parlade, Mari D **COURTROOM:** Courtroom 02

COURT CLERK: Cindy Sandoval-Aleman

PARTIES:

Jake Randolph, Subject Minor, not present
Jamie Randolph, Plaintiff, Counter Defendant, present
Jennifer Isso, Attorney, Unbundled Attorney, present
Michael Randolph, Defendant, Counter Claimant, present
Jennifer Isso, Attorney, Unbundled Attorney, present
Meredith Simmons, Attorney, present

JOURNAL ENTRIES

- CALENDAR CALL

COURT CLERKS: Cindy Sandoval (CS)

Attorney Isso and Plaintiff appeared via VIDEO CONFERENCE through the Zoom application. Attorney Simmons and Defendant appeared IN PERSON.

Both parties confirmed that they were prepared to move forward with the trial in response to the court's inquiry. According to attorney Isso, she was just retained and assured to turn in the pre-trial memo (PTM) by today, November 14, 2024.

COURT ORDERED the following:

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1) PTM s shall be filed by 6:00 pm on 11/14/2024.

CLERK'S NOTE: Minutes prepared by Courtroom Clerk I Cindy Sandoval-Aleman (CS)

INTERIM CONDITIONS:

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint **COURT MINUTES** November 21, 2024

D-23-678957-D Jamie irene Randolph, Plaintiff
vs.
Michael David Randolph, Defendant.

November 21, 2024 **1:30 PM** **All Pending Motions**

HEARD BY: Parlade, Mari D **COURTROOM:** Courtroom 02

COURT CLERK: Cindy Sandoval-Aleman

PARTIES:

Jake Randolph, Subject Minor, not present
Jamie Randolph, Plaintiff, Counter Defendant, present
Jennifer Isso, Attorney, Unbundled Attorney, present
Michael Randolph, Defendant, Counter Claimant, present
Jennifer Isso, Attorney, Unbundled Attorney, present
Meredith Simmons, Attorney, present

JOURNAL ENTRIES

- PLAINTIFF'S MOTION FOR A CHANGE OF THE VISITATION SCHEDUE BASED ON CHANGED CIRCUMSTANCES TO A JOINT LEGAL AND JOINT PHYSICAL CUSTODY ARRANGEMENT, FOR ATTORNEY'S FEES AND COSTS AND OTHER RELATED RELIEF DEFENDANT'S OPPOSITION TO MOTION FOR A CHANGE OF THE VISITATION SCHEDULE BASED ON CHANGED CIRCUMSTANCES TO A JOINT LEGAL AND JOINT PHYSICAL CUSTODY ARRANGMENT, FOR ATTORNEY FEES AND COSTS, AND OTHER RELATED RELIEF; AND COUNTERMOTION FOR SANCTIONS PURSUANT TO 5.219(A), FOR ATTORNEY FEES AND COSTS, AND FOR OTHER RELATED RELIEF EVIDENTIARY HEARING

All parties were present IN PERSON.

Discussions regarding preliminary matters.

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

Plaintiff, Jamie Randoph, was called to Stand and SWORN IN.

Plaintiff, Jamie Randoph, Presented TESTIMONY.

MATTER RECESSED

MATTER RECONVENED

Plaintiff, Jamie Randoph, Resumed TESTIMONY.

Attorney Isso represeted Stipulation to Exhibits A, B, C, D, F, and G

Cross Examined

Re-direct

Defendant, Michael D. Randoph, was called to Stand and SWORN IN.

Defendant, Michael D. Randoph, Presented TESTIMONY.

Direct

Cross Examined

The COURT took Judicial Notice of Child Interview.

COURT ORDERED the following:

1) Attorneys shall submit written Closing BRIEFS, PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW and FINAL ORDERS by December 23, 2024 by 6:00 pm.

CLERK'S NOTE: Minutes prepared by Courtroom Clerk I Cindy Sandoval-Aleman (CS)

INTERIM CONDITIONS:

FUTURE HEARINGS:

Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

Electronically Filed
11/7/2024 3:47 PM
Steven D. Grierson
CLERK OF THE COURT

HOFLAND & TOMSHECK
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Meredith Simmons, Esq.
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EIGHTH JUDICIAL DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

JAMIE IRENE RANDOLPH,
Plaintiff,
vs.
MICHAEL DAVID RANDOLPH,
Defendant.

CASE NO.: D-23-678957-D
DEPT. NO.: A

DEFENDANT'S EXHIBIT LIST

COMES NOW, Defendant, Michael Randolph by and through his attorney Bradley J. Hofland, Esq. and Meredith Simmons, Esq. of Hofland & Tomsheck and hereby submits Defendant's Exhibit List:

EX. NO.	BATES NO.	DOCUMENT	Offered	Objected	Admitted	~~Denied~~
A.	MR000001 - MR000069	2021 to 2022 IRS Tax Return Documents	11-21-24	Stip	11/21/2024	No

B.	MR000070 - MR000072	Clearwater Paper Corp Pay Details Made Out to Michael David Randolph Covering Pay Period November 4, 2023 through December 15, 2023	11/21/24	Stip	11/21/2024	No
C.	MR000073 - MR000222	Silver State Schools Credit Union Checking Statements for Account Ending in 9176 from July 01, 2022 – December 31, 2023			11/21/2024	No
D.	MR000223 - MR000259	Silver State School Credit Union Credit Card Statements for Account Number Ending in 176-40 and Credit Card Ending in 3607 from January 25, 2023 through December 25, 2023			11/21/2024	No

E.	MR000260 - MR000339	US Bank Smith's Rewards World Elite Mastercard Statements for Account Ending in 1021 from December 03, 2021 through December 01, 2023 Excluding April, 2022, January 2023, February 2023, & November 2023		Returned	to counsel	
F.	MR000340 - MR000387	Rocket Mortgage Statements for Loan Number Ending in 2672 for Property Located at 5409 Contera CT, Las Vegas NV 89120 from January 15, 2022 through December 16, 2023	11/21/24	Stip	11/21/2024	No
G.	MR000388 - MR000389	Rocket Mortgage Statements for Loan Number Ending in 2672 for Property Located at 5409 Contera CT, Las Vegas NV 89120 – Recent Statement	11/21/24	Stip	11/21/2024	No

Certification of Copy

State of Nevada
County of Clark } **SS:**

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; REQUEST FOR AUTHORIZATION TO PROCEED IN PROPER PERSON, WAIVER OF APPEAL BOND, AND TO TRANSMIT ENTIRE RECORD ON FILE; DISTRICT COURT DOCKET ENTRIES; CONFIDENTIAL FAMILY COVER SHEET; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF DIVORCE; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF DIVORCE; DISTRICT COURT MINUTES; EXHIBITS LIST

JAMIE IRENE RANDOLPH,

Plaintiff(s),

vs.

MICHAEL DAVID RANDOLPH,

Defendant(s),

Case No: D-23-678957-D

Dept No: A

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto Set my hand and Affixed the seal of the Court at my office, Las Vegas, Nevada This 7 day of April 2025.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann
Heather Ungermann, Deputy Clerk