IN THE SUPREME COURT OF THE STATE OF NEVADA

Samantha Fagan, Appellant, vs. Benjamin Blitch, Respondent.	Electronically Filed May 20 2025 10:57 AM Elizabeth A. Brown Clerk of Supreme Court Docket No 90547

DOCKETING STATEMENT CIVIL APPEALS
GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with Nevada Rules of Appellate Procedure (NRAP) 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment, and compiling statistical information.

WARNING

This statement must be completed fully, accurately, and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or the appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal. *Id*.

A complete list of the documents that must be attached appears as Question 28 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions. *Id*.

This court has noted that when obligations under NRAP 14 to complete the docketing statement properly and conscientiously are not taken seriously, valuable judicial resources of this court are wasted, making the imposition of sanctions appropriate. *See* KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use divider pages to separate any attached documents.

Docket 90547 Document 2025-22449

1. Judicial District: Eighth County: Clark

Judge: Mari D. Parlade District Ct. Case No.: D-23-660942-R

Department: A

2. Person filing this docketing statement:

Shann D. Winesett, Esq.
Nevada Bar No.: 005551
Pecos Law Group
8925 S. Pecos Road, Suite 14A
702-388-1851
Shann@pecoslawgroup.com
Client name(s) (if represented by counsel): Samantha Fagan

3. Nature of disposition below (check all that apply):

- ☒ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☐ Summary judgment
- ☐ Default judgment
- ☐ Grant/Denial of NRCP 60(b) relief
- ☐ Grant/Denial of injunction
- ☐ Dismissal:
  - ☐ Lack of jurisdiction
  - ☐ Failure to state a claim
  - ☐ Failure to prosecute
  - ☐ Other (specify):
- ☐ Divorce Decree:
  - ☐ Original
  - ☐ Modification
- ☐ Grant/Denial of declaratory relief
- ☐ Review of agency determination
- ☒ Other disposition: Findings of Fact, Conclusions of Law and Decision

4. **Does this appeal raise issues concerning any of the following?**

   ☐ Child Custody

   ☐ Venue

   ☐ Termination of parental rights

5. **Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

   None

6. **Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

   None

7. **Nature of the action.** Briefly describe the nature of the action and the result below:

   This case involves post-custody litigation in which the Respondent requested an Order to Show Cause for Contempt. The district court found the Appellant to be in contempt and penalized Appellant with jail time. Further, the district court denied Appellant's request for child support arrears.

8. **Issues on appeal.** State concisely the principal issue(s) in this appeal:

   (a) Whether the district court committed reversible error when it found Appellant guilty of contempt and issued a sentence of 25 days' jail time at the Clark County Detention Center.
   (b) Whether the district court committed reversible error when it denied Appellant's request for child support arrears.

. . .

. . .

. . .

9. **Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

N/A

10. **Constitutional issues:** Does this appeal challenge the constitutionality of a Nevada Statute or ordinance?

☒ No. Continue to #11.

☐ Yes:

a. Identify the Nevada statute or ordinance being challenged:

b. Is the State, any State agency, or a State officer or employee a party to this appeal in an official capacity?

☐ Yes ☐ No.

11. **Other issues.**

a. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

b. If so, explain:

12. **Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is retained by the Supreme Court or presumptively assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls.

. . .

This matter is presumptively assigned to the Court of Appeals under NRAP 17(b)(10).

13. Trial. If this action proceeded to trial, how many days did the trial last?

1 half-day.

Was it a: ☒ bench trial ☐ jury trial?

14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice/judge recuse him/herself from participation in this appeal? *See* NRAP 35. If so, which Justice/Judge? **No**

15. Oral argument. Would you object to submission of this appeal for disposition without oral argument? ☐ Yes ☒ No

TIMELINESS OF NOTICE OF APPEAL

16. Date the written judgment(s) or order(s) appealed from was/were filed in the district court: March 20, 2025

If no written judgment or order has been filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of the judgment(s) or order(s) was/were served: March 21, 2025

Was service by:

☒ Electronic or personal delivery

☐ Mail

18. Were any motions seeking relief under NRCP 50(b), 52(b), 59, or 60 or seeking rehearing or reconsideration filed in the district court either before or after the notice of appeal was filed? (attach a copy of the motion)

☒ No, continue to # 19.

☐ Yes:

a. Specify the type of motion and the date the motion was filed in the district court (check all that apply)

☐ NRCP 50(b) Date filed: _____

☐ NRCP 52(b) Date filed: _____

☐ NRCP 59 Date filed: _____

☐ NRCP 60 Date filed: _____

☐ Rehearing/Reconsideration Date filed: _____

b. Date the motion was served: _____

c. How was the motion served:

☐ Electronic or personal delivery

☐ Mail

d. Date the written order resolving the motion was filed: _____

e. Date written notice of entry of the order resolving the motion was served: _____

f. Was service by:

☐ Electronic or personal delivery

☐ Mail

19. Are there any motions other than those identified in #18 above still pending in the district court?

☒ Yes. Identify the motion and the date it was filed in the district court:

☐ No.

1. Benjamin Blitch's Motion for School Selection for Minor Child filed January 20, 2025
2. Samantha Fagan's Motion for Constructive Arrears; Reimbursement of Medical Insurance; Modification of Child Support; Input into the Appointment Dates with Mr. Stoll; and for Other Related Relief filed March 5, 2025
3. Benjamin Blitch's Motion to Enforce and/or for an Order to Show Cause Regarding Contempt filed March 31, 2025
4. Benjamin Blitch's Motion for an Order to Show Cause Regarding Contempt and to Enforce Child Custody and/or Visitation filed May 5, 2025.

20. Date the notice of appeal was filed in the district court: April 16, 2025

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

21. Specify the statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(a) or other: NRAP 4(a).

SUBSTANTIVE APPEALABILITY

22. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

a.

☒ NRAP 3A(b)(1)	☐ NRAP 3A(b)(2)
☐ NRAP 3A(b)(3)	☐ NRAP 3A(b)(4)
☐ NRAP 3A(b)(5)	☐ NRAP 3A(b)(6)
☐ NRAP 3A(b)(7)	☐ NRAP 3A(b)(8)
☐ NRAP 3A(b)(9)	☐ NRAP 3A(b)(10)
☐ NRAP 3A(b)(11)	☐ NRAP 3A(b)(12)
☐ NRS 38.205	☐ NRS 233B.150
☐ NRS 703.376	☐ Other (specify): _____

b. Explain how each authority provides a basis for appeal from the judgment or order:
Appellant is appealing the district court's *Findings of Fact, Conclusions of Law and Decision* which is a final order on all issues that were before the district court.

23. List all parties involved in the action or consolidated actions in the district court:

a. Parties:
Plaintiff (Appellant) Samantha Fagan
Defendant (Respondent) Benjamin Blitch

b. If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other: **N/A**

24. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Appellant:

1. Constructive Arrears; Reimbursement of Medical Insurance Costs; Modification of Child Support

Respondent:

1. Motion for an Order to Enforce and/or for an Order to Show Cause Regarding Contempt

The district court formally disposed of these claims by way of *Findings of Fact, Conclusions of Law and Decision* entered on March 21, 2025.

25. Did the judgment or order appealed from adjudicate ALL of the claims alleged below and the rights and liabilities of ALL of the parties to the action or consolidated actions below? ☒ Yes ☐ No

26. If you answered "No" to question 25, complete the following:

a. Specify the claims remaining pending below:

b. Specify the parties remaining below:

c. Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)? ☐ Yes ☐ No

d. Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment? ☐ Yes ☐ No

27. If you answered "No" to any part of question 26, explain the basis for seeking appellate review (*e.g.*, order is independently appealable under NRAP 3A(b)):

28. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any motion(s) identified in questions 18 and the order(s) resolving the motion(s)
- Any motions identified in question 19
- Orders or NRCP 41(a)(1) dismissals that formally resolve each claim, counterclaim, cross- claim and/or third-party claim asserted in the action or consolidated action below, **even if not at issue on appeal**
- All orders that finally disposes of any parties in the action below, **even if not at issue on appeal**
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information, and belief, and that I have attached all required documents to this docketing statement.

/s/ Shann D. Winesett
Shann D. Winesett, Esq.
Nevada Bar No.: 5551
Clark County, Nevada

May 20, 2025
Date

CERTIFICATE OF SERVICE

I certify that on the 20th day of May 2025, I served a copy of this completed docketing statement upon all parties to this appeal:

☐ by electronic means to registered users of the court's electronic filing system

☐ by personally serving it upon him/her;

☒ by mailing it by first class mail with sufficient postage prepaid to the following address(es):

Benjamin Blitch
1715 W. Spring Meadows
Kamas, UT 84036
Respondent in Proper Person

DATED this 20th day of May 2025.

/s/ Veronica Hines
Veronica Hines
an employee of PECOS LAW GROUP

Petitioner for Termination of Parental Rights

Electronically Filed
1/12/2023 9:49 AM
Steven D. Grierson
CLERK OF THE COURT

PTPR
WILLICK LAW GROUP
MARSHAL S. WILLICK, ESQ.
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3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Phone (702) 438-4100; Fax (702) 438-5311
email@willicklawgroup.com
Attorney for Petitioner

CASE NO: D-23-660942-R
Department: To be determined

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of the Parental Rights as to: GRADY FAGAN, born September 20, 2017, A Minor Child.	CASE NO: DEPT. NO: DATE OF HEARING: TIME OF HEARING:

PETITION FOR TERMINATION OF PARENTAL RIGHTS

Petitioner, Samantha Fagan ("Samantha"), biological mother of the subject minor, by and through her attorneys of record, the WILLICK LAW GROUP, bring this action to terminate the parental rights of the biological father, Benjamin Blitch ("Benjamin"), as it relates to the minor child, Grady Fagan ("Grady").

1. Samantha is the biological mother, and Benjamin is the biological father of Grady.

2. Samantha and Benjamin were involved in a brief relationship that ultimately resulted in the birth of Grady Fagan, who was born on September 20, 2017, in Las Vegas, Nevada.

3. Although Benjamin is not identified as Grady's father on his Birth Certificate, nor has Benjamin completed a Voluntary Acknowledgment of Paternity, there is no dispute that Benjamin is Grady's biological father.

4. Grady is now, and for more than six months prior to the commencement of this action has been, a bona fide resident of the State of Nevada, having actually and physically resided herein during all relevant periods of time preceding the commencement of this action. Accordingly, Nevada is the home state of the child.

5. Benjamin's last known address is 1715 W. Spring Meadows Dr., Kamas, Utah 84036.

6. Samantha knows of no other custody proceeding involving the minor child, and of no other person claiming rights to custody of him.

7. The minor child is not Native American, within the meaning ascribed by NRS 128.0128 and 25 U.S.C. §1903, and is therefore not subject to the Indian Child Welfare Act.

8. Neither Samantha nor the minor child are receiving public assistance.

9. There has been no order of custody, but Samantha has been the *de facto* sole legal and physical custodian of the minor child since his birth on September 20, 2017.

10. Benjamin only had limited contact with the minor child following his birth and he severed all contact with the minor child approximately two years after he was born.

11. Benjamin has had no contact of any kind with the minor child since July 28, 2019.

12. Benjamin has never paid any child support for the minor child.

13. Benjamin has not made any efforts or attempts to otherwise provide for the child's care physically, financially, or emotionally, since his birth.

14. Only making token efforts to communicate and support a child is among the grounds established for terminating parental rights as set forth in NRS 128.105(2).

15. Benjamin's failure to communicate with Grady, and failure to provide any support whatsoever for his child constitutes token efforts justifying a termination of his parental rights.

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16. Abandonment is among the grounds established for terminating parental rights as set forth in NRS 128.105(2).

17. Benjamin has abandoned Grady as defined in NRS 128.012, by conducting himself in a manner evincing a settled purpose on his part to forego all parental custody and relinquish all claims to the minor child since March, 2020; further, since this period of abandonment is in excess of six months, it is presumed that Benjamin intended to abandon the minor child.

18. Neglect is among the grounds established for terminating parental rights as set forth in NRS 128.105(2).

19. Benjamin has neglected Grady within the meaning of NRS 128.014, by failing to provide him with proper or necessary subsistence or other care necessary for his health and well-being.

20. Unfitness is among the grounds established for terminating parental rights as set forth in NRS 128.105(2).

21. Benjamin has repeatedly failed to provide for Grady's basic necessities, is incapable of caring for him, and has left all care taking to the Petitioner.

22. Benjamin is an unfit parent, as defined in NRS 128.018, as he has failed to provide Grady with proper care, guidance, and support for over three years.

23. Since March 9, 2020, Benjamin has shown no interest in the child's well being or care, or demonstrated any concern for the physical, mental, or emotional growth and development of the child, nor communicated with Samantha in any capacity.

24. Benjamin has not developed any emotional connection with Grady, nor has he demonstrated the ability to care for the child; he lacks the parenting skills or stability necessary to properly parent the minor child.

25. Benjamin has made no meaningful effort to establish any type of father-son relationship with Grady.

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26. Samantha has raised, cared for and nurtured the minor child. She has a stable home and provides for all of the minor child's emotional, financial, and physical needs.

27. Grady has resided with Samantha uninterrupted since his birth.

28. Samantha is engaged to Travis Taylor, and it is Samantha and Travis' desire that Travis adopt the minor child and that such adoption would be in the minor child's best interests.

29. Terminating Benjamin's parental rights on any of the bases outlined above is appropriate under the circumstances and in the best interests of the minor child.

30. Grady's surname should not be changed.

WHEREFORE, Samantha respectfully prays for judgment as follows:

1. For an Order terminating the parental rights of Benjamin Blitch, and declaring Grady Fagan to be free from his control and custody forever; and

2. For such other and further relief as this Court may deem just and proper in the premises.

DATED this 12th day of January, 2023.

Respectfully Submitted By:
Willick Law Group

//s// *Trevor M. Creel*

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
TREVOR CREEL, ESQ.
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(702) 438-4100; Fax (702) 438-5311
Attorneys for Petitioner

PETITIONER'S VERIFICATION

STATE OF NEVADA)
)
COUNTY OF CLARK)

Samantha Fagan, being first duly sworn under penalty of perjury, deposes and says: that I am the Petitioner in the above-entitled action; that I have read the above and foregoing *Petition to Terminate Parental Rights*, and know the contents thereof; that the same is true of my own knowledge, except for any matters therein stated upon information and belief, and as to those matters, I believe them to be true.

Samantha Fagan
Samantha Fagan, Petitioner

ACKNOWLEDGMENT

STATE OF NEVADA)
)
COUNTY OF CLARK)

On this 11th day of January, 2023, personally appeared before me, a Notary Public, Samantha Fagan, known or proved to me to be the person who executed the foregoing *Petition to Terminate Parental Rights*, and who acknowledged to me that she did so freely and voluntarily and for the uses and purposes herein stated.

Subscribed and sworn to me
by Samantha Fagan
this 11th day of January, 2023.

MaryBeth Clift
Notary Public in and for said County and State

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MARY BETH CLIFT
Notary Public, State of Nevada
No. 00-47798-1
My Appt. Exp. Jan. 29, 2024

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Respondent's Answer to Petitioner's Petition for Termination of His Parental Rights and Counterclaim

2/2/2023 12:15 PM
Steven D. Grierson
CLERK OF THE COURT

AACC (FAM)
MICHAEL R. PONTONI, J.D., LL.M
Nevada Bar No. 4030
64 N. Pecos Road #100
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(702) 374-8369 Telephone
pontonioffice@lvcoxmail.com
ATTORNEY FOR RESPONDENT/
COUNTERCLAIMANT

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the matter of the Parental Rights as to: Grady Fagan, born September 20, 2017, A Minor Child _____/ BENJAMIN BLITCH, an individual, Counterclaimant, vs. SAMANTHA GRADY, an individual; Counterdefendant. _____	CASE NO.: A-20614730-C DEPT. NO.: **RESPONDENT'S ANSWER TO PETITIONER'S PETITION FOR TERMINATION OF HIS PARENTAL RIGHTS** **COUNTERCLAIMS**

Comes now, the respondent/counterclaimant Benjamin Blitch by and through his attorney of record Michael R. Pontoni, J.D., LL.M., and responds to petitioner's petition and states his counterclaims as follows.

A. Respondent admits the allegations in the petition stated in paragraphs 1, 2, 3, 5, 6, 7, 8, 26 and 27.

B. As to the averments in paragraph 9, Respondent admits there has been no custody

order, but denies the balance of the averments in paragraph 9.

C. Respondent is without knowledge as to the truth or falsity of the averments in paragraphs 4, 16, 18, and 20, and therefore he denies those averments and each and every part thereof.

D. As to the averments in paragraphs 14, respondent denies he has made only token efforts to communicate and support the minor child, but he is without knowledge as to the truth or falsity of the balance of the averments in paragraphs 14 and therefore he denies those averments and each and every part thereof.

E. For the averments in paragraphs 28, respondent denies the adoption of a child by a third party would be in the child's best interest, but is without knowledge as to the truth or falsity of the balance of the averments in paragraphs 28 and therefore he denies those averments and each and every part thereof.

F. Respondent denies the averments in paragraphs 10, 11, 12, 13, 15, 17, 19, 21, 22, 23, 24, 25, 29, and 30.

G. Respondent denies all other express or implied averments in the petition not otherwise answered herein above and each and every part thereof.

RESPONDENT'S AFFIRMATIVE DEFENSES

1. Petitioner is **equitably estopped** by her own acts and omissions from having the court terminate respondent's parental rights and duties concerning Grady, such acts and omissions including without limitation her insistence that respondent provide no financial support to her for Grady in addition to his labor and materials on her family Utah cabin; her demands that he discontinue other financial support that he had been furnishing as a condition

precedent to respondent's continued interactions with her and Grady, ***accord*, exhibit A hereto, email of Samantha rejecting Benjamin's financial support for Grady,** petitioner's removing her residence to parts unknown in the 'pacific north west' and changing her contact data and thereafter not providing he contact data to Benjamin, and thereby preventing contact between Grady and his father in violation of respondent's joint legal and joint physical custody of Grady, without cause or privilege.

2. The parties entered into an agreement that in exchange for continued access and communication to Grady, respondent would provide labor and materials to improve real property located in Utah for the benefit of petitioner and Grady, but that respondent would provide no additional financial support to petitioner in cash or in kind. Respondent performed his duties under the agreement. Respondent also expressly rejected all respondent's other efforts to provide financial support to petitioner for Grady's financial support and demanded he provide no other support as a condition to her allowing Grady visitation with his father. ***Accord*, exhibit A hereto, email of Samantha rejecting Benjamin's financial support for Grady.** Therefore, petitioner knowingly and voluntarily **waived** her right and the child's right to additional child financial support, if any, that could have otherwise accrued prior to the filing of the instant counterclaim below.

3. The parties entered into an agreement that respondent would provide labor and materials to improve real property located in Utah for the benefit of petitioner and Grady, and that respondent would provide no additional financial support to petitioner in cash or in kind; respondent performed his duties under the agreement. Respondent also expressly rejected all respondent's other efforts to provide financial support to petitioner for Grady's

financial support. *Accord*, **exhibit A hereto, email of Samantha rejecting Benjamin's financial support for Grady.** Therefore, respondent's owed no additional support due, if any, that could have otherwise accrued prior to the filing of the instant counterclaim below due to the parties **accord and satisfaction**.

4. A termination of Benjamin's paternity of Grady is not in the best interest of the State of Nevada because it increases the likelihood that the state may become liable for the health care, financial support, and other obligations that Benjamin would otherwise be liable for as Grady's father.

Wherefore, plaintiff should take nothing from her petition.

COUNTERCLAIMS

FIRST COUNTERCLAIM FOR RELIEF.
(Paternity of Grady per NRS Chapter 126.011 *et. al.*)

1. Counterclaimant ("Benjamin") incorporates by reference all his admissions to plaintiff's complaint herein above, including .

2. The parties admit Benjamin is Grady's biological father (see petition paragraph 3). This court should enter a final order declaring the existence of a father and child relationship between Benjamin and Grady.

3. This court has a duty to issue an order for Benjamin to provide the temporary support for minor child. *Accord* NRS 126.143 ("the judge, master or referee shall, upon the motion of a party, issue an order providing for the temporary support of the child pending the resolution of the trial if the judge, master or referee determines that there is clear and

convincing evidence that the party against whom the order is issued is the father of the child").

SECOND COUNTERCLAIM FOR RELIEF.

(Action for determining the custody of Grady per NRS Chapter 125C.001 *et. al.*)

4. Benjamin restates the averments in his counterclaim set forth above as though fully set forth here.

5. Benjamin is Grady's joint legal and joint physical custodian and has been for over five years. *Accord* NRS 125C.0015(2).

6. It is Nevada's state policy to "that [Grady has] frequent associations and a continuing relationship with both parents after the parents have ended their relationship, become separated or dissolved their marriage; [t]o encourage such parents to share the rights and responsibilities of child rearing; and [t]o establish that such parents have an equivalent duty to provide their minor children with necessary maintenance, health care, education and financial support." NRS 125C.001.

7. This custody determination must be based upon Grady's best interest.

8. It is in Grady's best interest that this court enter an order confirming the parties joint legal custody and proving for ample visitation for Grady with his father in Utah consisting of the great majority of summertime and alternating holidays as may be agreed upon by the parties or ordered by the court.

THIRD COUNTERCLAIM FOR RELIEF.

(Declaratory Relief per NRS Chapter 30.010 *et. al.*)

9. Benjamin restates the averments in his counterclaim set forth above as though fully set forth here.

10. The parties entered into an agreement that Benjamin would provide labor and materials to improve real property located in Utah for the benefit of petitioner and Grady, and that respondent would provide no additional financial support to petitioner in cash or in kind for Grady's financial support.

11. Benjamin performed his duties under the agreement.

12. Respondent also expressly rejected all respondent's other efforts to provide financial support to petitioner for Grady's financial support.

13. The parties herein are persons whose rights, status or other legal relations are affected by a contract amongst them or franchise, and therefore counterclaimant may have determined any question of construction or validity arising under the contract and obtain a declaration of rights, status or other legal relations thereunder.

14. The court should order declaratory relief finding respondent owes no additional support due, if any, that could have otherwise accrued prior to the filing of her instant petition due to maxims of estoppel, waiver, and accord and satisfaction.

FOURTH COUNTERCLAIM FOR RELIEF.
(Court's name change of minor child)

15. Benjamin restates the averments in his counterclaim set forth above as though fully set forth here.

16. It is in Grady's best interest that his father's last name "Blitch" be added to his legal name on his birth certificate in a matter as agreed upon by the parties, or lacking such agreement, as decided by the court, whether as Grady Fagan Blitch, Grady Blitch Fagan, Grady Blitch-Fagan, Grady Fagan-Blitch, or some other constellation of these names that

includes Fagan and Blitch.

Wherefore respondent/counterclaimant asks this court to:

(i) order Benjamin is the legal father of Grady and order his birth certificate be modified to so state;

(ii) Order the parties to share joint legal custody and provide for liberal visitation for Grady with his father Benjamin in Utah, especially in the hot summer months, and as the court deems in the best interests of the child.

(iii) determine child support is due and owing from respondent to petitioner and apply the 30/30 rule to medical expenses, and order the parties to share the cost of insurance premiums 50/50, all commencing upon service of the summon and instant petition on Benjamin occurring on or about January 15, 2023;

(iv) find there are no child support arrears due or owing under the circumstances;

(v) order Grady's name be changed, and his birth certificate so modified to include his father's last name "Blitch," as agreed upon by the parties, or lacking such agreement, as decided by the court, whether as Grady Fagan Blitch, Grady Blitch Fagan, Grady Blitch-Fagan, Grady Fagan-Blitch, or some other constellation including both names Fagan and Blitch, and

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(vi) order such further relief as the court deems reasonable in the premises consistent with this prayer for relief.

Respectfully submitted by:

/s/ Michael R. Pontoni 2/02/23

MICHAEL ROYAL PONTONI, J.D., LL.M.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) (4), I certify that I am attorney for respondent/counterclaimant and that on the date stamped by the court's clerk above, I served the foregoing **RESPONDENT'S RESPONSE TO PETITIONER'S PETITION FOR TERMINATION OF PARENTAL RIGHTS; COUNTERCLAIMS** upon the petitioner/counterdefendant herein:

XX BY ELECTRONIC SERVICE: Pursuant to NRCP 5(b)(2)(D) and Administrative Orders for the Eighth Judicial District Court, State of Nevada;

☐ BY MAIL: Pursuant to JCRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada

☐ BY FACSIMILE: I transmitted a copy of the foregoing document this date via facsimile.

☐ BY ELECTRONIC MAIL: I transmitted a copy of the foregoing document this date via electronic mail.

☐ BY CERTIFIED MAIL: I placed a true copy thereof enclosed in a sealed envelope, return receipt requested.

Willick Law Group
MARSHALL S. WILLICK, ESQ.
email@willicklawgroup.com
attorney for petitioner/
counterdefendant

Prepared and filed by:

/s/ M. R. Pontoni, J.D., LL.M.
Michael R. Pontoni, J.D., LL.M.
Nevada Bar No. 4030
Attorney for Plaintiff

Motion for Order to Enforce and/or for an Order to Show Cause Regarding Contempt

MOTION FOR AN ORDER TO SHOW CAUSE FOR CONTEMPT AND/OR TO ENFORCE

[redacted]
Steven D. Grierson
CLERK OF THE COURT

Filing fee: The fee to file this motion is **$25.**

*If your case was originally filed as a Joint Petition divorce, there is an additional $129 filing fee to file this motion.

This motion is for:

- A person who has a Nevada court order that has been signed by the judge and filed; AND
- The other party has received a copy of the signed Nevada court order; AND
- The other party is not following the order.

You have to try to resolve the issue with the other party privately: If you do not, you have to explain in the papers why you didn't try to work this out with the other party first. You may be sanctioned if the judge thinks you could have resolved this privately.

1. Fill out the forms: Use black ink and write clearly.

- **Motion for an Order to Enforce and for an Order to Show Cause**
  This form tells the judge and the other party how the other person is violating the court order. You will have to explain what the other person has done (or not done) and how you are being harmed because of it.
- **Motion / Opposition Fee Information Sheet**
  This form tells the Clerk of Court whether you need to pay a filing fee.
- **Schedule of Arrears (this form is not in this packet, but available separately)**
  This form is only needed if the other person has violated court orders by not paying child support or spousal support. You must list each payment the other person did not pay in full, with a grand total at the bottom.
- **Ex Parte Application for an Order to Show Cause**
  This form asks the judge to set a contempt hearing where the other party has to explain their actions.
- **Exhibit Appendix** – if you have exhibits to file, ask the SHC staff for this form.

2. File the forms:

Online: You can upload your documents at https://nevada.tylertech.cloud/OfsWeb/Home. There is a $3.50 fee to e-file your documents, in addition to any filing fee required.

Mail: Send your forms and filing fee (*if applicable*) to Clerk of Court, 601 N Pecos, Las Vegas, NV 89101.

In person: Bring your forms and filing fee (*if applicable*) to the Family Courthouse. File them at the Clerk's Office on the 1st floor. Get a ticket for filing when you arrive.

Electronically Filed
6/26/2024 1:02 PM
CLERK OF THE COURT

FILING CODE: MOT
Your Name: Benjamin Blitch
Address: 1715 W Spring Meadows Way
Kamas, UT 84036
Telephone: 435-671-5767
Email Address: benblitch@gmail.com
Self-Represented

DISTRICT COURT
CLARK COUNTY, NEVADA

Samantha Fagan **Plaintiff,** **vs.** Benjamin Blitch **Defendant.**	**CASE NO.:** D-23-660942-R **DEPT:** A

MOTION FOR AN ORDER TO ENFORCE AND/OR FOR AN ORDER TO SHOW CAUSE REGARDING CONTEMPT

NOTICE OF MOTION

The judge can make a decision based only on the written filings, or the judge can talk to both parties and ask questions at a court hearing first. You can choose which you prefer below.

Would you like to have a hearing with the judge? (☒ *check yes/no, the court will enter details*)

☒ **Yes.** Hearing Date: _____ Hearing Time: _____ at:

- ☐ **Family Courts & Services Center, 601 N. Pecos Rd. Las Vegas, NV 89101, courtroom ____**
- ☐ **Regional Justice Center, 200 Lewis Ave. Las Vegas, NV 89101, courtroom ___**

The hearing may be available online; if it is the court will send login information separately.

☐ **No. The judge will write a decision after reviewing the request in chambers on:** _____

TO: (*write opposing party's name*): Samantha Fagan

NOTICE: You may file a written response to this motion with the Clerk of the Court and provide the undersigned with a copy of your response within 14 days of receiving this motion. Failure to file a written response with the Clerk of Court within 14 days of your receipt may result in the requested relief being granted by the Court without a hearing prior to the scheduled hearing date.

Submitted By: (*your name*) /s/ Benjamin Blitch
☐ Plaintiff / ☒ Defendant

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* You are responsible for knowing the law about your case. For more information on the law, this form, and free classes, visit www.familylawselfhelpcenter.org or the Family Law Self Help Center at 601 N. Pecos Road. To find an attorney, call the State Bar of Nevada at (702) 382-0504.

MOTION

(*Your name*) Benjamin Blitch, moves this Court for an order to enforce current court orders and for an order to show cause why the opposing party should not be held in contempt and punished accordingly for violating this court's order. (☒ *check one*)

☒ I tried to resolve this issue with the other party before filing this motion.

☐ I did not try to resolve this issue with the other party before filing this motion. Any attempt to resolve the issue would have been useless or impractical because (*explain why you did not try to resolve this issue directly with the other party before filing this motion*)

_____

_____

Financial Disclosure Form ("FDF") Certification. (☒ *check one*)

☒ This motion does not have anything to do with money or financial relief.

☐ I understand that I must file my FDF within 2 judicial days of filing this motion to support my request for financial relief. Failure to file a timely, complete, and accurate FDF may result in the court ruling against me and/or imposing sanctions.

☐ I filed a Financial Disclosure Form in the last 6 months and have no changes to report.

POINTS AND AUTHORITIES
LEGAL ARGUMENT

The refusal to obey a lawful order issued by the court is an act of contempt. NRS 22.010(3). The facts of contempt must be presented to the court through an affidavit. NRS 22.030(2). A person found guilty of contempt may be fined up to $500 for each act of contempt, may be imprisoned for up to 25 days, or both. A person found guilty of contempt may also be required to pay the reasonable expenses, including attorney's fees, of the person seeking to enforce the order. NRS 22.100.

FACTS AND ARGUMENT

1. **Violation.** I believe the other party is violating court orders. The Court should find the other party in contempt because the other party: (☒ *check all that apply*)

Child Support:
- ☐ Does not pay child support at all
- ☐ Pays less child support than ordered
- ☐ Pays child support late

Alimony:
- ☐ Does not pay alimony at all
- ☐ Pays less alimony than ordered
- ☐ Pays alimony late

Other:
- ☐ Does not obey the custody / visitation schedule
- ☐ Does not obey the Behavior Order
- ☐ Has not returned property to me
- ☒ Other: Will not participate in therapy with Matt Stoll and has claimed to move but will not provide physical address.

Details about the contempt(s) alleged above are in the attached Declaration.

2. **Garnishment.** (☒ *check appropriate boxes below*)

Does the violation have to do with unpaid child support and/or alimony? ☐ Yes ☒ No

If yes, do you want the judge to order the other party to have his/her wages garnished to pay future child support and/or alimony? ☐ Yes ☐ No

3. **Enforcement.** I would like the Court to issue any orders necessary to effectuate compliance with the court order.

4. **Other Relief.** In addition to the relief requested above, I would like the Court to also order the following: (*Explain anything else that you would like the judge to order, or enter "N/A" if you do not want anything else. Be specific.*) _____

_____

_____

_____

I respectfully ask the Court to grant me the relief requested above, including an award of attorney's fees if I am able to retain an attorney for this matter, and any other relief the Court finds appropriate.

DATED September 26, 2024.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

DECLARATION IN SUPPORT OF MOTION FOR AN ORDER TO ENFORCE AND/OR FOR AN ORDER TO SHOW CAUSE REGARDING CONTEMPT

I have personal knowledge of the facts constituting the contempt(s), which are explained in detail below:

How to Fill Out The Next Section:

Get a copy of the court order that is being violated.

The order shows on the upper right corner of the first page the date the order was filed. Write this date in the section that says "date court order was filed." ***(ex., 2/1/2018)***

Find the pages where the court order says what the other party is supposed to do. Find the line number or paragraph number where the order specifically says what the other party is supposed to do. Write these numbers on the "page" and "line/paragraph number" line. ***(ex., page 3, line 21)***

Finally, write what the order says the party is supposed to do ***(ex. Defendant is supposed to pay $300 per month in child support)***, how the party is violating the order ***(ex. Defendant has not paid any child support)***, and the dates of the violation ***(ex. March 2018-present)***.

List each violation separately.
You can include violations for 2 separate court orders, and 2 violations for each court order.
You can add more pages if needed to describe more violations.

1. **First Court Order Being Violated.** The other party is violating the terms of a Court order that the Court entered on (*date court order was filed*) [redacted].

   a. The Court order says on page 1, line/paragraph number [redacted]5 that the other party is supposed to: (*write what the order says the other party is supposed to do*):

   Participate in court ordered Reunification Therapy with Therapist Matt Stoll in Las Vegas NV. There are 6 outlined items in the order. She has also moved witout prior consent.

   The other party is not following this part of the order. The other party is (*describe what the other party is doing or not doing that violates the order*)
   Participating in Reunification therapy as outlined by Letter from Matt Stoll.

   The violation happened on (*date(s) of violation*) [redacted].

b. The Court order says on page _____, line/paragraph number _____ that the other party is supposed to: (*write what the order says the other party is supposed to do*):

_____

_____

_____

The other party is not following this part of the order. The other party is (*describe what the other party is doing or not doing that violates the order*) _____

Will not cooperate in Reunification Therapy with court appointed therapist Matt Stoll, has moved out of state without consent and not providing new physical address.

_____

_____

The violation happened on (*date(s) of violation*) 9/26/2024.

2. **Second Court Order Being Violated.** The other party is violating the terms of a Court order that the Court entered on (*date court order was filed*) _____. According to the Court order, the other party is supposed to do the following:

a. The Court order says on page _____, line/paragraph number _____ that the other party is supposed to: (*write what the order says the other party is supposed to do*):

_____

_____

_____

The other party is not following this part of the order. The other party is (*describe what the other party is doing or not doing that violates the order*) _____

_____

_____

_____

The violation happened on (*date(s) of violation*) _____.

b. The Court order says on page _____, line/paragraph number _____ that the other party is supposed to: (*write what the order says the other party is supposed to do*):

_____

_____

_____

The other party is not following this part of the order. The other party is (*describe what the other party is doing or not doing that violates the order*) _____

_____

_____

_____

The violation happened on (*date(s) of violation*) _____.

3. **Notice.** (☒ *check one*)

☒ The other party was served with a copy of the first court order on (*date the party was served with the order*) September 28, 2024 and was served with a copy of the second court order on (*date the party was served with the order*) _____.

☒ The other party knows about the court order(s) because (*explain how the other party is aware of the court order*) _____
E Mail discussions pertaining to such.

_____

_____

4. **Harm.** I am being harmed or will be harmed by the other party's violation in the following ways: (*explain how the other party's violation is affecting you*).

Reunification therapy and the custody proceedings afterward are now delayed again due to frivolous stalling tactics.

_____

_____

_____

_____

5. **Money Due / Arrears.** *If the other party is not paying child support or alimony, you have to fill out a form called a "Schedule of Arrears." The Schedule of Arrears lists every missed or partial payment with a grand total of what is now due (including any applicable interest or penalties).*

(☒ *check all that apply*)

- ☒ The other party's violation does not have to do with unpaid money.
- ☐ The other party owes me for unpaid child support. The other party has not paid a total of $_____ in child support. This amount should be reduced to judgment.
- ☐ The other party owes me for unpaid spousal support. The other party has not paid a total of $_____ in spousal support. This amount should be reduced to judgment.
- ☐ The other party has not paid me other amounts owed (*Explain how much money the other party owes you and why*): _____

  This amount should be reduced to judgment.

6. **Need for Contempt Ruling.** The judge should find (*write the name of other party who is violating court orders*) Samantha Fagan in contempt because (*explain why the judge should hold the person in contempt*) Samantha has not cooperated in the reunification therapy as ordered, has moved out of state without prior consent, and has not provided a new physical address for the location of my son.

7. Any Exhibit(s) in support of this Motion will be filed separately in an Exhibit Appendix.

I have personal knowledge of the facts constituting the contempt(s) explained above. I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED September 26, 2024.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Samantha Fagan
Plaintiff/Petitioner

v.

Benjamin Blitch
Defendant/Respondent

Case No. D-23-660942-R

Dept. A

MOTION/OPPOSITION FEE INFORMATION SHEET

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

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

☑ **$25** The Motion/Opposition being filed with this form is subject to the $25 reopen fee.

-OR-

☐ **$0** The Motion/Opposition being filed with this form is not subject to the $25 reopen fee because:

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

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

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

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

-OR-

☐ **$129** The Motion being filed with this form is subject to the $129 fee because it is a motion to modify, adjust or enforce a final order.

-OR-

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

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

The total filing fee for the motion/opposition I am filing with this form is:

☐ **$0** ☑ **$25** ☐ **$57** ☐ **$82** ☐ **$129** ☐ **$154**

Party filing Motion/Opposition: Benjamin Blitch Date Sep 26, 2024

Signature of Party or Preparer /s/ Benjamin Blitch

FILING CODE: EPAP

Name: Benjamin Blitch
Address: 1715 W Spring Meadows Way
Kamas, UT 84036
Telephone: 435-671-5767
Email Address: benblitch@gmail.com
In Proper Person

DISTRICT COURT
CLARK COUNTY, NEVADA

Samantha Fagan Plaintiff, vs. Benjamin Blitch Defendant.	CASE NO.: D-23-660942-R DEPT: A

EX PARTE APPLICATION FOR AN ORDER TO SHOW CAUSE

(*Your name*) Benjamin Blitch, in Proper Person, submits this ex parte application for issuance of an Order to Show Cause directed to the opposing party pursuant to EDCR 5.509(b). This application is based on the pleadings and papers on file and the declaration attached to this application.

DATED September 26, 2024.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

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* You are responsible for knowing the law about your case. For more information on the law, this form, and free classes, visit www.familylawselfhelpcenter.org or the Family Law Self Help Center at 601 N. Pecos Road. To find an attorney, call the State Bar of Nevada at (702) 382-0504.

DECLARATION IN SUPPORT OF EX PARTE APPLICATION FOR AN ORDER TO SHOW CAUSE

I declare, under penalty of perjury:

1. I am the moving party in this action. I have personal knowledge of the facts contained in the Motion and in this Declaration and I am competent to testify to the same.
2. I filed a Motion for an Order to Enforce and/or for an Order to Show Cause Regarding Contempt on (*date you filed the motion*) September 26, 2024. The memorandum of points and authorities, legal arguments, and declaration contained in the Motion for an Order to Enforce and/or for an Order to Show Cause Regarding Contempt are incorporated here as if set forth in full.
3. I am requesting the Court issue an Ex Parte Order to Show Cause because: Samantha has not cooperated in the reunification therapy as ordered, has moved out of state without prior consent, and has not provided a new physical address for the location of my son.
4. This Ex Parte Application for an Order to Show Cause is made in good faith.

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

DATED September 26, 20 24.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

[redacted]

3. Mail or E-Serve the other party:

Make a copy of the Motion, the Schedule of Arrears (if you filed one), Exhibit Appendix (if you filed one) and the Clerk's Notice of Hearing to serve on the other party. *Do not serve the Ex Parte Application for an Order to Show Cause yet.*

Who and how to serve: Usually, you can serve the documents by **regular mail** (*not certified*) or by e-service. **E-service:**

- The other party must have registered for e-service by filing their email in a Service Contact
- When filing, select "EFileAndServe" from the FilingType drop down menu. After uploading your document and clicking Save Changes, you will be able to see a list of the parties and check whether the other party has added their email. If they did not, you will have to serve by mail.

Mail:

- **If the other party has an attorney:** Send a copy of the forms to the attorney.
- **If the other party does not have an attorney:** Send a copy of the forms to the other party.
  - **You have to mail the forms to the address the court has on file for the other party,** even if you know they do not live there anymore. If the address on file is not their current address, you ALSO need to mail the forms to the **current address** PLUS **email** it to them. If you don't do all THREE your hearing could get cancelled.

File a Certificate of Service as proof you served the forms.

4. Submit the Order to Show Cause to the Judge:

Fill out the Order to Show Cause. This form sets the formal contempt hearing. The judge might sign it now or might want to wait until after the motion hearing to sign it.

Fill out every section except the judge's signature. Submit it to the judge in one of these ways:

- **Mail it to the courthouse:** Mail it to: Family Court, 601 N. Pecos Rd., Las Vegas, NV 89101
- **Email it to your judge:** Find the letter that your case is assigned to (for example, Dept C, Dept F, etc.). Insert the department letter where the _ is in the following email format: dept_inbox(@clarkcountycourts.us and send it by email.

If the judge does not sign the order: The judge might want to wait until your hearing before signing this form. Attend the hearing and save this form for later in case the judge wants it after the hearing.

FILING CODE: CSERV

Your Name: Benjamin Blitch
Address: 1715 W Spring Meadows Way
City, State, Zip: Kamas, UT 84036
Phone: 435-671-5767
Email: benblitch@gmail.com

DISTRICT COURT
CLARK COUNTY, NEVADA

Samantha Fagan Plaintiff, vs. Benjamin Blitch Defendant.	CASE NO.: D-23-660942-R DEPT: A **CERTIFICATE OF SERVICE**

I served the: (☒ *check all that apply*)

☒ Motion ☐ Clerk's Notice of Hearing ☐ Opposition ☐ Answer

☐ Exhibit Appendix ☐ Financial Disclosure Form ☐ Other: _____

In the following manner: (☒ *check one*)

☐ **By Mail** on (*date you mailed it*) _____, 20____ pursuant to NRCP 5(b) and EDCR 5.511 by depositing a copy in the U.S. Mail, postage prepaid, addressed to:

Address on file with the Court:	Current Address: *(leave blank if it is the same as the address on file with the Court)*
Name	Name
Address	Address
City, State, Zip Code	City, State, Zip Code ☐ I do not know the other party's current address

If the address on file with the court is not the current address, I also emailed the same documents on the same date to: (*other party's known email address*) _____
or ☐ I do not know the other party's current email address.

☐ The other party is registered for eservice and was served through the Court's electronic service system on (*date*) _____.

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

9/26/2024	Benjamin Blitch	/s/ Benjamin Blitch
Date	Your printed name	Your signature

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FILING CODE: OSC
Your Name: Benjamin Blitch
Address: 1715 W Spring Meadows Way
Kamas, UT 84036
Telephone: 435-671-5767
Email Address: benblitch@gmail.com

DISTRICT COURT
CLARK COUNTY, NEVADA

Samantha Fagan Plaintiff, vs. Benjamin Blitch Defendant.	CASE NO.: D-23-660942-R DEPT: A DATE OF HEARING: _____ TIME OF HEARING: _____

ORDER TO SHOW CAUSE

The Court, having reviewed the moving party's Motion for an Order to Show Cause, the papers and pleadings filed, and relevant testimony, hereby finds that there is good cause to grant the moving party an Order to Show Cause.

IT IS HEREBY ORDERED that (*name of opposing party*) Samantha Fagan shall appear **IN PERSON** on the date and time above before the Eighth Judicial District Court - Family Division located at: (☒ *check one*)

- ☐ Family Court, 601 N. Pecos Road, Las Vegas, Nevada 89101, courtroom _____.
- ☐ Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89101, courtroom _____.

to show cause, if any, why the party should not be held in contempt of this Court for:

1. Failure to obey this Court's order entered on (*date of order*) August 22, 2024 by (*summarize what the other party is doing to violate that order*) Participating in Reunification therapy as outlined by Letter from Matt Stoll.

   on (*date that the violation occurred*) September 26, 2024.

2. Failure to obey this Court's order entered on (*date of order*) August 22, 2024 by (*summarize what the other party is doing to violate that order*) Will not cooperate in Reunification Therapy with court appointed therapist Matt Stoll, has moved out of state without consent and not providing new physical address.

on (*date that the violation occurred*) 9/26/2024.

3. Failure to obey this Court's order entered on (*date of order*) _____ by (*summarize what the other party is doing to violate that order*) _____

on (*date that the violation occurred*) _____.

4. Failure to obey this Court's order entered on (*date of order*) _____ by (*summarize what the other party is doing to violate that order*) _____

on (*date that the violation occurred*) _____.

5. Failure to obey this Court's order entered on (*date of order*) _____ by (*summarize what the other party is doing to violate that order*) _____

on (*date that the violation occurred*) _____.

IT IS FURTHER ORDERED that this Order to Show Cause shall be served on the other party by _____.

_____
JUDGE

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

4. If the judge signs the order:

Serve the other party with the Order to Show Cause and any other documents.

Make Copies: Make a copy of the Order to Show Cause and the Ex parte Application for an Order to Show cause to serve on the other party. Keep the originals.

Serve the Documents on the Other Party:

Who to Serve: WARNING! If you do not serve the right person, your case may be delayed.

- **If the other party has an attorney:** Serve the attorney.
- **If the other party does not have an attorney:** Serve the other party.

How to Serve: The judge will indicate how to serve on the Order to Show Cause. You must serve the Order to Show cause in all of the different ways the order says. Some judges require personal service, some require certified mail, and some require regular mailing.

5. Fill out and file the Proof of Service:

The person who served the papers should fill this out after serving the other party. File this after the other party is served. **WARNING!** If you do not do this, the judge may cancel your hearing.

If the other party files an Opposition: You may file a Reply to respond.

6. Attend the hearing:

Before the Hearing: Check with your department to find out whether your hearing will be in-person or through video conferencing.

- **If you have an in-person hearing**: Arrive at least 20 minutes early to allow enough time to park, get through security, and find the courtroom.
- **If you have a video hearing**: Find a quiet place to participate and test to make sure your camera and microphone are working. **Dress appropriately!** This is still a Court hearing. Dress like you would if you were going to an in-person hearing.

FILING CODE: PSER
Name: Benjamin Blitch
Address: 1715 W Spring Meadows Way
Kamas, UT 84036
Telephone: 435-671-5767
Email Address: benblitch@gmail.com
Self-Represented

DISTRICT COURT
CLARK COUNTY, NEVADA

Samantha Fagan Plaintiff, vs. Benjamin Blitch Defendant.	CASE NO.: D-23-660942-R DEPT: A

PROOF OF SERVICE (Ex Parte Application for OSC/ Order to Show Cause)

I, (*name of person who served the documents*) Benjamin Blitch, declare that I served (*name of person who was served*) Samantha Fagan with a copy of the (☒ *check all that apply*)

☒ Ex Parte Application for an Order to Show Cause

☐ Order to Show Cause

☐ Other: _____

in the following manner: (☒ *check one*)

☐ **By Mail** on (*date you mailed it*) _____, 20____ pursuant to NRCP 5(b) and EDCR 5.511 by depositing a copy in the U.S. Mail, postage prepaid, addressed to:

Address on file with the Court:	Current Address: *(leave blank if it is the same as the address on file with the Court)*
Name	Name
Address	Address
City, State, Zip Code	City, State, Zip Code ☐ I do not know the other party's current address

If the address on file with the court is not the current address, I also emailed the same documents on the same date to: (*other party's known email address*) _____ **or** ☐ I do not know the other party's current email address.

☒ **Electronic:** Through the Court's electronic service system on (*date*) 9/26/2024.

☐ **Personal Service:**

I am not a party to nor interested in the outcome of this action, I am over 18 years of age, and I (☒ *check one*) ☐ am a licensed process server / ☐ am not a licensed process server or an employee of a licensed process server - I am a natural person serving legal process without compensation, not more than three times per year, on behalf of a litigant who is a natural person, and therefore I am not required to be licensed pursuant to NRS 648.063(2). I served the documents named above by delivering and leaving them with (*name of person served*) _____ at (*street address*) _____ (*city*) _____, (*state*) _____, (*zip code*) _____. The documents were served on (*date you served the documents*) _____, 20___ at the hour of (*time*) ____:____ ☐ am ☐ pm. If the person who was served is not the party, the person served is a person of suitable age and discretion that resides with the party.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.

DATED September 26, 2024.

Server's Signature: ▸ _____

Server's Printed Name: Benjamin Blitch

Residential / Business Address: 1715 W Spring Meadows Way

City, State, Zip: Kamas, UT 84036

Server's Phone Number: 435-671-5767

Server's License/Registration Number: _____ (*if applicable*)

Petitioner's Motion for Constructive Arrears; for Reimbursement of Medical Insurance Policy Costs; for Modification of Child Support and for Other related Relief

[redacted]
12/3/2024 5:06 PM
Steven D. Grierson
CLERK OF THE COURT

MOT
JOHN T. KELLEHER, ESQ.
Nevada State Bar No. 6012
KELLEHER & KELLEHER, LLC
40 S. Stephanie Street, Suite #201
Henderson, Nevada 89012
Telephone (702) 384-7494
Facsimile (702) 384-7545
efiling@kelleherandkelleher.com
Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the Parental Rights as to GRADY FAGAN, born September 20, 2017 A Minor Child.	CASE NO. D-23-660942-R DEPT. NO. A Hearing Date: Hearing Time: Oral Argument: YES

PETITIONER'S MOTION FOR CONSTRUCTIVE ARREARS, FOR REIMBURSEMENT OF MEDICAL INSURANCE POLICY COSTS; FOR MODIFICATION OF CHILD SUPPORT AND FOR OTHER RELATED RELIEF

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

COMES NOW Petitioner, Samantha Fagan, by and through her attorney, John T. Kelleher, Esq., of the law firm of KELLEHER & KELLEHER LLC, and hereby files this Motion for Constructive Arrears, for Reimbursement of Medical Insurance Policy Costs; for Modification of Child Support and for Other Related Relief.

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This Motion is made and based upon the pleadings on file herein, affidavit attached hereto and the oral argument of counsel at the time of the hearing.

DATED this 3rd day of December, 2024.

KELLEHER & KELLEHER, LLC

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
40 S. Stephanie Street, Suite 201
Henderson, Nevada 89012
Attorney for Petitioner

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POINTS AND AUTHORITIES

I.

STATEMENT OF THE FACTS

Petitioner Samantha Fagan ("Samantha") and Respondent Benjamin Blitch ("Respondent") were never married but were in a very short term relationship between October 2016 and February 2017 (approximately 4 months long). When the parties were in month three (3) of their four (4) month long relationship, Samantha learned she was pregnant. Despite having learned of the pregnancy in January of 2017, the parties ended their relationship with the hope that they would remain friends and parent their child together. Ultimately, Respondent chose not to have a close relationship with their son, Grady Fagan, who was born on September 20, 2017 ("Grady").

As discussed in Samantha's motion to continue, Respondent was not present at Grady's birth, and the only visits Respondent had with Grady was when Samantha made it happen. Respondent left Grady wholly in Samantha's care since his birth, showed little to no interest in Grady, did not pay child support until the Court ordered it in April of 2023 to begin on May 1, 2023, did not contribute a

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single penny towards Grady's medical insurance premiums or copays, and did not participate in Grady's life in any meaningful way.

At the time the Court ordered Respondent's child support obligation to begin on May 1, 2023, his obligation was based upon the sum he indicated he was earning on his Financial Disclosure Form ("FDF") - which reflected income of $4,883.00 per month ($55,000 per year, plus commissions or tips of $300.00 per month). His obligation was set as $781.28 per month. There was no increase for one-half the cost of medical insurance premiums or policy costs.

Thereafter, during the October 20, 2023 evidentiary hearing, Respondent testified that his income increased to $80,000.00 per year, plus bonuses. This amount was even higher than the sum reflected on his March 23, 2023 FDF, which reflected $70,000.00 per year, plus $333.33 per month in bonuses. This stark modification in a matter of months raises red flags about Respondent's honesty relating to his income. While Samantha hopes to propound discovery to obtain this information, she respectfully requests that Respondent should be ordered to: (1) produce financial records such that his income can be fully and accurately assessed for calculation of his ongoing child support obligation; (2) that he be ordered to reimburse Samantha for the medical insurance policy cost; (3) and that he be ordered to pay four years of constructive child support arrears pursuant to NRS 125B.030 and NRS 125B.050 based on an annual income of $83,000.00 (or $6,916.66 per month); and (4) that his child support obligation be modified consistent with earnings of at least $83,000.00 per year.

II.

LEGAL ANALYSIS

A. RESPONDENT SHOULD BE ORDERED TO PAY FOUR YEARS OF CONSTRUCTIVE CHILD SUPPORT ARREARS.

NRS 125B.030 and NRS 125B.050 state:

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NRS 125B.030 Recovery by parent with physical custody from other parent.

Where the parents of a child do not reside together, the physical custodian of the child may recover from the parent without physical custody a reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian. **In 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.** (Emphasis added).

NRS 125B.050 Period of limitations.

1. If there is no court order for support, any demand in writing to a parent not having physical custody for payment of support on behalf of a minor child, mailed to the last known address of the parent, tolls the running of the statute of limitations for the bringing of an action for that support.

2. A motion for relief after judgment and an independent action to enforce a judgment for support of a child may be commenced at any time.

3. If a court has issued an order for the support of a child, there is no limitation on the time in which an action may be commenced to:

(a) Collect arrearages in the amount of that support; or

(b) Seek reimbursement of money paid as public assistance for that child.

Given that Respondent's child support obligation was ordered to begin on May 1, 2023, four years prior for purposes of constructive arrears would be May 1, 2019. Based upon an income of $6,916.66 per month, Respondent's child support obligation would be $1,033.33 per month. Pursuant to the schedule of arrears attached hereto as **Exhibit 1**, Respondent's constructive arrears for the period of May 1, 2019 through April, 2023 would be $49,599.84, without penalties or interest, pursuant to NRS 125B.030. Samantha respectfully requests that this sum be reduced to judgment, collectable by any legal means.

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B. RESPONDENT SHOULD BE ORDERED TO REIMBURSE SAMANTHA FOR MEDICAL INSURANCE POLICY PREMIUMS FOR THE MINOR CHILD.

Respondent has never contributed towards the cost of Grady's medical insurance policy, premiums or copays. Further, the child support obligation that commenced on May 1, 2023 did not include an upward deviation to account for the cost of the policy. Presently, Samantha pays $425.00 per month for the family insurance policy and is working to obtain the portion of the cost attributed to Grady only. As soon as she has obtained the specific sum, she will file a supplement containing the exact sum of reimbursement she is requesting for Grady's medical insurance policy cost to this Court. She would ask that the sum be reduced to judgment and collectable by any legal means, as well.

C. RESPONDENT'S CHILD SUPPORT OBLIGATION SHOULD BE MODIFIED.

Regarding a change in circumstances for purposes of modifying a child support obligation, NAC 425.170 state and NRS 125B.145 state:

> **NAC 425.170** Modification or adjustment of child support obligation must be based on change in circumstances. (NRS 425.620)
>
> 1. Except as otherwise authorized by law or this chapter, after a court has established a child support obligation, any subsequent modification or adjustment of the child support obligation must be based upon a change in circumstances.
>
> 2. The receipt of public assistance by a child or an obligee constitutes a change in circumstances that will allow the review and, if appropriate, modification of the child support obligation in accordance with the child support guidelines in effect at the time of the review.
>
> 3. The adoption of or any revision to this chapter must not, in and of itself, be considered a change in circumstances sufficient to justify the modification of any existing order or money judgment.
> (Added to NAC by Div. of Welfare & Supp. Services by R183-18, 10-30-2019, eff. 2-1-2020)

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NRS 125B.145 Review and modification of order for support: Request for review; jurisdiction; notification of right to request review.

1. An order for the support of a child must, upon the filing of a request for review by:

   (a) The Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative or the district attorney, if the Division of Welfare and Supportive Services or the district attorney has jurisdiction in the case; or

   (b) A parent or legal guardian of the child, be reviewed by the court at least every 3 years pursuant to this section to determine whether the order should be modified or adjusted. Each review conducted pursuant to this section must be in response to a separate request.

2. If the court:
   (a) Does not have jurisdiction to modify the order, the court may forward the request to any court with appropriate jurisdiction.
   (b) Has jurisdiction to modify the order and, taking into account the best interests of the child, determines that modification or adjustment of the order is appropriate, the court shall enter an order modifying or adjusting the previous order for support in accordance with the guidelines established by the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.620.

3. The court shall ensure that:
   (a) Each person who is subject to an order for the support of a child is notified, not less than once every 3 years, that the person may request a review of the order pursuant to this section; or
   (b) An order for the support of a child includes notification that each person who is subject to the order may request a review of the order pursuant to this section.

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

5. As used in this section:

   (a) "Gross monthly income" has the meaning ascribed to it in NRS 125.150.

   (b) "Order for the support of a child" means such an order that was issued or is being enforced by a court of this State.

(Added to NRS by 1989, 859; A 1991, 1337; 1993, 2626; 1997, 2299; 2003, 546; 2017, 2283). (Emphasis added).

Here, Respondent's child support obligation was based on earnings of $55,000.00 per year, plus $3,600.00 per year in commissions or tips. In March of 2023, Respondent filed an updated FDF claiming income of $74,000.00 per year. This, alone, was a 28% increase in income, representing a substantial change in circumstances. Then, in October of 2023, Respondent testified that he was earning at least $80,000.00 per year, plus bonuses. Though his bonuses are likely greater than $4,000.00 per year, Samantha has based her request for modification of child support on an annual income of $83,000.00 for Respondent, which amounts to $6,916.66 per month. The change of income from $58,600.00 per year to $83,000 pear year represents a 44.36% increase of income. Accordingly, there is a substantial change in circumstance warranting a modification of child support to $1,033.33 per month based upon the $83,000.00 per year income. Pursuant to subsection B above, Samantha also requests that Respondent's contribution towards the medical insurance premium for Grady also be added to the sum Respondent is to provide Samantha each month in child support.

III.

CONCLUSION

Based on the foregoing, Petitioner, Samantha Fagan, respectfully requests the Court grant the relief requested herein its entirety.

DATED this 3rd day of December, 2024.

KELLEHER & KELLEHER, LLC

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
40 S. Stephanie Street, Suite #201
Henderson, Nevada 89012
Attorney for Petitioner

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AFFIDAVIT OF SAMANTHA FAGAN

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

SAMANTHA FAGAN, being first duly sworn, deposes and states:

1. That I am a competent witness to testify to the matters contained herein and do so of my own personal knowledge, except as to those items on information and belief, and as to those matters, I believe the same to be true.

2. I am the Plaintiff in this action and have read the above and foregoing Motion, and all factual statements set forth therein are true and correct to the best of my knowledge.

3. And I incorporate all factual statements therein as though restated in their entirety, particularly the section entitled "Statement of the Facts" in this affidavit, pursuant to NRCP 10.

FURTHER AFFIANT SAYETH NAUGHT.

DATED this 3rd day of December, 2024.

Samantha Fagan
ID yADHeuwXVd6g8HmLuqCS3My
SAMANTHA FAGAN

SUBSCRIBED AND SWORN to before me this
_____ day of December, 2024

NOTARY PUBLIC in and for said County and State

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CERTIFICATE OF MAILING

I hereby certify that I am an employee of KELLEHER & KELLEHER, LLC., and that on the 3rd day of December, 2024, I caused the above and foregoing PETITIONER'S MOTION FOR CONSTRUCTIVE ARREARS, FOR REIMBURSEMENT OF MEDICAL INSURANCE POLICY COSTS; FOR MODIFICATION OF CHILD SUPPORT AND FOR OTHER RELATED RELIEF, to be served as follows:

[X] Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;

[ ] By placing the same to be deposited in the United States Mail, in a sealed envelope upon which First Class postage was prepaid in Las Vegas, Nevada;

[ ] Pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.

To the following attorney(s) listed below at the address, email address, and/or facsimile number indicated below:

Benjamin Blitch
benblitch@gmail.com
Respondent in Proper Person

/s/Stacey L. Stirling
An employee of Kelleher & Kelleher, LLC.

eSignature Details

Signer ID:	**yADHeuwXVd66g6HmLuqCS3My**
Signed by:	Samantha Fagan
Sent to email:	samanthafagan@aol.com
IP Address:	174.205.98.182
Signed at:	Dec 3 2024, 4:22 pm PST

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Samantha Fraga
Plaintiff/Petitioner

v.

Defendant/Respondent

Case No. D-23-660942-K

Dept. A

MOTION/OPPOSITION FEE INFORMATION SHEET

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

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

☐ **$25** The Motion/Opposition being filed with this form is subject to the $25 reopen fee.

-OR-

☒ **$0** The Motion/Opposition being filed with this form is not subject to the $25 reopen fee because:

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

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

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

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

-OR-

☐ **$129** The Motion being filed with this form is subject to the $129 fee because it is a motion to modify, adjust or enforce a final order.

-OR-

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

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

The total filing fee for the motion/opposition I am filing with this form is:

☒ **$0** ☐ **$25** ☐ **$57** ☐ **$82** ☐ **$129** ☐ **$154**

Party filing Motion/Opposition: Petitioner Date 12/3/24

Signature of Party or Preparer Samantha Fraga

EXHIBIT 1

Case
In re Grady Fagan

Child Support Arrears

Obligation	Penalties
$ 1,033.33	0.00%

Period	Obligation	Payment Receivived	Difference	Interest	Penalities	Total Monthly Arrears	Running Total
May-19	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 1,033.33
Jun-19	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 2,066.66
Jul-19	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 3,099.99
Aug-19	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 4,133.32
Sep-19	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 5,166.65
Oct-19	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 6,199.98
Nov-19	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 7,233.31
Dec-19	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 8,266.64
Jan-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 9,299.97
Feb-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 10,333.30
Mar-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 11,366.63
Apr-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 12,399.96
May-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 13,433.29
Jun-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 14,466.62
Jul-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 15,499.95
Aug-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 16,533.28
Sep-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 17,566.61
Oct-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 18,599.94
Nov-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 19,633.27
Dec-20	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 20,666.60
Jan-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 21,699.93
Feb-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 22,733.26
Mar-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 23,766.59
Apr-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 24,799.92
May-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 25,833.25
Jun-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 26,866.58
Jul-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 27,899.91

Aug-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 28,933.24
Sep-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 29,966.57
Oct-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 30,999.90
Nov-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 32,033.23
Dec-21	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 33,066.56
Jan-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 34,099.89
Feb-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 35,133.22
Mar-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 36,166.55
Apr-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 37,199.88
May-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 38,233.21
Jun-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 39,266.54
Jul-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 40,299.87
Aug-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 41,333.20
Sep-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 42,366.53
Oct-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 43,399.86
Nov-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 44,433.19
Dec-22	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 45,466.52
Jan-23	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 46,499.85
Feb-23	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 47,533.18
Mar-23	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 48,566.51
Apr-23	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 49,599.84
May-23	$ 1,033.33	$ -	$ 1,033.33	$ -	$ -	$ 1,033.33	$ 50,633.17

Benjamin Blitch's Opposition and Response to Samantha Fagan's Motion for Constructive Arrears

Electronically Filed
12/5/2024 3:41 PM
Steven D. Grierson
CLERK OF THE COURT

OPPS

BENJAMIN BLITCH
1715 W. Spring Meadows Way
Kamas, UT 84036
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EIGHTH JUDICIAL DISTRICT COIURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of the Parental Rights as to: Grady Fagan, born September 20, 2017. A Minor Child SAMANTHA FAGAN Plaintiff vs. BENJAMIN BLITCH Defendant	CASE NO.: D-23-66094-R DEPT. NO. A **BENJAMIN BLITCH'S OPPOSITION AND RESPONSE TO SAMANTHA FAGAN'S MOTION FOR CONSTRUCTIVE ARREARS**

Ben Blitch opposes Samantha Fagan's untimely, vague, and unsupported motion for constructive arrears (as well as for modification of the current support order) for the following reasons.

1) The motion is untimely and deprives Ben of the ability to adequately respond. It was filed **less than three days prior to the hearing.** As the rules require and as the motion says on its face, Ben should have 14 days to respond – not the two days this untimely motion affords. It should be denied as untimely.

2) If the Court is inclined to hear the "constructive" arrears motion at the hearing tomorrow, December 6, 2024 - rather than denying the request with leave for the filing of a proper motion at a later date – then there are reasons to deny the request based on lack of evidence at this time.

WHAT BEN BLITCH REQUESTS OF THE COURT AT THIS TIME.

Ben urges the Court to deny the motion as untimely. If Samantha wishes the Court to address any issue related to retroactive support payments prior to the court order in May, 2023, as well as modification of the current support order, a timely and proper motion, properly supported, should be filed first, allowing Ben a reasonable opportunity to respond

If the Court hears the matter, the Court should deny the request as unsupported and unfair.

ARGUMENT

Since Ben was ordered to pay child support in May 2023, he has timely made every single payment. This is undisputed.

Ben believes that his rights and opportunity to be heard on Samantha's untimely and unsupported motion seeking a substantial sum in constructive arrears – **as well as a modification of current support obligations** – is a serious violation of his rights. A proper motion for constructive arrears and modification of the support order are necessary before the court can order the kind of sweeping relief Samantha is seeking here.

If the Court were to consider constructive arrears, to be fair to both parties, it would first need to have evidence of the earnings of both parties during the period in question. The motion provides no such evidence for either party. Nevertheless, she boldly asks for approximately $50,000 (plus penalties and interest) for retroactive support, without the evidence necessary to support such a request. If, for example, Samantha were making somewhere between $100,000 and $200,000 during the relevant period and Ben was making something on the order of $55,000 during that period, the court would need to take that into account in deciding what a fair amount of retroactive support, if any, should be ordered.

Similarly, with regard to modifying the current support order to increase Ben's monthly payments, there is no evidence of Samantha's income. This is grossly unfair. A proper motion would contain all the relevant evidence for the court to make a fair adjudication of the issue.

The motion states that it seeks reimbursement of medical insurance costs but contains not one shred of evidence regarding such costs. There are no documents supporting the request. Amazingly, there is not even a specific amount attributable to the insurance premium costs for Grady alone – as opposed to Samantha's whole family ($425 per month). (To add even more confusion, that $425 per month family cost somehow jumps to over $700 per month in her Initial Disclosures – also untimely – which she filed at the end of the day yesterday – again with no allocation for Grady as opposed to Samantha's entire family.

The motion is manifestly defective and should be denied.

CONCLUSION

Therefore, Ben respectfully asks the Court to deny the motion as discussed above.

DATED this 5th day of December, 2024.

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

s/ Benjamin Blitch *(signature)*

Benjamin Blitch

CERTIFICATE OF SERVICE

I, declare under penalty of perjury under the law of the State of Nevada that the following is true and correct. That I served the OPPOSITION Electronically t**hrough the Court's electronic** service system on this 5th day of December, 2024.

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

s/ Benjamin Blitch
(signature)

Benjamin Blitch's Motion for School Selection for Minor Child filed January 20, 2025

Electronically Filed
1/20/2025 12:16 PM
Steven D. Grierson
CLERK OF THE COURT

FILING CODE: MOT
Your Name: Benjamin Blitch
Address: 1715 W Spring Meadows Way
Kamas, UT 84036
Telephone: 435-671-5767
Email Address: benblitch@gmail.com
Self-Represented

DISTRICT COURT
CLARK COUNTY, NEVADA

Samantha Fagan Plaintiff, vs. Benjamin Blitch Defendant.	CASE NO.: D-23-660942-R DEPT: A

MOTION FOR SCHOOL SELECTION FOR MINOR CHILD

NOTICE OF MOTION

The judge can make a decision based only on the written filings, or the judge can talk to both parties and ask questions at a court hearing first. You can choose which you prefer below.

Would you like to have a hearing with the judge? (☒ *check yes/no - the court will enter details*)

☒ **Yes. Hearing Date:** _____ **Hearing Time:** _____ **at:**

- ☐ **Family Courts & Services Center, 601 N. Pecos Rd. Las Vegas, NV 89101, courtroom** ____
- ☐ **Regional Justice Center, 200 Lewis Ave. Las Vegas, NV 89101, courtroom** ___

The hearing may be available online; if it is the court will send login information separately.

☐ **No. The judge will write a decision after reviewing the request in chambers on:** _____

TO: (*write opposing party's name*): Samantha Fagan

NOTICE: You may file a written response to this motion with the Clerk of the Court and provide the undersigned with a copy of your response within 14 days of receiving this motion. Failure to file a written response with the Clerk of Court within 14 days of your receipt may result in the requested relief being granted by the Court without a hearing prior to the scheduled hearing date.

Submitted By: (*your name*) /s/ Benjamin Blitch
☐ Plaintiff / ☒ Defendant

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* You are responsible for knowing the law about your case. For more information on the law, this form, and free classes, visit www.familylawselfhelpcenter.org or the Family Law Self Help Center at 601 N. Pecos Road. To find an attorney, call the State Bar of Nevada at (702) 382-0504.

I. POINTS AND AUTHORITIES

When parents with joint legal custody do not agree regarding a child's schooling, they can ask the court to decide what school selection is in the best interest of the child. Arcella v. Arcella, 133 Nev. 868, 869–70, 407 P.3d 341, 344 (2017). The school that is in the child's best interest is not necessarily the most expensive or highest ranked school, but rather, the school that is "best tailored to meet the needs of the particular child." Id. at 872.

In determining which school a child should attend, the following factors are likely relevant to consider:

(1) The wishes of the child, to the extent that the child is of sufficient age and capacity to form an intelligent preference;
(2) The child's educational needs and each school's ability to meet them;
(3) The curriculum, method of teaching, and quality of instruction at each school;
(4) The child's past scholastic achievement and predicted performance at each school;
(5) The child's medical needs and each school's ability to meet them;
(6) The child's extracurricular interests and each school's ability to satisfy them;
(7) Whether leaving the child's current school would disrupt the child's academic progress;
(8) The child's ability to adapt to an unfamiliar environment;
(9) The length of commute to each school and other logistical concerns;
(10) Whether enrolling the child at a school is likely to alienate the child from a parent.

Id. at 872–73.

"Determining which school placement is in the best interest of a child is a broad-ranging and highly fact-specific inquiry, so a court should consider any other factors presented by the particular dispute, and it should use its discretion to decide how much weight to afford each factor." Id. at 873.

II. FACTS AND ARGUMENT

1. **The children's names, grade levels, and proposed schools are:**

Child's Name:	Grade Level	Your Preferred School	Other Parent's Preferred School
Grady Fagan	2 or 3	Public School near	"Home School"
		Boulder City, NV or	
		Summit County, UT	

2. **What is the child(ren)'s current school(s)?** "Home Schooled", not registered w NV

3. **Attempt to Resolve.** Did you try to resolve this matter with the other parent before filing this motion? (☒ *check one*)

   ☐ Yes, but we could not come to an agreement. (*Explain when and how you tried to resolve this with the other party and why they will not agree to the school you are proposing*)

   ☒ No. Any attempt to resolve the issue would have been useless or impractical because (*explain why you did not try to resolve this issue directly with the other party before filing this motion*)

   I have brought up concern with "home schooling" but was during a hearing OSC, so am filing this motion to compel mother to enroll Grady in public school.

4. **Reasons for school selection.** (*Answer the following questions and explain in detail your reasons. Compare your proposed school to the other parent's desired school where applicable.*)

   What are the child's wishes (if the child is old enough and mature enough to choose)?

What are the child's educational needs and each school's ability to meet them?

Your preferred school:
A Public School would ensure Grady is able to achieve grade level education and evaluation. As well as be socialized with peers his age.

Other parent's preferred school:
Home School, however, Grady is not currenlty registered Clark County School District which is against state education law.

What is the curriculum, method of teaching, and quality of instruction at each school?

Your preferred school:
State of Nevada and Clark Couty School district traditional education system.

Other parent's preferred school:
Unknown as no curriculum, method of teaching or quality of instruction is registered with the State or Clark County School District.

What is the child's past scholastic achievement and predicted performance at each school?

Past achievement and predicted performance at your preferred school:
Past Achievement is unknown as there is no evaluation on file with the State or Clark County School District. Predicted performance is Grady will quickly be on grade level with possible IEP to catch up.

Past achievement and predicted performance at other parent's preferred school:
All items unknown as no evaluations are on record with the State or Clark Couty.

Does the child have any medical needs, and if so, what is each school's ability to meet them?

Unknown as Ms. Fagan has not produced any medical information on Grady in requested Discovery.

What are the child's extracurricular interests and each school's ability to satisfy them?

Your preferred school:

Most Public Schools have a number of extracurricular activities like sports and clubs.

Other parent's preferred school:

Home Schooling does not in itself have extracurricular activities. It is unknown if Grady participates in any as Discovery question about such has not been answered.

Would leaving the child's current school disrupt the child's academic progress?

Yes. After spending 2 reunification sessions with Grady I am concerned he is not getting a proper education and may not be able to read at grade level. He is a very smart boy, and I believe may need an education evaluation to ensure he can catch up with his peers.

What is the child's ability to adapt to an unfamiliar environment?

Grady does a very good job of adapting to new environments as Ms. Fagan indicated she travels with him extensively and he adjusted well in reunification therapy with Mr. Blitch.

What is the length of commute to each school, and are there any other logistical concerns?

Your preferred school: It would be fine if it is the closest school to his current address, within a few miles. Mr. Blitch is also prepared to enroll him in school in Summit County, UT.

Other parent's preferred school: Unknown as not a registered program with the State or Clark Couty

Would enrolling the child at either school likely alienate the child from a parent?

No

Is there anything else the judge should consider in deciding where the child should attend school?

Ms. Fagan states she travels for work, however, the court has already admonished Ms. Fagan for putting her work needs ahead of the best interest of Grady. Public School is in his best interest.

III. Other Relief

In addition to the relief requested above, I would like the Court to also order the following:

(*Explain anything else that you would like the judge to order, or enter "N/A" if you do not want anything else. Be specific.*) Ms. Fagan be compelled to disclose all of the required education information

about Grady's current education status so he can be ~~properly enrolled and caught up with his grade level curriculum at public school.~~

I respectfully ask the Court to grant me the relief above, including an award of attorney's fees if I am able to retain an attorney for this matter, and any other relief the Court finds appropriate.

DATED January 20, 2025.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

DECLARATION IN SUPPORT OF MOTION

a. I have read the foregoing motion, and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the referenced filing are incorporated here as if set forth in full.
b. Any Exhibit(s) in support of this Motion will be filed separately in an Exhibit Appendix.

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

DATED January 20, 2025.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

Samantha Fagan's Motion for Constructive Arrears; Reimbursement of Medical Insurance; Modification of Child Support; Input into the Appointment Dates with Mr. Stoll; and for Other Related Relief

Electronically Filed
3/5/2025 5:00 PM
Steven D. Grierson
CLERK OF THE COURT

MOT
JOHN T. KELLEHER, ESQ.
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efiling@kelleherandkelleher.com
Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the Parental Rights as to GRADY FAGAN, born September 20, 2017 A Minor Child.	CASE NO.: D-23-660942-R DEPT. NO.: A Hearing Date: Hearing Time: Oral Argument: YES

PETITIONER'S MOTION FOR CONSTRUCTIVE ARREARS; FOR REIMBURSEMENT OF MEDICAL INSURANCE POLICY COSTS; FOR MODIFICATION OF CHILD SUPPORT; FOR PETITIONER TO HAVE INPUT INTO THE APPOINTMENT DATES WITH MR. STOLL; AND FOR OTHER RELATED RELIEF

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

COMES NOW Petitioner, Samantha Fagan, by and through her attorney, John T. Kelleher, Esq., of the law firm of KELLEHER & KELLEHER LLC, and hereby files this Motion for Constructive Arrears; for Reimbursement of Medical Insurance Policy Costs; for Modification of Child Support; for Petitioner to Have Input into the Appointment Dates with Mr. Stoll; and for Other Related Relief.

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This Motion is made and based upon the pleadings on file herein, the declaration and exhibits attached hereto, and the oral argument of counsel at the time of the hearing.

Petitioner Samantha Fagan respectfully requests the following relief from the Court:

DATED this 5th day of March, 2025.

KELLEHER & KELLEHER, LLC

/s/ John T. Kelleher

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
40 S. Stephanie Street, Suite 201
Henderson, Nevada 89012
Attorney for Petitioner

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POINTS AND AUTHORITIES

I.

STATEMENT OF THE FACTS

A. INFORMATION RELATED TO CHILD SUPPORT

Petitioner Samantha Fagan ("Samantha") and Respondent Benjamin Blitch ("Respondent") were never married but were in a short term relationship for between October 2016 and February 2017. When the parties were in month three (3) of their four (4) month long relationship, Samantha learned she was pregnant. Despite having learned of the pregnancy in January of 2017, the parties ended their relationship with the hope that they would remain friends and parent their child together. Ultimately, Respondent chose not to have a close relationship with their son, Grady Fagan, who was born on September 20, 2017 ("Grady").

As discussed in Samantha's motion to continue, Respondent was not present at Grady's birth, and the only visits Respondent had with Grady were when

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Samantha made it happen. Respondent left Grady wholly in Samantha's care since his birth; showed little to no interest in Grady for years; did not pay child support until the Court ordered it in April of 2023 to begin on May 1, 2023; did not contribute a single penny towards Grady's medical insurance premiums or copays; and, did not participate in Grady's life in any meaningful way.

At the time the Court ordered Respondent's child support obligation to begin on May 1, 2023, his obligation was based upon the sum he indicated he was earning on his Financial Disclosure Form ("FDF") filed on February 2, 2023, which reflected income of $4,883.00 per month. His obligation was set as $781.28 per month. There was no increase for one-half the cost of medical insurance premiums or policy costs.

Thereafter, at the October 20, 2023 evidentiary hearing regarding termination of Respondent's parental rights, Respondent testified he understood he may be required to pay several years of back child support if the Court did not terminate his rights, stating "I will deal with whatever ramifications there are for my bad actions." *See Transcript for October 20, 2023 evidentiary hearing, p. 61, ll. 12-17, Exhibit 1.*Regarding his income on October 20, 2023, Respondent testified he was working as the property manager for a luxury property management company in Park City, Utah and was earning a base salary of $70,000.00 annually. *Exhibit 1, at p. 64, ll. 14-18 and p. 65, ll. 5-11.*

Since the October 20, 2023 evidentiary hearing, Respondent has filed multiple FDF's. At the hearing on March 20, 2024, the Court ordered him to file an updated FDF with his paystubs and/or profit/loss statements by the end of the week. *See Order from the March 20, 2024 hearing, filed April 4, 2024, p. 4, para. 8.* Respondent then filed an updated FDF on March 23, 2024 which states he has worked as a Manager at Luxury Mountain Destinations/Canyons Village Rentals since November 18, 2022 and earns a gross monthly income of $5,833.33 and an average of $333.33 monthly for bonuses, for a total gross monthly income of

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$6,166.66. However, while the FDF indicates his bonuses are $4,000.00 per year, paid twice a year, his paystubs dated in February and March 2024 indicate he had already exceeded that amount and received additional pay in the amount of $4,200.00. *See Respondent's FDF, filed March 23, 2024, Exhibit 2.* Therefore, Respondent will need to provide year-to-date income information with an updated FDF and also his 2024 W-2 or other year-end financial documents such as his 2024 tax return to fully analyze the appropriate amount of child support he should be ordered to pay currently. In addition, he will need to provide his tax returns and W-2's for the years 2019 to the present date to fully analyze his retroactive child support arrears.[1]

Currently, Respondent takes the position he should not be required to pay any retroactive child support for the time period when he did not support Grady at all. Apparently, his cooperative statements under oath at the termination trial stating he will handle the financial ramifications of his bad actions were meant solely to persuade the Court he was the type of stand-up father whose rights should not be terminated. He did not actually mean or intend to provide back child support or willingly contribute for Grady's care during the years Samantha was the sole provider. Regarding health insurance costs, Samantha has always solely provided Grady's insurance. She requests that Respondent be ordered to pay his fair share (half) of the insurance premiums for Grady. *See Petitioner's 2025 Insurance Information, Exhibit 3.*

Samantha respectfully requests that Respondent should be ordered to: (1) produce financial records such that his income can be fully and accurately assessed for calculation of his ongoing child support obligation; (2) that he be

---

[1] Through counsel, Samantha served Requests for Production of Documents to obtain all of this relevant documentation in conjunction with the filing of this Motion, so the information will be available to the parties and the Court prior to the hearing on this Motion.

ordered to reimburse Samantha for the medical insurance policy cost; (3) and that he be ordered to pay four years of constructive child support arrears pursuant to NRS 125B.030 and NRS 125B.050 based on his accurate income for the relevant time periods; and (4) that his child support obligation be modified consistent with his current income since his FDF on file indicates he earns 20% more gross monthly income than the $4,833.00 gross monthly income stated on his FDF filed on February 2, 2023, prior to the current child support Order.

B. RESPONDENT SHOULD BE REQUIRED TO GIVE CONSIDERATION TO SAMANTHA'S AND GRADY'S SCHEDULING CONFLICTS WHEN SETTING APPOINTMENTS.

At the hearing on November 19, 2024, the Court ordered that Respondent has the duty to communicate and schedule the reunification sessions for Grady with therapist Matt Stoll. The Order also provides if Samantha disagrees, she must file a Motion. In addition, Respondent must include Samantha on all e-mails sent to Mr. Stoll. *See Order filed November 19, 2024.*

In practice, Respondent schedules the sessions with Mr. Stoll and then notifies Samantha of the dates via email. Initially, Respondent was scheduling sessions on Fridays, and Samantha brought Grady to all his prior sessions which took place on the following Fridays: January 7, 10 and 17 and February 7 and 21, 2025. Since Mr. Stoll's availability is Thursdays and Fridays, Samantha reasonably surmised that Respondent preferred Fridays and she adjusted Grady's school and extracurricular activities schedule so he was available on Fridays. Now, Respondent without notice to Samantha scheduled sessions over a month away from the prior February session, on Thursday, March 20, 2025 and Thursday, March 27, 2025. First, Samantha does not feel it is best for Grady to go a full month until the next session when he has been attending sessions with Respondent every other week. She is uncertain how to explain this to Grady as she has not been provided with any information from Respondent as to why he is waiting a month for the next session. In addition, she does not feel it is in Grady's

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best interests to abruptly disrupt his current school/activities schedule and switch to Thursday sessions. Again, no explanation was given by Respondent. *See Emails between the parties regarding appointments with Mr. Stoll, dated February 21-22, 2025, Exhibit 4.*

Another issue that arose is on February 21, 2025, Respondent informed Mr. Stoll he wanted to begin "the process of [Grady] meeting my family" and asked if his wife could attend the February 21, 2025 session. At this point in time, Grady had only met with Respondent for two (2) sessions. Mr. Stoll responded and clarified the session would be with only Respondent and Grady. Mr. Stoll stated, "We need to work on establishing and building the relationship between Grady and his biological father before we consider adding other family members." *See Emails between the parties and Mr. Stoll, dated February 21, 2025, Exhibit 5.* Samantha finds it troubling that Respondent felt it was in Grady's best interests to meet his wife after just two (2) meetings with Respondent and Mr. Stoll, who understood this would not be appropriate at this time.

In addition, Respondent has been unwilling to accommodate Grady's schedule even when the child has a special event to attend such as a Bar Mitzvah. After Samantha was notified by Mr. Stoll's office in January that Respondent scheduled the February appointments on February 7 and 21, 2025, she promptly requested that the February 7, 2025 appointment be rescheduled because Grady had a Bar Mitzvah to attend, explaining that as a Jewish boy, attendance at Bar Mitzvahs is an integral part of the Jewish life cycle. Respondent replied that he would not be rescheduling the appointment "for a birthday party." While Samantha understands the Court expects cooperation with Respondent, the sessions are not weekly per Mr. Stoll. Thus, Respondent's refusal to reschedule one session so Grady could attend an important religious event in his religious community was overbearing on Respondent's part and unfair to Grady. In fact, there is a full month between the most recent February session and the next

session scheduled by Respondent on Thursday, March 20, 2025. *See Emails between parties relating to Bar Mitzvah, dated January 25, 2025, Exhibit 6.*

In Samantha's email to Respondent dated February 21, 2025, Samantha proactively asked that the next appointment for Grady to meet with Respondent be scheduled for March 7, 2025, to maintain consistency for Grady. Despite Mr. Stoll also advising Respondent that consistency is necessary, Respondent scheduled the next session for Thursday, March 20th, a month out from his last meeting with Grady on February 21, 2025. Then, despite a request from Samantha asking for an explanation she could provide Grady to explain this abrupt absence and lengthy gap in scheduling, Respondent has refused to communicate as of this filing. *See Email from Respondent, dated February 22, 2025, Exhibit 4.*

The current inconsistencies in Respondent's scheduling of therapeutic sessions and refusal to accommodate Grady's religious activities and academic schedule cannot in any way be construed as being in the best interests of Grady. Grady's social well-being and educational advancements were, in fact, concerns which Respondent himself raised in his motion to this Court petitioning to have Grady's current academic curriculum abruptly changed. And yet, when asked by Samantha to accommodate those same opportunities, Respondent adamantly refused.

To additionally support her request that Samantha be allowed to have input on scheduling Grady's sessions, through her reliably consistent actions in producing Grady at every appointment; her written requests to proactively schedule sessions; and by providing Grady's availability to Respondent; she has clearly demonstrated she is willing to engage in this process for the benefit of her son, as she has been since she initiated therapy last March. Her primary concern - as Respondent's should be - is trying to facilitate a difficult relationship between Grady and Respondent with empathy and with recognition of the significant disruptions the Respondent has already created in Grady's life.

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Respondent's inconsistent behavior and blatant disregard for Grady's established routines, social commitments and religious identity raises significant concerns, and has been documented as negatively impacting Respondent's ability to develop a healthy relationship with Grady. Thus, Mr. Stoll's recommendations are for necessary, continued joint sessions between the child, Respondent and with Mr. Stoll, culminating in supervised visitations (through Family First). *See Confidential Letter to Court from Mr. Stoll, dated February 10, 2025, confidentially filed with the Court.*

As the sole biological care-giver for the entirety of Grady's life, Samantha should have some input into the scheduling of further therapeutic sessions for this child. Due to Respondent's refusal to maintain consistent contact with Grady, as well as his blatant disregard for Grady's academic and religious commitments as previously noted, Samantha respectfully requests that she be able to schedule consistent appointments to accommodate Grady's educational curriculum or significant life events, or alternatively provide Respondent with Grady's availability for therapy at least one month in advance. This would allow Respondent ample time to schedule sessions with Mr. Stoll and to coordinate his work schedule and travel plans to accommodate those.

Regarding EDCR 5.501 efforts, Respondent has objected to Samantha's requests that Grady's schedule be taken into consideration for the sessions. Regarding child support arrears, he already filed an Opposition on December 6, 2024 objecting to the payment of arrears and the modification of the current child support Order, and he also testified at the evidentiary hearing on December 6, 2024 and did not agree to pay arrears.

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II.

LEGAL ANALYSIS

A. RESPONDENT SHOULD BE ORDERED TO PAY FOUR YEARS OF CONSTRUCTIVE CHILD SUPPORT ARREARS.

NRS 125B.030 and NRS 125B.050 state:

> **NRS 125B.030 Recovery by parent with physical custody from other parent.**
>
> Where the parents of a child do not reside together, the physical custodian of the child may recover from the parent without physical custody a reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian. **In 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.** (Emphasis added).
>
> **NRS 125B.050 Period of limitations.**
>
> 1. If there is no court order for support, any demand in writing to a parent not having physical custody for payment of support on behalf of a minor child, mailed to the last known address of the parent, tolls the running of the statute of limitations for the bringing of an action for that support.
>
> 2. A motion for relief after judgment and an independent action to enforce a judgment for support of a child may be commenced at any time.
>
> 3. If a court has issued an order for the support of a child, there is no limitation on the time in which an action may be commenced to:
>
> (a) Collect arrearages in the amount of that support; or
>
> (b) Seek reimbursement of money paid as public assistance for that child.

Given that Respondent's child support obligation was ordered to begin on May 1, 2023, four years prior for purposes of constructive arrears would be May 1, 2019. Pending verification of his current and prior income which has been formally requested, a schedule of constructive arrears will be prepared, without penalties or interest, pursuant to NRS 125B.030. Samantha respectfully requests that this sum be reduced to judgment, collectable by any legal means.

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B. RESPONDENT SHOULD BE ORDERED TO REIMBURSE SAMANTHA FOR MEDICAL INSURANCE POLICY PREMIUMS FOR THE MINOR CHILD.

Respondent has never contributed towards the cost of Grady's medical insurance policy, premiums or copays. Further, the child support obligation that commenced on May 1, 2023 did not include an upward deviation to account for the cost of the policy. Presently, Samantha pays the sum of $169.33 per paycheck to cover herself and Grady on her insurance offered by her employer. *See Petitioner's FDF filed on February 19, 2025; and her 2025 Insurance Documents, Exhibit 3.* Samantha requests that Respondent be required to pay one-half the amount to cover Grady on the insurance with his child support payment every month from this date forward. In addition, she should be awarded reimbursement for prior insurance payments for Grady and given the opportunity to obtain evidence of prior payments relating to Grady going back four (4) years. Then, this sum should be reduced to judgment and collectable by any legal means as well.

C. RESPONDENT'S CHILD SUPPORT OBLIGATION SHOULD BE MODIFIED.

Regarding a change in circumstances for purposes of modifying a child support obligation, NAC 425.170 state and NRS 125B.145 state:

> **NAC 425.170** Modification or adjustment of child support obligation must be based on change in circumstances. (NRS 425.620)
>
> 1. Except as otherwise authorized by law or this chapter, after a court has established a child support obligation, any subsequent modification or adjustment of the child support obligation must be based upon a change in circumstances.
>
> 2. The receipt of public assistance by a child or an obligee constitutes a change in circumstances that will allow the review and, if appropriate, modification of the child support obligation in accordance with the child support guidelines in effect at the time of the review.
>
> 3. The adoption of or any revision to this chapter must not, in and of itself, be considered a change in circumstances sufficient to justify the modification of any existing order or money judgment.
> (Added to NAC by Div. of Welfare & Supp. Services by R183-18, 10-30-2019, eff. 2-1-2020)

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NRS 125B.145 Review and modification of order for support: Request for review; jurisdiction; notification of right to request review.

1. An order for the support of a child must, upon the filing of a request for review by:

   (a) The Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative or the district attorney, if the Division of Welfare and Supportive Services or the district attorney has jurisdiction in the case; or

   (b) A parent or legal guardian of the child, be reviewed by the court at least every 3 years pursuant to this section to determine whether the order should be modified or adjusted. Each review conducted pursuant to this section must be in response to a separate request.

2. If the court:

   (a) Does not have jurisdiction to modify the order, the court may forward the request to any court with appropriate jurisdiction.
   (b) Has jurisdiction to modify the order and, taking into account the best interests of the child, determines that modification or adjustment of the order is appropriate, the court shall enter an order modifying or adjusting the previous order for support in accordance with the guidelines established by the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.620.

3. The court shall ensure that:

   (a) Each person who is subject to an order for the support of a child is notified, not less than once every 3 years, that the person may request a review of the order pursuant to this section; or
   (b) An order for the support of a child includes notification that each person who is subject to the order may request a review of the order pursuant to this section.

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

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48 S. Stephanie Street, Suite #201
Henderson, Nevada 89012
(702) 384-7494
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5. As used in this section:

(a) "Gross monthly income" has the meaning ascribed to it in NRS 125.150.

(b) "Order for the support of a child" means such an order that was issued or is being enforced by a court of this State.

(Added to NRS by 1989, 859; A 1991, 1337; 1993, 2626; 1997, 2299; 2003, 546; 2017, 2283). (Emphasis added).

Currently, Respondent's child support obligation was based upon the sum he indicated he was earning on his FDF filed on February 2, 2023, which reflected income of $4,883.00 per month. His obligation was set as $781.28. However, at the October 30, 2023 evidentiary hearing, he testified his income was a base salary of $70,000.00 per year. His most recent FDF filed on March 23, 2024 states he earns a gross monthly income of $5,833.33 and an average of $333.33 monthly for bonuses, for a total gross monthly income of $6,166.66. There is, however, inconsistency between his FDF and his paystubs. While the FDF indicates his bonuses are $2,000.00 per year, paid twice a year, his paystubs dated in February and March 2024 indicate he has already exceeded that amount and received additional pay in the amount of $4,200.00. *See Respondent's FDF, filed March 23, 2024, Exhibit 2.* Therefore, Respondent will need to provide year-to-date income information with an updated FDF and also his 2024 W-2 or other year-end financial documents, such as his 2024 tax return, to fully analyze the appropriate amount of child support he should be ordered to pay currently. In addition, he will need to provide his tax returns and W-2's for the years 2019 to the present date to fully analyze his constructive child support arrears, and these documents have been requested in formal requests for documents.

Even without updated financial information, based on his most recently filed FDF, Respondent has had more than a 20% increase in his income since the current child support Order is based on income of $4,883.00 per month. Therefore, the change in circumstances requirement is met and Respondent's child support

should be modified. Pursuant to subsection B above, Samantha also requests that Respondent's contribution towards the medical insurance premium for Grady be added to the sum Respondent is to provide Samantha each month in child support.

III.

CONCLUSION

Based on the foregoing, Petitioner, Samantha Fagan, respectfully requests the Court grant the relief requested herein its entirety.

DATED this 5th day of March, 2025.

KELLEHER & KELLEHER, LLC

/s/ John T. Kelleher

JOHN T. KELLEHER, ESQ.
Nevada Bar No. 6012
40 S. Stephanie Street, Suite #201
Henderson, Nevada 89012
Attorney for Petitioner

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DECLARATION OF SAMANTHA FAGAN

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

SAMANTHA FAGAN, being first duly sworn, deposes and states:

1. That I am a competent witness to testify to the matters contained herein and do so of my own personal knowledge, except as to those items on information and belief, and as to those matters, I believe the same to be true.

2. I am the Plaintiff in this action and have read the above and foregoing Motion, and all factual statements set forth therein are true and correct to the best of my knowledge.

3. And I incorporate all factual statements therein as though restated in their entirety, particularly the section entitled "Statement of the Facts" in this affidavit, pursuant to NRCP 10.

DATED this 5th day of March, 2025.

[redacted]
ID myR2FACd5DArBCMopxyn3MR5
SAMANTHA FAGAN

LAW OFFICES
KELLEHER & KELLEHER LLC
40 S. Stephanie Street, Suite #201
Henderson, Nevada 89012
(702) 384-7494
Facsimile (702) 384-7545

CERTIFICATE OF MAILING

I hereby certify that I am an employee of KELLEHER & KELLEHER, LLC., and that on the 5th day of March, 2025, I caused the above and foregoing PETITIONER'S MOTION FOR CONSTRUCTIVE ARREARS; FOR REIMBURSEMENT OF MEDICAL INSURANCE POLICY COSTS; FOR MODIFICATION OF CHILD SUPPORT; FOR PETITIONER TO HAVE INPUT INTO THE APPOINTMENT DATES WITH MR. STOLL; AND FOR OTHER RELATED RELIEF to be served as follows:

[X] Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;

[ ] By placing the same to be deposited in the United States Mail, in a sealed envelope upon which First Class postage was prepaid in Las Vegas, Nevada;

[ ] Pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.

To the following attorney(s) listed below at the address, email address, and/or facsimile number indicated below:

Benjamin Blitch
benblitch@gmail.com
Respondent in Proper Person

/s/ Ryan Thomas Kelleher
An employee of Kelleher & Kelleher, LLC

eSignature Details

Signer ID:	**myR2FACd5DArBCMopxyn3MR5**
Signed by:	Samantha Fagan
Sent to email:	samanthafagan@aol.com
IP Address:	98.142.36.149
Signed at:	Mar 5 2025, 4:09 pm PST

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Samantha Fagan
Plaintiff/Petitioner

v.

Benjamin Blitch
Defendant/Respondent

Case No. D-23-660942-R

Dept. A

MOTION/OPPOSITION FEE INFORMATION SHEET

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

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

☐ **$25** The Motion/Opposition being filed with this form is subject to the $25 reopen fee.

-OR-

☑ **$0** The Motion/Opposition being filed with this form is not subject to the $25 reopen fee because:

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

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

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

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

-OR-

☐ **$129** The Motion being filed with this form is subject to the $129 fee because it is a motion to modify, adjust or enforce a final order.

-OR-

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

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

The total filing fee for the motion/opposition I am filing with this form is:

☑ **$0** ☐ **$25** ☐ **$57** ☐ **$82** ☐ **$129** ☐ **$154**

Party filing Motion/Opposition: Plaintiff/Petitioner Date 3/5/25

Signature of Party or Preparer /s/ Ryan Kolbrener

Notice of Entry of Order
Findings of Fact, Conclusions of Law, and Decision

NEO

[redacted]
3/21/2025 7:06 AM
Steven D. Grierson
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
* * *

In the Matter of the Parental Rights of: Grady Fagan, Minor(s).	Case No: D-23-660942-R Department A

NOTICE OF ENTRY OF ORDER

Please take notice that a FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION was entered in the foregoing action and the following is a true and correct copy thereof.

/s/ Diana Gonzales
Diana Gonzales
Judicial Executive Assistant
Department A

NEO

CERTIFICATE OF SERVICE

I hereby certify that on the above file stamp date:

☐ I placed a copy of the foregoing NOTICE OF ENTRY OF ORDER in the appropriate attorney folder located in the Clerk of the Court's Office of:

☒ I provided, the foregoing NOTICE OF ENTRY OF ORDER to:

Benjamin Blitch
benblitch@gmail.com

John T. Kelleher, Esq.
efiling@kelleherandkelleher.com

/s/ Diana Gonzales
Diana Gonzales
Judicial Executive Assistant
Department A

Electronically Filed
03/20/2025 5:08 PM
CLERK OF THE COURT

FFCL

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

SAMANTHA FAGAN, Plaintiff, vs. BENJAMIN BLITCH, Defendant.	Case No.: D-23-660942-R Dept. No.: A TRIAL DATE: December 6, 2024 TRIAL TIME: 1:30 p.m.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

This matter having come on for Evidentiary Hearing on November 21, 2024 at 1:30 p.m., Plaintiff, SAMANTHA FAGAN ("Mom"), being present in person and represented by her counsel of record, JOHN KELLEHER, ESQ., Defendant BENJAMIN BLITCH ("Dad") being present in person and representing himself, the Court having heard the evidence presented, HAVING REVIEWED THE PARTIES' Closing Briefs and Proposed Findings of Fact and Conclusions of Law submitted on January 13, 2025, having taking the matter under advisement, hereby finds and orders as follows:

I. PROCEDURAL HISTORY

1. The parties are not married and share one minor child, Grady Fagan, born on September 20, 2017.

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FAMILY DIVISION, DEPT. A
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2. On January 12, 2023, Mom filed her *Petition for Termination of Parental Rights.*

3. On February 2, 2023, Dad filed his ***Answer to Petitioner's Petition for*** *Termination of His Parental Rights.*

4. On February 2, 2023, Dad filed his *Motion for Partial Summary Judgment* ***Dismissing Petitioner's Claims for Neglect and Unfitness, Motion for an Order*** *Compelling Samantha to Accept Statutory Child Support from Benjamin, and Motion for Order Compelling the Undertaking of Reunification of Father and Child.*

5. On February 2, 2023, Dad filed his General Financial Disclosure Form (FDF).

6. On February 16, 2023, Mom filed her ***Opposition to "Respondent's Motion for Partial Summary Judgment Dismissing Petitioner's Claim for Neglect*** *and Unfitness and* ***Counterclaimant's*** *Motion for Order Compelling Samantha to* ***Accept Statutory Child Support from Benjamin and Counterclaimant's Motion for Order Compelling the Undertaking of Reunification of Father and Child" and Countermotion for Attorney's Fees and Costs.***

7. On February 16, 2023, Mom filed her FDF.

8. On February 21, 2023, Mom filed her ***Reply to Respondent, Benjamin Blitch's*** *Counterclaims.*

9. **On April 25, 2023, the parties appeared before this Court on Dad's** *Motion for* ***Partial Summary Judgment Dismissing Petitioner's Claims for Neglect and*** *Unfitness, Motion for an Order Compelling Samantha to Accept Statutory Child*

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Support from Benjamin, and Motion for Order Compelling the Undertaking of Reunification of Father and Child and the corresponding Opposition and Countermotion.[1] THE COURT FOUND that Mom is the biological mother and Dad is the biological father of Grady Fagan, born September 20, 2017. THE COURT FURTHER FOUND that NRS 128 is the predominant statute for termination of parental rights, which is to be distinguished from NRS 432B, which is the child welfare statute for termination of parental rights. THE COURT FURTHER FOUND that NRS 128 and 432B are focused on the protection of the child and the ability of a parent, not parents, to meet the needs of their child. THE COURT FURTHER FOUND that Dad cannot ride the coattails of Mom if she has historically provided for the child. THE COURT FURTHER FOUND that it would not be making a finding or determination regarding the termination of parental rights today; instead, the matter would need to be set for an Evidentiary Hearing. THE COURT FURTHER FOUND that it must review this matter from the perspective of the minor child, who has not seen or visited with Dad in nearly four years. THEREFORE, the Court must balance reunification therapy against ensuring there is no trauma or confusion for Grady, whose mother has raised him exclusively for the past five and a half years. THEREFORE, THE COURT ORDERED that the parties shall maintain **the status quo, with Grady remaining in Samantha's so**le care and custody as

[1] The Order After the April 25, 2023 Hearing was issued on June 7, 2023.

that is in his best interests at this time. THE COURT FURTHER ORDERED **that Dad's child support obligation shall be set at $781.28 per month,** commencing May 1, 2023. THE COURT FURTHER ORDERED that the parties and counsel shall work together to select a reunification therapist and **move at a speed that is in the minor child's best interests. Based on stipulation of the parties, Grady shall refer to Dad as "Ben" or "Benjamin."** THE COURT **FURTHER ORDERED that Dad's** *Motion for Partial Summary Judgment* is DENIED.

10. On April 26, 2023, this Court issued an Evidentiary Hearing Management Order setting Calendar Call for October 11, 2023 at 10:00 a.m., the Evidentiary Hearing for October 20, 2023 at 9:00 a.m., and the deadline for Pre-Trial Memorandums for October 4, 2023.

11. On June 7, 2023, Dad filed his *5.512 Supplements Related to His Motions*.

12. On June 13, 2023, the parties appeared before this Court for a Status Check.[2] THE COURT FOUND that it had made it very clear in its last order that there were two tasks: one was the reunification therapy visit, and two was the reunification therapy. The Court does not want Grady to be traumatized. Grady shall have his first contact with Dad, and any thereafter, in a psychologically safe and therapeutic setting**. This will ensure that Dad's visits are couched in a** safe environment so that Grady does not feel pressured and there is nothing that

[2] The Order After Hearing on June 13, 2023 was issued on July 7, 2023.

will make the child uncomfortable. THE COURT did not suggest reunification therapy to reunify and return the child back to Dad. THE COURT FOUND that **it accepted and reviewed Dad's supplement to his reply to the opposition on file** consisting of copies of emails amongst the parties. The emails show Dad located potential reunification therapists, and a therapist reached out to Mom. In M**om's** responses, the Court sees nothing but resistance, obstinacy, and excuses. Mom did not propose a visit of any kind until a week before the hearing. These responses are extremely disappointing and unacceptable to the Court. THE COURT FOUND Grady does not have a therapist at this time. The reunification **therapist is not Grady's therapist and is not Dad's therapist. THE COURT is** not ordering him to have a therapist. THE COURT ORDERED that if Krystal Hill reconsiders performing the work, understanding that the Court is not asking her to reunify in the sense of bringing Grady back home to Dad, then both parties shall cooperate with Ms. Hill, complete the onboarding forms in their entirety, and move forward with the introduction in a therapeutic and safe environment as described in this order. THE COURT FURTHER ORDERED that Ms. Hill is not **Mom or Dad's** therapist. What the parties tell Ms. Hill is not patient protected, and the parties shall have Ms. Hill report back to the Court on how Grady is doing. THE COURT ORDERED Ms. Hill to provide a healthy and psychologically safe place for Grady so that he can be reintroduced to Dad. **THE COURT FURTHER ORDERED that Dad's parental rights are intact, and** he has a right to have a healthy relationship with his son, which is to begin in

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the context of a therapeutic visit with a therapist present. THE COURT FURTHER FOUND that there is no motion to modify custody before the Court; therefore, Dad will remain a joint legal custodian with physical custody to remain status quo.

13. On August 4, 2023, Mom filed a *Motion for Sole Legal and Physical Custody, for Reconsideration/Rehearing of the Order After Hearing, Filed July 7, 2023, to Stay Enforcement of that Order Pending the Evidentiary Hearing, and for* ***Attorney's Fees and*** *Costs.*

14. On August 5, 2023, Dad filed a *Motion for Partial Summary Judgment* ***Dismissing Petitioner's Termination Action In Toto and Motion for EDCR 5.219 Sanctions Ordering Samantha to Pay Respondent's Fees Incurred*** *Defending this Termination Action.*

15. On August 21, 2023, Mom filed her *Opposition to Motion for Partial Summary* ***Judgment Dismissing Petitioner's Termination Action In Toto and Motion for EDCR 5.219 Sanctions Ordering Samantha to Pay Respondent's Fees Incurred*** *Defending this Termination Action* ***and Petitioner's Countermotion for Attorney's Fees and Costs, and Sanctions.***

16. On August 24, 2023, Dad filed his ***Opposition to Mom's*** *Motion for Sole Legal and Physical Custody, for Reconsideration/Rehearing of the Order After Hearing, Filed July 7, 2023, to Stay Enforcement of that Order Pending the* ***Evidentiary Hearing, and for Attorney's Fees and Costs and Counterclaimant's***

Countermotion for an Award of Attorney Fees Pendente Lite to Prosecute this Custody Action.

17. On August 24, 2023, Dad filed his Reply to **Mom's** *Opposition to Motion for* ***Partial Summary Judgment Dismissing Petitioner's Termination Action*** *in Toto and Motion for EDCR 5.219 Sanctions Ordering Samantha to Pay* ***Respondent's Fees Incurred Defending this Termination Action*** *and* ***Petitioner's Countermotion for Attorney's Fees and Costs, and Sanctions***.

18. On September 14, 2023, Dad filed his Pre-Trial Memorandum.

19. On September 28, 2023, Dad filed his *Supplemental Declaration of Ann Marie* ***Secosan as EDCR 5.512 Supplement to Respondent's August 24, 2023 Reply***.

20. On October 4, 2023, Mom filed her Pre-Trial Memorandum.

21. On October 11, 2023, the parties appeared before this Court on **Mom's** *Motion for Sole Legal and Physical Custody, for Reconsideration/Rehearing of the Order After Hearing Filed July 7, 2023, to Stay Enforcement of that Order* ***Pending the Evidentiary Hearing, and for Attorney's Fees and Costs*** and the corresponding Opposition and Reply, as well as Calendar Call. THE COURT ORDERED that the Motion shall be CONTINUED to be heard on the date of the Evidentiary Hearing, October 20, 2023. THE COURT FURTHER ORDERED that the Evidentiary Hearing SET for October 20, 2023 STANDS.

22. On October 20, 2023, the parties appeared before the Honorable Sr. Justice Michael Cherry for an Evidentiary Hearing regarding **Mom's Petition to**

Terminate Dad's parental rights. Mom and Dad **served as witnesses. Mom's** Exhibits 1 – **30 and Dad's Exhibits A** – I and K were admitted.

23. On November 28, 2023, this Court entered its Judgment Denying **Mom's** Petition to Terminate **Dad's** Parental Rights, as the Court, Sr. Justice Cherry, did not find clear and convincing evidence of abandonment due to the correspondence. THE COURT FOUND both parties credible and ORDERED **that Dad's visitation rights shall be determined by the success of the** reunification therapy process.

24. On December 13, 2023, Dad filed an updated FDF.

25. On December 13, 2023, Dad filed his *Motion for an Order Unequivocally Compelling Samantha to Present Herself and Grady for Reunification Therapy* ***and Counterclaimant's Motion for*** *an Order Compelling Samantha to Pay Ben $25,000 for His First Interlocutory Award of Attorneys Fees; and Order for* ***Wage Garnishment; NRCP 59(e) Motion to Alter or Amend the Court's*** *Judgment Denying the Petition for Termination by Vacating Solely the Modification* ***to this Court's Prior Custody Orders***.

26. On December 29, 2023, Mom filed her Opposition to **Dad's** *Motion for an Order Unequivocally Compelling Samantha to Present Herself and Grady for* ***Reunification Therapy and Counterclaimant's Motion for an Order Com****pelling Samantha to Pay Ben $25,000 for His First Interlocutory Award of Attorneys Fees; and Order for Wage Garnishment; NRCP 59(e) Motion to Alter or Amend* ***the Court's Judgment Denying the Petition for Termination by Vacating Solely***

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*the Modification to th**is Court's Prior Custody Orders** and Countermotion for a Modification of Child Support, to Establish Child Support Arrears, for **Attorney's Fees and Costs, and Sanctions**.*

27. On January 4, 2024, Mom filed an updated FDF.

28. On January 10, 2024, Mom filed an updated FDF.

29. On January 13, 2024, Dad filed his Opposition **to Mom's** *Countermotion for a Modification of Child Support, to Establish Child Support Arrears, for **Attorney's Fees and Costs, and Sanctions**.*

30. On January 26, 2024, Dad filed his Reply **to Mom's Opposition to Dad's** *Motion for an Order Unequivocally Compelling Samantha to Present Herself and **Grady for Reunification Therapy and Counterclaimant's Motion for an Order** Compelling Samantha to Pay Ben $25,000 for His First Interlocutory Award of Attorneys Fees; and Order for Wage Garnishment; NRCP 59(e) Motion to Alter **or Amend the Court's Judgment Denying the Petition for Termination by** Vacating Solely the Modification **to this Court's Prior Custody Orders**.*

31. On February 26, 2024, Dad filed his *EDCR 5.512 Supplement in Support of His Pending Motions and Opposition.*

32. **On March 20, 2024, the parties appeared before this Court on Dad's** *Motion for an Order Unequivocally Compelling Samantha to Present Herself and Grady for Reunification Therapy and Counter**claimant's Motion for an Order** Compelling Samantha to Pay Ben $25,000 for His First Interlocutory Award of Attorneys Fees; and Order for Wage Garnishment; NRCP 59(e) Motion to Alter*

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or Amend the Court's Judgment Denying the Petition for Termination by *Vacating Solely the Modifiction* (sic) ***to this Court's Prior Custody Orders*** and the corresponding Oppositions and Reply.[3] THE COURT FOUND that it was **Dad's burden to go forward to pursue reunification therapy or come back before** this Court for this Court to make its orders regarding reunification therapy. THE **COURT FURTHER FOUND it will construe this Motion as Dad's compliance** with the order of coming back to Court. THE COURT FURTHER FOUND no basis to hold Mom in contempt at this point. THE COURT FURTHER FOUND that the record establishes that while Ms. Hill was discussed at the June hearing, the Court will accept the representation that Ms. Hill is no longer available to take this case. THE COURT FURTHER FOUND that this is not a *Sargeant* case. THE COURT FURTHER FOUND it undisputed that Mom has been caring for Grady for five years, and that Dad failed to provide support at the very least for the period of time of at least 2 years and 10 months. THE COURT ORDERED that it would not hold Mom in contempt or admonish her at this time. THE COURT FURTHER ORDERED that the parties stipulated to use Mr. Matt Stoll with Heads Up Nevada to serve as the reunification therapist; Mom reportedly completed her onboarding paperwork and both parties were ordered to continue to cooperate and communicate with Mr. Stoll to ensure Grady begins reunification therapy with Dad. THE COURT FURTHER

[3] The Order After the March 20, 2024 Hearing was issued on April 4, 2024.

ORDERED the parties to complete the Release of Information so that Mr. Stoll **may engage in care coordination with Grady's therapist. Dad is respon**sible for any and all costs for the reunification therapy. THE COURT FURTHER **ORDERED that Mom is responsible for paying for Grady's individual therapy,** which are child medical bills subject to the 50/50 and 30/30 rules. THE COURT FURTHER ORDERED that attorney fees are denied and each party shall bear their own fees; Dad is ORDERED to file an FDF with corresponding paystubs by the end of the week on Friday. THE COURT FURTHER ORDERED discovery for financial issues raised regarding the matter of child support arrears and current child support is open for 60 days. THE COURT FURTHER ORDERED that an Evidentiary Hearing is SET for September 3, 2024 on the issue of constructive arrears. THE COURT FURTHER ORDERED that Ms. Fagan will amend the Complaint within the next two weeks so as to add that request to the pleadings.

33. On March 21, 2024, this Court issued an Evidentiary Hearing Management Order setting Calendar Call for August 22, 2024 at 10:00 a.m., the Evidentiary Hearing for September 3, 2024 at 1:30 p.m., and the deadline for Pre-Trial Memorandums for August 15, 2024.

34. On March 23, 2024 ,Dad filed an updated FDF.

35. On April 4, 2024, Mom filed an *Amended Petition for Termination of Parental Rights*.

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36. On April 17, 2024, the parties appeared before this Court for Day 2 of the Evidentiary Hearing.[4] THE COURT FOUND that this Matter was heard in October 2023 at which time this Court denied a termination of parental rights. **The Court made rulings which are now being challenged by Dad's counsel on** the grounds that due process was not afforded to Dad because the Court changed the formal order of the custody arrangement. THE COURT FOUND that many months ago there was no court order entered altering custodial rights, and as a matter of statutory law, the parties have joint legal and physical custody, but no custody hearings were held or determinations made prior to the October 2023 Evidentiary Hearing. At that time, THE COURT HELD that Mom would have temporary sole legal and sole physical custody of the child based on the fact that she has been raising the child for years with no contact or input from Dad, and the status quo was effectively sole legal and physical custody irrespective of the statutory default. THE COURT ORDERED attempted reunification of the child with Dad, starting with therapeutic introduction. THE COURT FURTHER FOUND that this Court, through the Honorable Sr. Justice Cherry, was incorrect about changing the joint legal custody, but was not incorrect about granting Mom sole physical custody, THEREFORE, the order of this Court after the Evidentiary Hearing is to be modified so that the prior order indicating that the parties have joint legal custody as a matter of law is undisturbed. THE

[4] The Order After Hearing on April 17, 2024 was entered on May 30, 2024.

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COURT ORDERED that the parties will have joint legal custody of Grady pending further findings and orders of the Court. THE COURT FURTHER ORDERED that Mom will have sole physical custody of Grady and Dad will not have any visitation or other contact other than the reunification therapy now scheduled. THE COURT FURTHER ORDERED that Dad is to pay the bills for the reunification therapist.

37. On August 8, 2024, Dad filed a *Motion for a Hearing to Set Order Unequivocally Compelling Samantha to Follow Therapist Recommendations in Letter Submitted to Court Tuesday, July 30, 2024 by Matt Stoll with Reunification Therapy Update*.

38. On August 22, 2024, Dad filed his Pre-Trial Memorandum.

39. On August 22, 2024, the parties appeared before this Court **on Dad's** *Motion for a Hearing to Set Order Unequivocally Compelling Samantha to Follow Therapist Recommendations in Letter Submitted to Court Tuesday, July 30, 2024 by Matt Stoll With Reunification Therapy Update* and for Calendar Call.[5] Both parties were administered the oath, sworn in and provided testimony. THE COURT **went over Reunification therapist Matthew Stoll's July 22, 2024** letter and recommendations in Open Court. THE COURT FURTHER FOUND **that it agrees with the six recommendations stated in Mr. Stoll's** July 22, 2024 letter. THE COURT adopted and incorporated the 6 recommendations from

[5] The Order After the Hearing on August 22, 2024 was entered on August 28, 2024.

Mr. Stoll's letter and made it an ORDER OF THE COURT as follows: in order to proceed with treatment, the parties shall comply with the following: 1) Information may be shared with all parties and attorneys as necessary, at the discretion of the therapist, to further the process. 2) The therapist has full discretion to include or exclude any party from any session and may meet with Grady by himself for the purpose of assessment and treatment. 3) The therapist **has full discretion to refer to Mr. Blitch as Grady's father to any parties** throughout this process. 4) The therapist will be provided with full documentation of any future court hearings. 5) The reunification therapist will **have the discretion to consult with Grady's therapist at any time, and may obtain** any records pertinent to his emotional well-being. 6) Sessions will be scheduled in a timely manner. It is recommended that several sessions be scheduled at a time to ensure consistency in treatment. It will likely be necessary to meet with Grady individually for several sessions, before any joint sessions with his father, to ensure his emotional well-being. THE COURT INCORPORATED these six recommendations from Mr. Stoll into the ORDER. THE COURT **FURTHER ORDERED that both litigants must comply with the Court's** ORDERS. THE COURT FURTHER ORDERED that both litigants shall file and serve their Pre-Trial Memorandums and an UPDATED Schedule of Arrears today by 6:00 p.m., otherwise the Evidentiary Hearing will be VACATED. THE COURT FURTHER ORDERED that Mom shall file and serve proof of medical clearance to appear at the in-person Evidentiary Hearing by 1:30 p.m.

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on September 2, 2024, otherwise the Evidentiary Hearing will be VACATED and continued to the next available date.

40. On September 3, 2024, this Court issued an Evidentiary Hearing Management Order setting Calendar Call for November 21, 2024, the Evidentiary Hearing for December 10, 2024 at 1:30 p.m., and the deadline for Pre-Trial Memorandums for November 14, 2024.

41. On September 26, 2024, Mom filed a *Motion for Permission to Relocate with a Minor Child.*

42. On September 26, 2024, Dad filed a *Motion for an Order to Enforce and/or for an Order to Show Cause Regarding Contempt.*

43. On November 16, 2024, Dad filed a *Motion to Submit Evidence for Hearing November 19, 2024.*

44. On November 16, 2024, Mom filed her *Motion to Change Venue*.

45. On November 19, 2024, the parties appeared before this Court for Calendar Call. Both parties were administered the oath, sworn in and provided testimony. THE COURT ORDERED that **Dad's** *Motion for an Order to Enforce and/or for an Order to Show Cause Regarding Contempt* is GRANTED and Dad shall be granted authority to schedule reunification therapy appointments. Dad shall **be AWARDED Modified Legal Custody as follows: it shall be Dad's duty to communicate and schedule Grady's reunificati**on therapy appointments based **on Mr. Stoll's availability. Dad shall include MOM on all emails to Mr. Stoll.** Dad must schedule the next available appointment. MOM SHALL produce the

child in person at all scheduled appointments with Mr. Stoll. THE COURT FOUND AND ORDERED that Reunification Therapy between Dad and Grady is in the best interest of Grady and must occur once Mr. Stoll has availability. Dad**'s Modified Legal Custody is limited to** scheduling **Grady's** reunification therapy. THE COURT FURTHER ORDERED that if Mom disagrees, she must file a Motion. THE COURT FURTHER ORDERED that MOM shall ensure the child attends all scheduled reunification therapy. THE COURT set the matter for an Evidentiary Hearing regarding the Order to Show Cause and Custody on December 6, 2024 at 1:30 p.m. THE COURT FURTHER ORDERED that the parties may subpoena the therapist and he may appear via Zoom. THE COURT FURTHER ORDERED that the prior Evidentiary Hearing scheduled for December 10, 2024 at 1:30 p.m. shall be VACATED. The Court **received testimony concerning Mom's alleged re**location of Grady from Nevada without Dad, **or the Court's**, authorization. THE COURT FURTHER FOUND AND ORDERED that Nevada is the home state of the child, Grady, **and neither party shall relocate him to another state without the other parent's** written consen**t or this Court's permission pursuant to NRS 125C.006. A parent** who relocates Grady pursuant to this subsection without the written consent of the other parent or the permission of the Court is subject to the provisions of NRS 200.359.

46. On November 21, 2024, Dad filed his Pre-Trial Memorandum.

47. On November 22, 2024, Mom filed her Pre-Trial Memorandum.

48. On November 22, 2024, Mom filed her *Ex Parte Motion to Continue Evidentiary Hearing for Sixty (60) days, to Extend Discovery Deadlines and for Other Related Relief.*

49. On December 3, 2024, Mom filed her *Motion for Constructive Arrears, for Reimbursement of Medical Insurance Policy Costs; for Modification of Child Support and for Other Related Relief.*

50. On December 3, 2024, the parties appeared before this Court on M**om's** *Ex Parte Motion to Continue Evidentiary Hearing*. THE COURT NOTED its review of the papers and pleadings on file. THE COURT NOTED that several **matters are on Calendar as to the trial: an Order to Show Cause as to Mom's failure to comply with the Court**'s Order, child support arrears, and custody. **Mom's counsel explained that Mom is requesting constructive child support** arrears because Dad has not been paying child support until the Court made orders for him to pay child support. Dad explained that he is opposed to the continuance of all matters and, as far as the child support arrears, it has already been discussed at length. Dad further stated that he does not want any continual **delays, as this is something that has already been delayed due to Mom's acti**ons. THE COURT FOUND there is NOT good cause to continue the Order to Show Cause or Child Support Arrears matters. THEREFORE, THE COURT ORDERED trial for the Order to Show Cause or Child Support Arrears on December 6, 2024 at 1:30 p.m. STANDS. THE COURT FURTHER FOUND good cause to continue the Custody matter; therefore, THE COURT FURTHER

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ORDERED an Evidentiary Hearing on Custody is SET for September 30, 2025 at 1:30 p.m. and Calendar Call is SET for September 18, 2025 at 10:00 a.m. THE COURT FURTHER ORDERED that all prior orders shall remain in effect. DAD shall continue to have Modified Legal Custody for purposes of **ensuring Grady's reuni**fication therapy is scheduled for **Mr. Stoll's next** available appointment. Reunification therapy shall occur MONTHLY at the very least.

51. On December 5, 2024, Dad filed his *Opposition and Response to Samantha **Fagan's Motion for Constructive Arrears***.

52. On December 6, 2024, the parties came before this Court for the Evidentiary Hearing. Samantha Fagan and Benjamin Blitch served **as witnesses. Mom's Exhibits 2, 4, 5, 8, and 9 and Dad's Exhibits A** – F were admitted. THE COURT **ORDERED that the parties' Closing Briefs, Proposed Findings of Fact,** Conclusions of Law, and Final Orders are due by January 13, 2024 at 6:00 p.m. THE COURT FURTHER ORDERED that all prior orders STAND.

53. On December 10, 2024, Mom filed her *Notice of Withdrawal of Motions* withdrawing her *Motion for Permission to Relocate with a Minor Child* and *Motion to Change Venue*.

54. On January 13, 2025, Dad filed his Closing Brief.

55. On January 13, 2025, Mom filed her Closing Brief.

56. On February 19, 2025, Mom filed an updated FDF.

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II. FINDINGS OF FACT

57. THE COURT allowed argument **on Mom's** *Motion for Constructive Arrears, for Reimbursement of Medical Insurance Policy Costs; for Modification of Child Support and for Other Related Relief* **and Dad's corresponding Opposition. THE** COURT FOUND it is undisputed that Dad has not made any payment of child support until this Court ordered it. Dad has a duty to provide support for his child. If there is no child support order, a parent can seek retroactive child support for reasonable expenses of providing for the child at a maximum of four years prior. THE COURT FOUND that the question of fact is whether Mom waived child support. Furthermore, Mom seeks reimbursement for half of the **child's health insurance premiums; however, the question is whether Mom** presented evidence of her out-of-pocket payments. The final question is whether Mom successfully showed cause as to why she should not be held in contempt **for failure to abide by this Court's August 2**2, 2024 Reunification Orders.

58. MOM**'s counsel, Attorney Kelleher, represented** that MOM has been proactive in setting reunification therapy appointments. He explained that Matt Stoll wanted each parent to have two meetings, then for Grady to have two appointments, and at that point, Mr. Stoll would reassess prior to conducting a reunification session.

59. Attorney Kelleher represented that in April and May 2024, Mom set up appointments. In July and November 2024, Mom attended the appointments. He testified that Mr. Stoll mis-calendared the July 2024 appointment; Grady had

one appointment the day before the Evidentiary Hearing on December 5, and he had three additional appointments set up for the future.

60. Attorney Kelleher further explained that Mom is willing for Dad to have unsupervised visits with Grady in Boulder City. Attorney Kelleher denied that Mom waived child support. Attorney Kelleher further stated that Dad did not tender any money for child support.

MOM's TESTIMONY

61. Mom testified that she is 49 years old and married. Grady lives with Mom and her husband.

62. Mom explained that she has a **Master's** Degree and is employed as a Healthcare Revenue Cycle Executive and travels frequently. Mom has worked in the healthcare industry since 2006 and has been in an executive role since 2014. As part of her employment, Mom has been traveling continuously since 2008.

63. Mom met Dad in Boulder City in 2016. MOM gave birth to GRADY on September 20, 2017.

64. Mom testified that Dad began paying child support when the Court ordered it in May 2023. Mom did not receive any child support prior to this. Mom explained that she always carried medical insurance for Grady, and Dad has not contributed anything towards Grady's **medical insurance.** She stated Dad also has not contributed to the medical insurance cost since May 2023, when the Court set **Dad's child support obligation**.

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65. **Dad's child support obligation was calculated based on Dad's first FDF dated** December 13, 2023. However, Dad filed two different FDFs. His February 2, 2023 FDF reflected an annual income of $55,000.00 and a $5,334 bi-monthly **paycheck, with additional income listed. Dad's child support obligation was** based on this $55,000.00 annual income, and Dad did not receive any deviations.

66. MOM testified that in October 2023, Dad received a raise from $55,000.00 to $80,000.00 annually. **There was no change to Dad's child support obligation,** despite his raise to an $80,000.00 annual income.

67. The Court admitted **Plaintiff's** Exhibit 8, which Mom contends reflects the amount of child support that Dad would owe based on his most recent FDF. Mom contends that this Exhibit goes back four years from when the Court made **its order for child support based on Dad's current** pay.

68. **The Court admitted Plaintiff's Exhibit 9, which** Mom testified reflects the cost of medical insurance for Grady. Mom explained that this is the difference between the family plan and insurance for just the child; thus, it reflects the cost for adding Grady to the plan. Mom testified that Bates Stamp 31 of this Exhibit reflects **the total amount she has paid for Grady's medical insurance**, which is $48,556.76 as of December 2024. Therefore, Mom testified that **Dad's half-contribution to Grady's medical insurance premium would be $24,278.39.** Mom **requests that the Court include Dad's half-contribution towards Grady's medical** insurance premium to the total child support arrears.

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69. **The Court admitted Plaintiff's Exhibit 5, which** Mom testified reflects her current health insurance premiums. Mom explained that her previous employer had higher premiums than her current one. There is a $700 difference between what an employee pays versus an employee with children. Mom testified that only Grady is on her health insurance, as her other children are adults who carry their own health insurance.

70. **Mom testified that Dad was not present for Grady's birth in 2017. From 2017 to** May 2023, Mom did not receive any financial support from Dad for Grady. Mom testified that from 2018 – 2023, Dad never tendered a check or anything financial to Mom.

71. Mom testified that she was the one who provided Dad financial support. Mom stated **that she "subsidized" Dad** from October to December 2018 when she worked in Salt Lake City. Mom explained that Dad was struggling, so she gave Dad an iPhone and credit card to pay for his groceries.

72. Mom testified that Dad ***never offered her financial support.***

73. Mom admitted that **Dad's mother offered to put a college savings account** together for Grady, but Mom declined it. Mom admitted that she declined **support from Grady's paternal grandparents, but** she adamantly testified that Dad never offered any financial support.

74. With regard to the Order to Show Cause, Mom testified that Justice Cherry ordered Dad to initiate reunification therapy in October 2023. Mom testified that the burden was on Dad, but he did not begin the process at all. Mom testified

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that she emailed her counsel and expressed concern that it had been 5 months since Dad was given the opportunity to initiate reunification therapy, and yet there was no action, so her previous attorney, Marshall Willick, Esq., sent Dad an email regarding reunification. Dad did not respond, so Mom emailed Dad personally to follow up on reunification.

75. Mom further explained that the next court hearing was set in February 2024. Dad chose Krystal Hill to be the counselor, but she excused herself. Mom testified that at the time Dad engaged Ms. Hill, it was during the termination of parental rights process, and Ms. Hill could not assist.

76. Mom testified that Judge Parladé ordered an introduction therapy, not reunification therapy. Ms. Hill referred Dad to Bamboo Sunrise, but Dad preferred to go with someone else. Mom stated that she offered to help because she has worked in healthcare in the valley for the last 10 years, but Dad declined **her help. Mom testified that she called all the therapists on Dad's list, but none** of them had any knowledge of Dad reaching out to them. Then, Dad picked Matt Stoll.

77. Mom testified that she called Matt Stoll in March 2024 and made an appointment for April 18, 2024**, which was Mr. Stoll's** first available date, because he is often booked. Mom attended the first available appointment on or about April 18, 2024.

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78. Mom testified that Mr. Stoll meets with the parents twice each and the child twice, then he makes a determination about whether reunification therapy is beneficial.

79. Mom met with Mr. Stoll five times and presented with Grady twice.

80. **Mom testified that she scheduled Grady's** intake on July 25, 2024, and presented Grady at the intake appointment on July 25, 2024. Mom met with Mr. Stoll in April and May, and Mr. Stoll was allegedly waiting on Dad.

81. Mom testified that she called Mr. Stoll to schedule appointments. The appointments were scheduled on KARIO, which sends automated messages via email and text reminders.

82. Mom testified that after the May appointment, **where Grady's July 25**, 2024 intake appointment was scheduled, Mom received the standard email and text reminders for the July appointment. **Mom took Grady to Mr. Stoll's office** on July 25, but when they arrived, the staff were flustered because they did not have **it on their schedule. Mr. Stoll's office rescheduled** the July 25, 2024 intake session.

83. The Court admitted Exhibit 4, which consists of an email from Mom to Mr. Stoll regarding the miscommunication with staff for the July 25, 2024 intake appointment -- **which included Mom's** KARIO confirmation email for July 25, 2024. Mr. Stoll confirmed that there was an error because the July 25 appointment was canceled by their system erroneously.

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84. **THE COURT FINDS that Mom's testimony regarding the July 25, 2024** scheduling error is CREDIBLE AND CORROBORATED BY EXHIBIT 4.

85. Mom explained that she does not know if Dad met with Mr. Stoll; she is not **privy to Dad's communications with him, though she believes they have met.** Mom testified that Mr. Stoll had emailed her regarding scheduling. When asked why there were no appointments from July to November, Mom testified:

> Mr. Stoll sent me an email saying, well Mr. Blitch was being very aggressive via email, **yelling at me why I hadn't taken Grady in yet. I said, "My** understanding and my directive from Mr. Stoll is to hold off on all further appointments and he would let us know," he was pending directive from the Court. It was a very lengthy email chain. We ended up looping Mr. Stoll into **the email chain, and he said, "That is correct, I have cancelled all appointments. I'm pending direction from the Court."**[6]

86. THE COURT ADMITTED **Plaintiff's Exhibit 2, which consists of a list of** appointments and the disposition of those appointments. Mom clarified that she **asked Matt Stoll's office for a list of the appointments. Plaintiff's Exhibit 2,** Bates Stamp 6 contains an email from Mr. Stoll which states,

> Hello Samantha,
>
> Here is the email sent to both you and Ben regarding the canceled appointment on 7/25/24. This had been cancelled on 7/11/24 in the Kareo system. I had not yet received clarification from the court at that time, and all sessions had been canceled pending the court hearing that occurred on 8/22/24 and my receipt of signed orders following this.
>
> This error occurred during a transfer from Kareo to our new EHR system. I later found that Kareo had incorrectly sent appointment reminders for some other canceled/**rescheduled appointments during that time. I'm not sure why** this system error occurred. You should not have received an appointment reminder for a session that had been previously canceled. As the court

[6] December 6, 2024 Evidentiary Hearing Video Citation (EHVC) at 2:14:56 p.m.

hearing hadn't occurred yet, and because I didn't have the necessary clarification, I could not proceed with any sessions.

87. THE COURT FURTHER FINDS that Exhibit 2 establishes that all appointments at the time **were canceled pending the Court's orders. Matt** Stoll cancelled the appointments and asked the Court for clarification. Since the July 2024 cancellation, the parties have been to Court three times. Mom testified that once they received the Court Orders, she reached out and sc**heduled Grady's appointment for** October 2024.

88. Mom testified that she and her husband also set therapy appointments with Mr. Stoll because he was going to give Mom and her husband guidance on how to **prepare Grady to meet "this stranger"** in the office. Mom specifically stated that she and her husband were looking for guidance on how to help Grady understand who "this stranger" **is. With regard to Mom's letter stating** there was a problem with the way she signed up for the appointment, Mom testified that she scheduled the appointment, like she had scheduled all other appointments with Mr. Stoll, ***in her name***.

89. Mom testified that Grady had two appointments with Matt Stoll. Since the **July appointment was in error, Grady's first appointment with** Mr. Stoll was in November, and the second appointment was the day prior to the Evidentiary Hearing, on December 5, 2024. **Furthermore, Grady's upcoming** appointments will be on January 3, 10, and 17, 2025.

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90. Mom testified that she has not received any communication from Mr. Stoll **regarding Dad's appointments**. Dad has not shared information regarding his reunification appointments with Mom, either.

91. Mom testified that it was her understanding that the sessions are in her name. Mom made it a point to boast, "Given my experience in healthcare, the fact **that I run several practices… it's a very touchy thing, y**ou are not allowed under federal guidelines to disclose appointments scheduled, **even if it's for your spouse."**[7]

92. Mom was asked why the appointment in October 2024 was in her name. She **testified, "Because my husband and I were meeting with Mr. Stoll for that** guidance **that we'd asked him for on how to bring this to Grady in a way** in which Grady would be most receptive of and open to understanding what he was about to **go through."**[8]

93. Mo**m further explained that she does not know if Grady's appointment was** for that same day or afterwards.

94. **When asked if Grady's appointments were made in his or her name, Mom testified, "Grady's** appointments **are in his name…** well except for July, that was in **my name because I drove him. I'm a mom, and all of the** appointments **are in my name."**[9]

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[7] *Id.* at 2:25:00 p.m.
[8] *Id.* at 2:25:40 p.m.
[9] *Id.* at 2:26:13 p.m.

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95. THE COURT FINDS that MOM provided inconsistent testimony about **scheduling Grady's appointments in his name or her name. MOM's counsel** even had to follow up for clarification.

96. **Mr. Kelleher asked, "When you and your husband made an appointment, whose name was the appointment in?" Mom answered, "Mine."**

97. **Mr. Kelleher then asked, "If** it was an appointment for Grady to be there, **whose name is it in?" Mom answered, "Grady's."** She further explained that **the judge made it very clear that if it is Grady's appointment, it must be in his name, so she was careful to make Grady's appointments in his name out** of respect for the judge.[10]

98. THE COURT FINDS that while MOM is correct in that this COURT ordered **her to schedule GRADY'S appointments in GRADY's name so that DAD** (as a joint legal custodian) would be informed of when his son had appointments, THE COURT FINDS that this instruction was made because **MOM scheduled GRADY's appointments in her name so as to preclude** DAD from receiving information he was entitled to. THE COURT **FURTHER FINDS that MOM admitted at trial that she scheduled GRADY's** appointments in her name because she is his mom and she drives him to all appointments; however, **MOM later testified that she scheduled GRADY's** appointments in his name per the COURT.

[10] *Id.* at 2:26:26 p.m.

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99. Mom testified that she would take Grady to his future appointments on January 3, 10, and 17, 2025 and cooperate with Matthew Stoll. Once Mr. Stoll clears the reunification visit with Dad, Mom is willing to facilitate visits with Dad and Grady in Boulder City. Mom stated she **will follow Grady's** lead, and if he wants Mom and her husband at his visit, she will be present (to supervise). **Mom represented that she would follow Matthew Stoll's** directions.

100. On cross-examination, Mom testified that Dad never offered financial **support. The Court admitted Defendant's Exhibit A, which consists of an** email between Mom and Dad.

101. THE COURT FINDS that Exhibit A, pages 1 – 2 establish that the subject of the conversation was GRADY. Specifically, the subject line states: **"Your Request to Visit Grady."**

102. THE COURT FURTHER FINDS that the Exhibit A email begins on May 18, 2018 with MOM following up on DAD**'s text message wherein he** wanted to discuss visiting Grady via email. MOM stated, in her email, that DAD expressed his frustration with not being able to see GRADY due to **MOM's unavailability.** In her email, MOM advised DAD that she works two jobs: **"I'm sure I made you aware, but my primary job has been tenuous since**

February and I've increased the hours at my second job to provide a financial cushion in the event I'm made redundant."[11]

103. In her email, **Mom further states, "And I apologize your free** time will **not align with mine during this timeframe, but as you know, I've increased the number of hours and days I'm working now."**[12]

104. Mom closes her email with, **"I'll be sure to let you know when my current work obligations ease up a bit and I'll bring him up to visit again."**[13]

105. **Dad responds to Mom's email on May 20, 2018, wherein he apologizes for coming across as "so demanding" in his text message and he states, "I'm sorry you've been laid off at your primary job and I'm sure it has added** additional stress. ***I would like to help, as much as I can. If you would like some financial support, please just let me know and we will work out details. I'm happy to contribute."***[14] (Emphasis added)

106. In his email, **Dad further asks Mom about setting up "a more formal schedule for visits" between him and Grady, to include discussing a Parenting** Plan. Dad further states,

> I do wish to be involved, as we discussed when you told me you were pregnant. It hurts me that you feel I have been absent. I really have been doing my best to make time to come visit, however, it seems our schedules are hard to line up. I hope we can figure something out so I can continue to

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[11] **Defendant's Exhibit A.**
[12] *Id.*
[13] *Id.*
[14] *Id.*

be a quality male influence to our child. I truly cherish any time I ever get with Grady.[15]

107. Dad closes with, **"Again, I'm sorry I pushed hard enough to upset you.** Please kiss Grady for me and I look forward to seeing yo**u guys soon."**[16]

108. On May 20, 2018, Mom **replied to Dad's email**:

> **Hi, I've been very lucky and have had two job offers this week for doing what I've always done. I'm working through salary offers and details now** to determine which road to take.
>
> As you and I both know, ***you're not in any position to contribute financially, although the offer is noted***.[17] (Emphasis Added)

109. **THE COURT FINDS that Mom's testimony that Dad never offered** her financial support is not credible, nor is it corroborated by the evidence which clearly establishes that Dad offered Mom financial support, as **evidenced by his email stating: "*I would like to help, as much as I can. If you would like some financial support, please just let me know and we will work out details. I'm happy to contribute,*"**[18] to which Mom replied, "As you and I both know, ***you're not in any position to contribute financially, although the offer is noted***.[19] (Emphasis Added)

110. THE COURT FURTHER FINDS that at trial, when MOM was asked about this email exchange, Mom provided non-responsive testimony:

DAD: Samantha, do you recall that email exchange?

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[15] *Id.*
[16] *Id.*
[17] *Id.* at page 2.
[18] *Id.*
[19] *Id.* at page 2.

MOM: I don't, but as you just said ten minutes ago, you made $55,000 two years ago, but prior to that you didn't have any money. And – and that was correct. At the time that you offered in 2018 if I recall, you were working two jobs. That was the same time period in which I had to provide groceries, gas, and a phone for you.[20]

111. THE COURT FINDS that Mom provided nonresponsive, argumentative testimony about the emails during cross-examination. Instead of answering the question, Mom deflected and talked about how much money Dad made 2 years ago, which had nothing to do with the call of the question. Then, MOM admitted that at the time Dad offered her financial support in 2018, he was working two jobs and **she "had to provide" for him.**

112. THE COURT FINDS that Mom did not offer any proof to corroborate her self-serving testimony that she **"had to provide" for Dad during this time.**

113. **Based on the Court's observations of the parties' behavior, demeanor,** body language, and testimony at trial, THE COURT FINDS that whereas Dad provided concise, detailed and credible testimony that was further corroborated by his Exhibit A establishing his offer to provide financial support, MOM did not. Instead, Mom engaged in argumentative and nonresponsive testimony designed to elevate herself above Dad in every aspect. When asked if she recalled the email exchange, Mom stated she did not; yet, she proceeded to testify about how much money Dad did or did not make and how she provided for him. Mom ultimately admitted that at the

[20] EHVC at 2:31:34 – 2:32:00 p.m.

time, in 2018, Dad was not in a financial position to contribute – which is what her email stated.

114. During re-**direct, Mom's attorney attempted to clarify that nothing in** this email (Exhibit A) **mentioned Grady or the words "child support."**

115. THE COURT FINDS that this argument is disingenuous when the entire subject line of the email is about G**rady, specifically Dad's visits with** Grady. Furthermore, this email exchange establishes that MOM is the one who discussed her need to work two jobs so as to provide a financial cushion for Grady, to which DAD offered to help, as evidenced by his response wherein he unequivocally offers to help, at least three times: ***"I would like to help, as much as I can;"*** ***"If you would like some financial support, please let me know and we will work out the details;"*** **and,** ***"I'm happy to contribute."***[21]

116. THE COURT FINDS AND CONCLUDES that Dad conveyed his offer to help MOM, provide financial support, and contribute; however, MOM made it abundantly clear in her email response when she put Dad **down and stated,** ***"As you and I both know, you're not in any position to contribute financially, although the offer is noted."***[22]

117. THE COURT FINDS THAT MOM knowingly and voluntarily waived **Dad's offer of financial support concerning their son in her May 20, 2018**

[21] Exhibit A
[22] *Id.*

email. Waiver may be implied from "conduct which evidences an intention to waive a right, or by conduct which is inconsistent with any other intention than to waive a right."[23]

118. **THE COURT FINDS AND CONCLUDES that by MOM's unequivocal** statement in her email, coupled with her conduct, MOM evidenced an intention to waive child support from DAD. Not only did MOM waive child support, she also put DAD down and elevated herself above him by making it clear that he is not in any position to provide financial support.

119. At trial, MOM corroborated her statement in her email to DAD by boasting that DAD was not in any position to provide support because she was the one who was financially supporting him in 2019.

120. During cross-examination, when Dad asked MOM if she had any evidence to corroborate her claim that she was the one financially supporting him in 2018, Mom stated that that was 7 years ago. Mom offered to provide those bank statements.

121. THE COURT FINDS MOM did not produce any evidence to corroborate her testimony of providing financial support to Dad during this **time. THE COURT FINDS that MOM's** testimony is NOT CREDIBLE.

122. In her email, M**om further shot down Dad's request to discuss a** parenting plan for Grady. Mom reminded Dad, in her email, that she bought

[23] *McKellar v. McKellar*, 110 Nev. 200, 202, 871 P.2d 296, 297 (1994).

him an iPhone to facilitate FaceTime communication with Grady but Dad has chosen not to **"take advantage of that."**[24]

123. **Mom's email is consistent with her testimony at trial wherein she has** put Dad down as not being financially capable of providing financial support because she is the one who is financially superior, as evidenced by her **"subsidizing" Dad by buying him an iPhone and** providing him with a credit card to pay for his groceries.

124. **Based on the court's observations of MOM's behavior, demeanor,** body language and testimony at trial, THE COURT FINDS that MOM provided self-serving, disingenuous testimony that lacked credibility and was not corroborated by the evidence.

125. Furthermore, MOM did not produce any evidence of her alleged health insurance payments. When asked why she did not produce any evidence of the payments, Mom stated she was asked to provide her premiums.

126. **When asked if she has any record of her other children's health** insurance, MOM stated it is not pertinent to this case because they are all adults who carry their own insurance.

127. Mom testified that she has proof of her time in Boulder City; she stated it is well documented. Mom testified that she was in Salt Lake City for

[24] *Id.*

roughly a 3-month tenure. MOM denied that she said she was only in Salt Lake City for 2 – 3 days at a time.

128. THE COURT FINDS that MOM provided nonresponsive, argumentative testimony during cross-examination:

DAD: Do you recall that in that, you said you were only there for 2 or 3 days at a time in the request for travel time?
MOM: That's not possible. I work Monday through Friday. If it's an extended commute, say, like when I was working at Dartmouth, it's a four-day onsite, I fly out Sundays, I fly home Thursday nights.
DAD: Yes or no, Samantha, please. Do you recall in your FDF saying you were only in Salt Lake two or three times at a time during that period?
MOM: Two three times what? I'm sorry. Two three days? Two three weeks?
DAD: Two or three days, and two to three times during that period.
MOM: No, that's not correct. Grady was in private school in Salt Lake, and we were there five days out of the week.[25]

129. When DAD asked MOM if she remembers why Bamboo Sunrise was declined as a provider for reunification therapy, Mom stated that Dad did not want to use them, although they were referred by Ms. Hill. When Dad reminded Mom that Judge Parladé found Bamboo Sunrise to be a conflict of interest since Mom was an existing client, Mo**m admitted, "Of a different therapist, but yes, I mean, that makes sense. I understood it."**[26]

130. THE COURT FINDS that during cross-examination, MOM was not credible. Mom provided nonresponsive, argumentative and inconsistent testimony that lacked credibility.

[25] EHVC at 2:33:43 – 2:34:20 p.m.
[26] *Id.* at 2:34:37 p.m.

131. **THE COURT FURTHER FINDS that Dad's Exhibit A, pages 1 – 2** establish that the subject of the conversation was Grady, and Dad was specifically offering to financially contribute; to which MOM duly noted and expressly declined.

DAD's TESTIMONY

132. Dad testified that MOM violated the Court Orders regarding the reunification process and relocation.

133. DAD testified that he found multiple therapists. THE COURT approved Krystal Hill. Mom was resistant to reunification therapy because the termination of parental rights trial was pending. THE COURT further had to define and **regulate Mom's behavior regarding reunification therapy**. THE COURT approved Matt Stoll as a reunification therapist at the March 20, 2024 Hearing.

134. In addition to offering Exhibit A, which established that DAD offered financial assistance, which MOM duly noted and expressly declined, Dad offered EXHIBIT B, which is a large email exchange between Dad, Mom, and Mr. Stoll regarding the August 22, 2024 Hearing, wherein the Court ordered reunification.

135. DAD testified that Mom responded to his emails with hostile emails. THE **COURT FINDS that Dad's testimony is corro**borated by Exhibit B, wherein in **response to Dad's September 1, 2024 email to Mr. Stoll, Mom responds** by calling Dad derogatory names. The exchange is as follows:

DAD: Good morning Matt and Samantha,

I have attached the minutes from our most recent hearing, Thursday August 22, 2024. I have also attached the prepared order that has been submitted to the Judge. I will send over the signed order as soon as I have it.

Samantha please coordinate with Matt**'s office to schedule the mandated appointments. Per the Judge's Order, also update me on those dates.**

I look forward to your immediate cooperation and progress with reuniting me with my son.

MOM: Mr. Blitch,

You've been diagnosed as a paranoid narcissistic personality, borderline sociopath.

Attempting to tell Mr. Stoll what needs to be done only exemplifies that.[27]

136. **THE COURT FINDS THAT DAD'S TESTIMO**NY IS CORROBORATED BY EXHIBIT B, which **exemplifies MOM's** argumentative, self-serving and oppositional pattern of behavior, which she **demonstrated at trial in response to Dad's simple cross**-examination questions.

137. DAD testified that he contacted Mr. **Stoll's office, Heads Up, to set up** reunification therapy. Dad explained that on April 18, 2024, he met with Mr. Stoll. Dad believes Mom also met with Stoll on that day.

138. **THE COURT ADMITTED Defendant's Exhibit C, which Dad testified** is the Heads Up appointment schedule printout as to Mom. Dad testified that MOM is the one responsible for bringing Grady to the appointments.

[27] **Defendant's Exhibit B, page 1.**

139. DAD testified that while he initiated reunification therapy with Mr. Stoll in April 2024, **DAD was advised that Grady's onboarding had to be completed before any reunification sessions would occur. Dad further testified that Grady's** onboarding required additional sessions with Mr. Stoll and Mom.

140. **DAD testified that Grady's onboarding was not completed until** November 22, 2024 – which is an astonishing seven months after April 2024. DAD initiated reunification therapy in April 2024, and yet Mom did not complete the onboarding process until November 22, 2024.

141. **THE COURT FINDS THAT DAD's** testimony is credible, concise, and corroborated by the evidence. EXHIBIT C, Page 1 establishes that as to patient Samantha Fagan, an intake appointment was conducted on April 18, 2024. Then, on May 16, 2024 at 9:00 AM, an appointment was cancelled. On May 16, 2024 at 1:45 PM, an appointment was conducted. Then, on June 6, 2024, another appointment was cancelled.

142. EXHIBIT C, Page 2 further establishes that as to patient Ben Blitch, an intake appointment was conducted on April 18, 2024. Then, on July 12, 2024, an appointment was rescheduled.

143. EXHIBIT C, Page 3 establishes that as to patient SAMANTHA FAGAN: On October 25, 2024, an appointment with Mr. **Stoll was "late canceled" due to "PT [patient] IS IN A DIFFERENT STATE."**

144. EXHIBIT C, Page 4 establishes that as to patient Grady Fagan, an intake assessment was conducted with Matt Stoll on November 22, 2024. This is

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further corroborated by EXHIBIT E, which comprise at least 18 pages of intake forms from Mr. Stoll**'s office, HEADS UP.**

145. THE COURT FINDS that each of the forms in EXHIBIT E were executed by Samantha Fagan on November 22, 2024. Samantha argued that these are not the only intake forms she executed and that she executed forms as early as April 2024.

146. **THE COURT FINDS THAT MOM's testimony is not credible**, nor is it corroborated by the evidence. MOM had the benefit of counsel to represent her, yet MOM did not submit any evidence to corroborate her self-serving testimony that she completed intake forms prior to November 2024.

147. On the other hand, THE COURT FINDS that DAD did not have the benefit of counsel, and in fact, DAD had to be admonished by this COURT several times when he attempted to offer evidence that did not comply with court rules. Notwithstanding the challenges DAD encountered in his presentation of **evidence, THE COURT FINDS THAT DAD's** testimony is not only credible, but it is corroborated by the evidence, which establishes that while he initiated reunification therapy as early as April 2024, it was not until November 22, 2024 that Grady completed his onboarding process, **and this was due to MOM's** delays.

148. THE COURT FINDS that the evidence further establishes that MOM did not execute the intake registration forms, child/adolescent background and history questionnaire, assignment and release, office policies, consent for

treatment, treatment contract and informed consent, notice of privacy practice acknowledgement, authorization to obtain client information, and authorization to release confidential information until November 22, 2024.[28]

149. THE COURT FURTHER FINDS AND CONCLUDES that based on this **Court**'s observation of the parties' body language, demeanor, and testimony at trial, whereas DAD provided clear, concise, credible testimony corroborated by the evidence, MOM did not. MOM provided self-serving, narrative, non-responsive, and argumentative testimony that was not corroborated by the evidence, nor found by this Court to be credible.

150. **THE COURT FURTHER FINDS that MOM'**s argument -- *that EXHIBIT E is a superfluous set of intake forms because at every appointment she completed intake forms* -- is disingenuous. If in fact, Mom completed an 18-page set of intake forms in April, or any time sooner than November 22, 2024, then MOM failed to offer these forms as evidence notwithstanding her benefit of counsel. If, in fact, MOM executed 18 pages of intake forms at every appointment, then THIS COURT FINDS that MOM, as the healthcare executive that she boasted about at trial, would have clearly advised the HEADS UP OFFICE that she already executed the forms, or at the least, she would have referenced her completion of these 18 pages of intake forms at a prior visit – which she did not do. The evidence establishes that MOM did not complete the

[28] Exhibit E.

18 pages of INTAKE FORMS until November 22, 2024, which is when GRADY had his INITIAL ASSESSMENT.[29]

151. THE EVIDENCE FURTHER ESTABLISHES that it was not until the August 22, 2024 Hearing where the Court awarded DAD MOFIFIED LEGAL CUSTODY FOR THE PURPOSES OF SETTING UP GRADY**'S** REUNIFICATION APPOINTMENTS did Grady finally have consecutive appointments scheduled for December 5, 2024, January 3, 2025, January 10, 2025, and January 17, 2025 – all of which were contingent on Grady having his Intake Appointment which Mom did not facilitate until November 22, 2024.[30]

152. **THE COURT FINDS AND CONCLUDES THAT DAD's testimony that MOM delayed the reunification process in violation of this court's** orders is credible and corroborated by the evidence.[31]

153. THE EVIDENCE FURTHER ESTABLISHES that whereas DAD made **every effort to comply with this COURT'**S ORDERS to engage in reunification therapy with his son, MOM not only delayed the process in willful disobedience **of this COURT'**S ORDERS, but she did so with every intention of disparaging DAD. This is evidenced in EXHIBIT B, wherein in response to DAD complying **with this Court's Orders and (**1) providing STOLL with a copy of the Minutes from the August 22, 2024 Hearing, (2) requesting MOM to set up her

[29] **Defendant's Exhibit C** and E.
[30] *Id.*
[31] **Defendant's Exhibits B, C, D, and E.**

appointments with STOLL, and (3) requesting that MOM update DAD on those dates, THE COURT FINDS that MOM responded by disparaging Dad to Mr. Stoll. MOM wrote, **"Mr. Blitch, You've been diagnosed as a paranoid** narcissistic personality, borderline sociopath. Attempting to tell Mr. Stoll what **needs to be done only exemplifies that."**[32]

154. THE COURT FINDS THAT EXHIBIT B establishes that MOM not only will**fully disobeyed this COURT'**S ORDER for REUNIFICATION THERAPY, but she did so in bad faith and for the purpose of harassing DAD and delaying the reunification process **– in violation of this Court's Orders.**

155. DAD credibly testified that MOM further delayed the process when she threatened Mr. Stoll**'s office** about their alleged violation of HIPPAA when all **they did was inform DAD of GRADY's appointments** -- which is what the Court required.

156. At trial, MOM boasted that, as a healthcare executive, she has had to fine medical professionals for violating HIPPAA by disclosing appointment information to non-**patients. THE COURT FINDS THAT MOM'S** TESTIMONY is once again characteristic of her modus operandi, which is to deflect blame and elevate herself above others, especially Dad.

157. THIS COURT ORDERED THE PARTIES **to follow Matt Stoll's** recommendations, including allowing information to be shared with all parties

[32] Exhibit B, page 1.

and attorneys as necessary, including or excluding any party from any session, providing Mr. Stoll with court hearing documentation, and scheduling appointments in a timely manner.

158. THE COURT FINDS THAT DAD credibly established that MOM **violated this Court's ORDERS in that she continued to delay the onboarding** process for Grady. This is evidenced in EXHIBIT C wherein the June 6, 2024 and October 25, 2024 appointments were cancelled. Notably, the October 25, **2024 appointment was "late cancelled" due to "PT [patient] is in a different state."**

159. THE COURT FINDS AND CONCLUDES that DAD provided credible testimony establishing that MOM delayed in completing and submitting the intake forms, which delayed the onboarding process. In addition, MOM delayed scheduling and attending the appointments, which resulted in GRADY not having his first intake assessment until November 22, 2024 – an astonishing 7 **months after Dad's** initial appointment on April 18, 2024.

160. THE COURT FINDS that at the August 22, 2024 Hearing, the COURT ADMONISHED MOM for her perceived lack of cooperation in the reunification **process. Notwithstanding THIS COURT'**S ADMONISHMENT TO MOM – **and this COURT'S CLEAR, UNAMBIGUOUS AND UNEQUIVOVAL ORDERS directing both parties to comply with Mr. Stoll's recommendations** which this COURT ADOPTED AND ORDERED -- MOM continued to delay

the reunification process, as evidenced by her cancellation of the October 25, 2024 appointment due to bringing Grady out of state.

161. THE COURT FINDS that MOM did not bring GRADY to an intake assessment until November 22, 2024 – which is seven months from **Dad's** initial scheduling and intake, **and three months after this Court's** admonishment at the August 22, 2024 Hearing.

162. THE COURT FURTHER FINDS that even if this Court were to give MOM the benefit of the doubt in that Mr. Stoll temporarily held off on the reunification process until he received clear direction from this COURT – THE COURT FINDS AND CONCLUDES that the evidence establishes that as of September 1, 2024 DAD sent Stoll the August 22, 2024 Minutes, and on September 11, 2024, DAD provided STOLL with the C**ourt's executed final** order, wherein Mom was ORDERED by this COURT to comply with clear directives, to which she had the ability to do, ***but did not do***.

163. Dad offered EXHIBIT D, which consists of an October 16, 2024 email **from Mom to Dad regarding Grady's** onboarding completion. During the August 22, 2024 Calendar Call, the Court ADMONIS**HED Mom's lack of cooperation.**

164. DAD offered Exhibit E, which consists of the November 22, 2024 onboarding intake form. As stated hereinabove, **MOM's counsel claims** onboarding was completed in April and this was a duplicate; however, MOM never submitted Exhibits corroborating completion of onboarding in April 2024,

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whereas DAD submitted Exhibits corroborating that Grady's intake was completed in November 2024.

165. DAD testified that once he was given Modified Legal Custody at the August 22, 2024 Hearing, DAD set the following appointments for Grady: December 5, 2024; January 3, 10, and 17, 2025. Even after Dad was given Modified Legal Custody to make appointments, MOM limited her availability to Fridays and deleted Dad from the email string in violation of Court Orders.

166. **THE COURT FINDS DAD'**S testimony is credible and corroborated by the evidence establishing that once Dad obtained Modified Legal Custody, and **once Grady's onboarding was completed, Grady's appointments were** immediately scheduled for December 5, 2024, January 3, 10, and 17, 2025.

167. **DAD's Exhibit C reflects that the October 25, 2024 appointment with Mr.** Stoll was a late cancellation due to the patient (Grady) being in a different state; **this was reinforced when MOM's attorney stated her work required her to** frequently travel.

168. THE COURT FINDS that Exhibit C and the corresponding testimony, conflicts **with MOM's testimony that there were no** reunification appointments through November because Mr. Stoll was waiting on the Court.

169. **THE COURT FINDS THAT MOM'S testimony that there were no** appointments through November 2024 because Mr. Stoll was waiting on the Court is not credible, nor corroborated by the evidence. The evidence establishes that as early as September 1, 2024, DAD sent STOLL a copy of the

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August 22, 2024 Minutes reflecting this Court's ORDERS for the parties to proceed with reunification therapy. In response thereto, MOM called DAD a **"paranoid** narcissistic **personality, borderline sociopath."**

170. THE COURT FURTHER FINDS that on September 6, 2024, Mr. Stoll responded to both parties and advised that he was waiting **on the Court's final** order, to which on September 11, 2024, DAD provided STOLL with the Co**urt's** executed final order.

171. THE COURT FURTHER FINDS that on September 23, 2024, STOLL contacted Mom and stated: ***"Samantha, please schedule an Intake for your son during or after the week of October 7th."***

172. **THE COURT FINDS that Mr. Stoll's September 23, 2024** email **contradicts MOM's self**-serving testimony that STOLL cancelled all appointments through November 2024.

173. THE COURT FURTHER FINDS that EXHIBIT C establishes that MOM cancelled the October 25, 2024 intake appointment for Grady and did not submit the 18 pages of INTAKE FORMS until November 22, 2024, which is when the INTAKE ASSESSMENT was conducted.

174. **THEREFORE, THE COURT FINDS THAT SAMANTHA's** TESTIMONY is not credible nor corroborated by the evidence. THE COURT FINDS THAT MOM provided self-serving testimony elevating herself above others, oftentimes deflecting blame onto others so as to deflect from her own wrongdoing.

175. THIS IS FURTHER EVIDENCED IN EXHIBIT B, page 14, wherein DAD emailed Mom on October 4, 2024 advising her that

> I also just spoke with Akemi at Heads Up and you have still NOT submitted the paperwork for Grady to be onboarded or made an appointment. One step you can take to avoid contempt is submit the paperwork and set your appointments as outlined by Matt. Please do so and follow through with attendance at the set appointments.
>
> **I am sure you are aware your illegal "move" to Southern Utah does not** exempt you from the court order for reunification.
>
> Please take care of the above items and update me on my son.

176. EXHIBIT B establishes that MOM did not respond, so DAD follows up on October 8, 2024 at 11:43 AM and again at 3:25 PM wherein DAD advises **MOM that the appointment she scheduled for herself "should have been made for Grady and that several should have been made in conjunction."** Dad writes:

> **Per court order: "6. Sessions will be scheduled in a timely manner. It is** recommended that several sessions be scheduled at a time to ensure consistency in treatment. It will likely be necessary to meet with Grady individually for several sessions, before any joint sessions with his father, to ensure his emotional well-**being." Therefore, you need to schedule several** sessions, not just one, under Grady as the patient, not you. Please comply **with this portion of the order. Also, keep in mind that: "3. The** therapist has **full discretion to refer to (me) Mr. Blitch as Grady's father to any parties throughout this process."**[33]
>
> Do not lose sight of the fact that this entire process is in order to create a custody arrangement for me to have time with my son regularly.

177. Exhibit B further establishes that Mom responded, as follows:

> Mr. Blitch,

[33] **Defendant's Exhibit B, page 14** - 15.

I have cared for Grady his entire life, and done so extraordinarily well (per multiple judges). For 4 years, throughout a world-wide pandemic, you were not concerned with his safety. Grady is just fine, and thriving as always. Should there ever be something you need to be aware of, I will inform you, just as I always have.[34]

178. **THE COURT FINDS that instead of responding to the substance of Dad's email concerning Mom's compliance with Court orders, MOM elevates herself** above Dad and once again is non-**responsive. This is indicative of Mom's** behavior at trial. This pattern continues through Exhibit B emails between the parties.

179. On October 16, 2024, DAD advises MOM that Heads Up informed him **that there are "no appointments set for Grady. Much less multiple appointments as the court required." Dad asks MOM again to "make the required** appointments **with Matt Stoll."**[35]

180. MOM replies on the same day by accusing Dad:

You removed yourself from Grady's life voluntarily. Please see your admissions below, as filed with the court on May 26, 2023 by your attorney, on your behalf.

You have a documented and admitted mental disorder, and the delusions- such as that above- that you continue to tell everyone, including yourself, are symptomatic of that.

Please seek the medical treatment you need. Your irrational behavior and altered mental state pose a significant danger to Grady. Please advise when you have found a provider to help treat your disorder.[36]

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[34] *Id.* at page 15.
[35] Exhibit B
[36] *Id.*

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181. **MOM further attaches what appears to be Dad's Responses to Mom's** Requests for Admissions to her email.[37]

182. **THE COURT FINDS that Mom's responses in Exhib**it B are indicative **of Mom's pattern of behavior at trial wherein instead of** accepting accountability for her outright refusal to comply with CLEAR UNAMBIGUOUS COURT ORDERS, Mom deflects blame onto others, elevates herself, and puts Dad down. This behavior continues throughout the Exhibit B email communication between the parties.

183. THE COURT FURTHER FINDS that Dad provided simple, concise, clear, and credible, matter-of-fact testimony, notwithstanding the challenges inherent in representing himself against Mom, who had then benefit of esteemed counsel at trial.

184. THE COURT ADMITTED **Defendant's Exhibit F, wherein** on September 25, 2024 at 6:13 p.m., **Mom emailed Dad: "**Mr. Blitch, I wanted to let you know ***Grady and I are settled now in Southern Utah.*** This should make **it easier for you to facilitate meeting Grady, since it is 3 hours closer to you."** (Emphasis Added)

185. In Exhibit B, on September 26, 2024 at 9:48 a.m., DAD informed MOM that he did not agree with her relocation.

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[37] *Id.*

186. At the August 22, 2024 Hearing, THE COURT ADMONISHED Mom that Nevada was the home state and that GRADY was not to be relocated from **Nevada absent Dad's written consent or this Court's authorization.**

187. On September 26, 2024, Mom filed a *Motion to Relocate*.

188. THE COURT TAKES JUDICIAL **NOTICE of Mom's September 26,** 2024 *Motion to Relocate*.

189. At trial, MOM testified that she never actually relocated. She has always still resided in Boulder City at the same address. She travels frequently for work and brings Grady with her. When she travels on assignment, she will stay at the location for sometimes months at a time. She stays in hotels. Mom testified that she was assigned to Salt Lake City; but she did not relocate to Salt Lake City.

190. THE COURT FINDS that MOM provided argumentative, nonresponsive testimony during cross-examination. When DAD asked Mom how many times she has taken Grady out of **state for work, Mom asked, "Since he was born?"** Dad confirmed that he was asking how many times Mom has taken Grady out of state for work since he was born. **Mom again asked, "Please provide a time frame." Dad again confirmed that the time frame he was inquiring about was** since Grady was born. **Mom responded, "Oh, good grief!"**[38]

191. THE COURT FINDS that MOM provided nonresponsive testimony during cross-examination that lacked credibility.

[38] EHVC at 3:00:55 p.m.

192. MOM admitted that she frequently removes Grady out of state for work, **"considering [she has] property in other states."**[39] Mom further stated that she has not relocated. Mom testified that since September 2017, MOM has brought Grady with her to work in Miami, Salt Lake City, California, Dallas, New Hampshire, North Dakota, Chicago, and Detroit. MOM stated that since 2018, she travels a minimum of six times per year for work.

193. **DAD asked multiple times for Grady's physical address, and MOM stated** his residence has not changed. MOM stated she has lived in the same place in Boulder City since 2011.

194. **In MOM's EXHIBIT F email, she advised DAD that she and Grady *"settled in Southern Utah."*** MOM testified that she had an assignment in Southern Utah for work and that she and Grady have maintained the same residence since 2011.

195. MOM explained that her assignments run anywhere from 6 weeks to 18 months. MOM is currently employed with LAKE. Her bank statement reflects a paycheck from LAKE.

196. MOM admitted that from July 2024 – August 2024, she was unemployed. MOM stated that she has been working since June 1996.

197. MOM admitted she moved Grady from the state multiple times without permission from the Court, but not for relocation – only for work assignments.

[39] *Id.* at 3:01:07 p.m.

198. On redirect, MOM confirmed that Grady lives in Boulder City. MOM testified that DAD called the police to do a welfare check on Grady while he was sleeping. Mom clarified she did not relocate. She took an assignment in Utah, but did not relocate there. Mom did not think it would be a problem because Southern Utah is closer to DAD, who also lives in Utah. MOM stated that since then, she and her husband have decided not to make that move.

199. MOM further testified that she purchased property in Utah with the **intention of this cabin serving her children and family for years. The parties'** email exchanges regarding the cabin were not submitted as evidence.

200. MOM does not deny that she offered to waive all child support arrears if **DAD terminated his rights. In January 2023, when she received Dad's first email** in 4 years, MOM offered that if Dad terminated his parental rights, she would give him $25,000.00. MOM then stated that she did not offer to waive anything because Dad never offered anything.

201. **THE COURT FINDS THAT MOM's testimony is disingenuous and not** credible, as evidenced by EXHIBIT A wherein DAD offered to financially contribute and MOM duly noted his offer and expressly declined, stating that DAD is i**n no position to contribute. MOM's unequivocal email response is** indicative of her demeanor, behavior and testimony at trial wherein she elevates herself as financially superior over DAD such that, as she boasted, she was the one financially supporting him.

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202. **THE COURT FURTHER FINDS that MOM's corresponding actions** aligned with her unequivocal email, leading up to her Petition to Terminate Parental Rights and her February 16, 2023 ***Opposition to "Respondent's Motion*** *for Partial Summary Judgment Di****smissing Petitioner's Claim for Neglect and Unfitness and Counterclaimant's Motion for Order Compelling Samantha to Accept Statutory Child Support from Benjamin and Counterclaimant's Motion*** *for Order Compelling the Undertaking of Reunification of Father an****d Child" and Countermotion for Attorney's Fees and Costs*** wherein MOM argued that **Dad's request for an Order compelling Mom to accept child support is premature, and Dad's "substantial arrears" may be addressed by this Court at a** later date in the event it finds termination of parental rights inappropriate.

203. At trial, MOM admitted that she offered to give DAD $25,000.00 if he relinquished his rights to GRADY.

204. **MOM's counsel asked the Court to review** *McKeller v. McKellar*, 110 Nev. 200 – 202, 871 P.2d 296 – 298 (1994). In *McKellar*, the Supreme Court HELD that MOM did not intentionally relinquish her right to collect child support from DAD. **MOM's counsel argued that, i**n this case, the fact that MOM offered to pay Dad $25,000.00 cannot be used against her to find that she waived child support arrears, when in fact she did not.

205. ***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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III. CONCLUSIONS OF LAW

Jurisdiction

The parties have one minor child, GRADY FAGAN, ("Grady"), born September 20, 2017. 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. Samantha has been, and is now, an actual and bona fide resident of the County of Clark, State of Nevada, and has 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. 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.

ORDER TO SHOW CAUSE

"The power of courts to punish for contempt and to maintain decency and dignity in their proceedings **is inherent and is as old as the courts are old."** *In re Chartz*, 29 Nev. 110, 114; 85 P. 352, 354 (1907). The refusal to obey a lawful order issued by the court is an act of contempt. NRS 22.010(3).

Pursuant to NRS § 22.030,

1. If a contempt is committed in the immediate view and presence of the court or judge at chambers, the contempt may be punished summarily. If the court or judge

summarily punishes a person for a contempt pursuant to this subsection, the court or judge shall enter an order that:
(a) Recites the facts constituting the contempt in the immediate view and presence of the court or judge;
(b) Finds the person guilty of the contempt; and
(c) Prescribes the punishment for the contempt.
2. If a contempt is not committed in the immediate view and presence of the court or judge at chambers, an affidavit must be presented to the court or judge of the facts constituting the contempt, or a statement of the facts by the masters or arbitrators.[40]

Additionally, pursuant to NRS 199.340,

Every person who shall commit a contempt of court of any one of the following kinds shall be guilty of a misdemeanor:
1. Disorderly, contemptuous or insolent behavior committed during the sitting of the court, in its immediate view and presence, and directly tending to interrupt its proceedings or to impair the respect due to its authority;
2. Behavior of like character in the presence of a referee, while actually engaged in a trial or hearing pursuant to an order of court, or in the presence of a jury while actually sitting in the trial of a cause or upon an inquest or other proceeding authorized by law;
3. Breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of a court, jury or referee;
4. Willful disobedience to the lawful process or mandate of a court;
5. Resistance, willfully offered, to its lawful process or mandate;
6. Contumacious and unlawful refusal to be sworn as a witness or, after being sworn, to answer any legal and proper interrogatory;
7. Publication of a false or grossly inaccurate report of its proceedings; or
8. Assuming to be an attorney or officer of a court or acting as such without authority.[41]

Finally, pursuant to EDCR 5.509,

Rule 5.509. Motions and procedure for orders to show cause.

(a) A motion seeking an Order to Show Cause (OSC) for contempt must be accompanied by a detailed affidavit complying with NRS 22.030(2) that identifies the **specific provisions, pages and lines of the existing order(s) alleged to have**

[40] Nev. Rev. Stat. Ann. § 22.030
[41] Nev. Rev. Stat. Ann. § 199.340.

been violated, the acts or omissions constituting the alleged violation, any harm suffered or anticipated, and the need for a contempt ruling, which should be filed and served as any other motion.

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

(c) Upon review of the motion and application, the court may:

(1) Deny the motion and vacate the hearing;

(2) Issue the requested OSC, to be heard at the motion hearing;

(3) Reset the motion hearing to an earlier or later time; or

(4) Leave the hearing on calendar without issuing the OSC so as to address issues raised in the motion at that time, either resolving them or issuing the OSC at the hearing.

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

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

"If the contempt consists in the refusal of a party to do something which he is ordered to do for the benefit or advantage of the opposite party, the process is civil, and he stands committed till he complies with the order. The order in such case is not **punitive, but coercive."** *Phillips v. Welch*, 11 Nev. 187, 190 (1876). Accordingly, a contempt citation is issued in order to ensure compliance with a court order; the process is coercive in nature, rather than punitive.

In *Cunningham v. Eighth Judicial District Court of State of Nev.*, the Supreme **Court of Nevada ruled that** "an order on which a judgment of contempt is based must be clear and unambiguous, and must spell out the details of compliance in clear, specific

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and unambiguous terms so that the person will readily know exactly what duties or obligations **are imposed on him."**[42]

THE COURT FINDS AND CONCLUDES that at the August 22, 2024 Hearing, this COURT issued clear and unambiguous ORDERS that spelled out the details of compliance in clear, specific and unambiguous terms so that the parties would readily know exactly what duties or obligations are imposed on them. Specifically, this **COURT adopted and incorporated Mr. Stoll's recommendations as an ORDER of the** COURT. Furthermore, this COURT ADMONISHED MOM that she must comply with the COURT ORDERS. These Orders are further delineated in the corresponding ORDER TO SHOW CAUSE issued on December 6, 2024.

In order to hold a party in contempt, the Court must permit that party to testify and show cause why she should not be held in contempt and allow him to cross examine any witnesses against her. **"[I]n a prosecution for contempt not committed in the** presence of the court, due process requires that the person charged be advised of the nature of the action against him, have assistance of counsel, if requested, have the right **to confront witnesses, and have the right to offer testimony on his behalf."** *Awad v. Wright*, 106 Nev. 407, 411, 794 P.2d 713, 716 (1990).

THE COURT FINDS AND CONCLUDES that at the evidentiary hearing, MOM had the benefit of counsel while DAD did not. Furthermore, MOM was afforded

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[42] *Cunningham v. Eighth Jud. Dist. Ct. of State of Nev., In & For Clark Cnty.*, 102 Nev. 551, 559–60, 729 P.2d 1328, 1333–34 (1986).

the opportunity to testify, cross-examine witnesses against her, present evidence and show cause why she should not be held in contempt.

THE COURT FURTHER FINDS AND CONCLUDES that, as set forth in this **COURT'S** *Findings of Fact, supra*, MOM had the ability to comply with this **COURT'S CLEAR, SPECIFIC and UNAMBIGUOS ORDERS**, but instead of **complying, she willfully disobeyed this COURT'S ORDERS.** THE COURT FURTHER FINDS AND CONCLUDES that DAD credibly established the irreparable harm suffered in that he had initiated reunification therapy as early as April 2024. The COURT issued its CLEAR, UNAMBIGUOUS, SPECIFIC ORDERS at the August 22, 2024 Hearing, which was duly entered on August 28, 2024, yet MOM did not execute the onboarding forms and bring GRADY to intake assessment until November 22, 2024. Each day of delay caused DAD irreparable harm in that it delayed his reunification with his son.

THE COURT THEREFORE FINDS AND CONCLUDES that as to the Contempt of Court matters, whereas DAD provided clear, specific, detailed, consistent and credible testimony corroborated by the evidence, MOM did not. As set forth in this **COURT'S** *Findings of Fact, supra*, b**ased on this Court's observations of MOM's demeanor, behavior, body language and testimony at trial, MOM's testimony** concerning contempt of court was self-serving, disingenuous, argumentative, non-**responsive and lacking in credibility. Furthermore, MOM's t**estimony was not **corroborated by the evidence or DAD's credible testimony.**

THEREFORE, THE COURT FINDS AND CONCLUDES that clear and convincing evidence establishes that MOM failed to show cause as to why she should not be held in contempt of court for the following VIOLATIONS:

COUNT 1: Failure to engage in reunification therapy as outlined in the Order After the August 22, 2024 Hearing filed on August 28, 2024, page 1, line 25.

THE COURT FINDS AND CONCLUDES that based on the Findings of Fact and Analysis set forth herein, *supra*, clear and convincing evidence establishes that MOM committed one (1) total count of contempt of court in that she failed to engage in reunification therapy as outlined in the Order After the August 22, 2024 Hearing filed on August 28, 2024 (VIOLATION 1). Specifically, notwithstanding the **COURT'S CLEAR** AND UNAMBIGUOUS ORDERS and ADMONISHMENT, **MOM cancelled the October 25, 2024, reunification appointment due to "PT [patient]** IS IN A DIFFERE**NT STATE." Furthermore, MOM did not execute the reunification** therapy onboarding forms until November 22, 2024. Finally, MOM did not bring GRADY to the reunification therapy intake assessment until November 22, 2024.

THE COURT FINDS AND CONCLUDES that as **a result of MOM's actions. GRADY's reunification therapy intake appointment was delayed at least 28 days (from** October 25, 2023 through November 22, 2024).

THEREFORE, pursuant to NRS 22.100(2), THE COURT FINDS AND CONCLUDES that Mom is guilty of CONTEMPT OF COURT as to COUNT ONE and is SANCTIONED $500.00, which is REDUCED TO JUDGMENT, and offset by **DAD's CHILD SUPPORT ordered herein, infra.** FURTHERMORE, pursuant to NRS

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22.100(2), MOM is found guilty of contempt and sentenced to **25 days' JAIL TIME at** Clark County Detention Center as a SANCTION for this Court's contempt finding. THE COURT FURTHER FINDS AND CONCLUDES that because this CONTEMPT **is civil in nature, MOM shall be afforded a PURGE CLAUSE: MOM's 25 days JAIL** SENTENCE shall be STAYED **upon Mom's** ABSOLUTE COMPLIANCE with the Orders of this Court, including the Order entered on August 28, 2024**, as well as Mom's** ABSOLUTE COMPLIANCE with bringing Grady to ***every scheduled reunification therapy appointment with Mr. Stoll***. If MOM fails to bring Grady to any reunification therapy appointment, or if she fails to comply with the Orders of this Court, then **MOM's 25**-day JAIL TIME SANCTION shall be imposed and enforceable by any lawful means.

COUNT 2: Failure to cooperate in Reunification Therapy with court appointed therapist Matt Stoll, moving out of state without consent, and not providing new physical address.

THE COURT FURTHER FINDS AND CONCLUDES that with regard to COUNT 2, its language is very similar to the language of COUNT 1 in that it also encapsulates the issue of MOM failing to participate in reunification therapy as ORDERED by this Court. The only added language regards Mom moving out of state and not providing a new physical address. While MOM made a point to emphasize her ownership of several out-of-state properties, THE COURT FINDS AND CONCLUDES that it is unclear whether Mom purchased property in Southern Utah with intent to permanently move

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there, or whether she and Grady were "settled now in Southern Utah"[43] as a result of the transient nature of her job. MOM testified that she and her husband considered relocating to Utah, but ultimately decided against it. Mom adamantly testified that she and Grady still live at the same address in Boulder City, Nevada. While this Court has found that MOM was not credible in her testimony, THE COURT FINDS AND CONCLUDES that there was not clear and convincing evidence to establish that MOM is guilty of contempt as to COUNT 2. THEREFORE, THE COURT FINDS AND CONCLUDES that it will not hold Mom in contempt for COUNT 2.

CHILD SUPPORT ARREARS

NRS 125B.030 Recovery by parent with physical custody from other parent. Where the parents of a child do not reside together, the physical custodian of the child may recover from the parent without physical custody a reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian. In 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.

NRS 125B.050 Period of limitations.

1. If there is no court order for support, any demand in writing to a parent not having physical custody for payment of support on behalf of a minor child, mailed to the last known address of the parent, tolls the running of the statute of limitations for the bringing of an action for that support.

2. A motion for relief after judgment and an independent action to enforce a judgment for support of a child may be commenced at any time.

3. If a court has issued an order for the support of a child, there is no limitation on the time in which an action may be commenced to:

[43] Exhibit F.

(a) Collect arrearages in the amount of that support; or

(b) Seek reimbursement of money paid as public assistance for that child.

NAC 425.170 Modification or adjustment of child support obligation must be based on change in circumstances. (NRS 425.620)

1. Except as otherwise authorized by law or this chapter, after a court has established a child support obligation, any subsequent modification or adjustment of the child support obligation must be based upon a change in circumstances.

2. The receipt of public assistance by a child or an obligee constitutes a change in circumstances that will allow the review and, if appropriate, modification of the child support obligation in accordance with the child support guidelines in effect at the time of the review.

3. The adoption of or any revision to this chapter must not, in and of itself, be considered a change in circumstances sufficient to justify the modification of any existing order or money judgment.

NRS 125B.145 Review and modification of order for support: Request for review; jurisdiction; notification of right to request review.

1. An order for the support of a child must, upon the filing of a request for review by:

(a) The Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative or the district attorney, if the Division of Welfare and Supportive Services or the district attorney has jurisdiction in the case; or

(b) A parent or legal guardian of the child,

Ê be reviewed by the court at least every 3 years pursuant to this section to determine whether the order should be modified or adjusted. Each review conducted pursuant to this section must be in response to a separate request.

2. If the court:

(a) Does not have jurisdiction to modify the order, the court may forward the request to any court with appropriate jurisdiction.

(b) Has jurisdiction to modify the order and, taking into account the best interests of the child, determines that modification or adjustment of the order is appropriate, the court shall enter an order modifying or adjusting the previous order for support in accordance with the guidelines established by the Administrator of the Division of

Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.620.

3. The court shall ensure that:

(a) Each person who is subject to an order for the support of a child is notified, not less than once every 3 years, that the person may request a review of the order pursuant to this section; or

(b) An order for the support of a child includes notification that each person who is subject to the order may request a review of the order pursuant to this section.

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

5. As used in this section:

(a) **"Gross monthly income" has the meaning ascribed to it in** NRS 125.150.

(b) **"Order for the support of a child" means such an order that was issued or is** being enforced by a court of this State.

On February 2, 2023, Dad filed a *Motion for Partial Summary Judgment* ***Dismissing Petitioner's Claims for Neglect and Unfitness,*** *Motion for an Order Compelling Samantha to Accept Statutory Child Support from Benjamin, and Motion for Order Compelling the Undertaking of Reunification of Father and Child*, which Mom opposed. **In her Opposition, Mom argued that Dad's request for an Order compelling Mom to accept child support is premature, and Dad's "substantial arrears"** may be addressed by this Court at a later date in the event it finds termination of parental rights inappropriate. Then, on December 29, 2023 Mom filed motion for arrears based on **Dad's increase in income,** *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009), and

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NAC 425.170. Dad argued that MOM waived child support arrears. WAIVER is a question of fact for this Court.

A waiver is the "intentional relinquishment of a known right."[44] A waiver is not **effective unless done with "full knowledge of all material facts."**[45] The party asserting waiver as a defense bears the burden of establishing waiver.[46] Waiver may be shown **either by express agreement or implied from "conduct which** evidences an intention to waive a right, or by conduct which is inconsistent with any other intention than to waive **a right."**[47] The Supreme Court of Nevada clarified that conduct must clearly indicate **the party's intention "if** intent is to be inferred from **conduct."**[48] **"Waiver can be implied** from conduct such as making payments for or accepting performance which does not **meet contract requirements."**[49] However, such conduct must be done with knowledge of the breach to support waiver.[50] Furthermore, there are certain circumstances in which waiver may not be supported, even by conduct from which waiver may be implied.[51]

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[44] *State, Univ. & Cmty. Coll. Sys. v. Sutton*, 120 Nev. 972, 987, 103 P.3d 8, 18 (2004) (quotation omitted); see also *McKeeman v. Gen. Am. Life Ins. Co.*, 111 Nev. 1042, 899 P.2d **1124, 1128 (Nev.1995) ("Waiver requires an existing right, a knowledge of its existence, and** an actual intention to relinquish it, or conduct so inconsistent with the intent to enforce the right as to induce a reasonable belief t**hat it has been relinquished." (quotation omitted)).**

[45] *Sutton,* 103 P.3d at 18 (quotation omitted).

[46] *McKellar v. McKellar*, 110 Nev. 200, 871 P.2d 296, 297 (Nev.1994).

[47] *Id.*

[48] *Nev. Yellow Cab Corp. v. Eighth Judicial Dist. Ct. ex rel. Cnty. of Clark*, 123 Nev. 44, 152 P.3d 737, 740 (Nev.2007).

[49] *Udevco, Inc. v. Wagner*, 100 Nev. 185, 678 P.2d 679, 682 (Nev. 1984).

[50] *Epperson v. Roloff*, 102 Nev. 206, 719 P.2d 799, 804 (Nev.1986).

[51] *See Mill–Spex, Inc. v. Pyramid Precast Corp.*, 101 Nev. 820, 710 P.2d 1387, 1388 (Nev.1985) (holding a lessee's exercise of its right to renew did not necessarily imply waiver of the lessee's claims against the landlord for breach of its duty to repair where it would not have been feasible for the lessee to relocate and the landlord assured the lessee it would make the repairs).

Although the passage of time is a consideration in determining waiver, even an extensive lapse of time will not compel a finding of waiver as a matter of law.[52] Whether there has been a waiver generally is a fact question.[53]

In *McKellar*, the parties were divorced on August 27, 1974 and McKellar (Dad) was ordered to pay $300 per month in child support for the parties' only child. McKellar was also ordered to pay medical and educational expenses. In July 1977, McKellar ceased making child support payments, and on May 8, 1991, almost 14 years later, Metzler (Mom) filed an action to collect arrearages from McKellar dating back to 1977. The District Court found that Metzler did not waive her right to collect arrearages and awarded her child support arrearages with pre-judgment and post-judgment interest, medical and schooling expenses with post-judgment interest and attorney's fees totaling $122,521.71.

McKellar (Dad) appealed and argued that Metzler (Mom) waived her right to collect child support payments. **The Supreme Court of Nevada has held that** "equitable defenses such as estoppel or waiver may be asserted by the obligor in a proceeding to reduce child support arrearages to judgment."[54] The Supreme Court of Nevada further explained that

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[52] *See Nev. Yellow Cab Corp.*, **152 P.3d at 740 ("[D]elay alone is insufficient to establish a waiver.");** *Mackintosh v. Cal. Fed. Sav. & Loan Ass'n*, 113 Nev. 393, 935 P.2d 1154, 1161 (Nev.1997) (holding substantial evidence supported the trial court's conclusion that an eighteen month delay in attempting to rescind a contract did not constitute waiver); *McKellar*, 871 P.2d at 297–9 (holding fourteen year period before initiating claim for child support arrearages did not establish waiver where the plaintiff repeatedly requested child support).

[53] *McKellar*, 871 P.2d at 297.

[54] *Parkinson v. Parkinson,* 106 Nev. 481, 483, 796 P.2d 229, 231 (1990).

> To establish a valid waiver, the party asserting the defense must show that there has been an intentional relinquishment of a known right.[55] Additionally, while a waiver may be the subject of express agreement, it may also be implied from conduct which evidences an intention to waive a right, or by conduct which is inconsistent with any other intention than to waive a right.[56] Whether there has been a waiver is a question for the trier of fact.[57]
>
> In *McKellar*, the Supreme Court of Nevada held that:
>
> In the case at bar, ***there was no express agreement between the parties that Metzler waived her right to collect child support payments***. Therefore, the question is whether the district court erred in finding that there was no implied waiver. The record contains ample evidence to support the district court's conclusion that ***Metzler's conduct neither demonstrated an intent to waive her right to collect child support payments nor was it inconsistent with any other intention than to waive that right***. Although Metzler waited almost 14 years before initiating an action to collect arrearages, this fact is not dispositive of whether an implied waiver occurred. While the amount of time elapsed is certainly one factor in determining whether there exists an implied waiver, it is not the only factor. During the years Erin went without the benefit of child support payments, ***Metzler consistently requested that McKellar make the payments required by the divorce decree***. (Emphasis Added)

THE COURT FINDS AND CONCLUDES that *MCKELLAR* is distinguishable from this case because whereas in *MCKELLAR*, the COURT FOUND that there was no express agreement between the parties that Metzler waived her right to collect child support payments, such is not the case with these parties. As set forth in the *Findings of Fact, supra*, THE COURT FINDS THAT MOM expressly waived child support from DAD as evidenced in her unequivocal email wherein in response to DAD offering: ***"I would like to help, as much as I can;" "If you would like some financial support,***

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[55] *McKellar v. McKellar*, 110 Nev. 200, 202, 871 P.2d 296, 297 (1994) (citing *Parkinson v. Parkinson,* 106 Nev. 481, 483, 796 P.2d 229, 231 (1990).
[56] *Id.*
[57] *Id.*

please let me know and we will work out the details;" **and, "*I'm* happy to contribute,"**[58] MOM unequivocally stated: **"*As you and I both know, you're not in any position to contribute financially, although the offer is noted.*"**[59]

THE COURT FURTHER FINDS THAT AT TRIAL, while MOM initially testified **that at no time did DAD offer her financial support, MOM's testimony was contradicted** by EXHIBIT A.

THE COURT FURTHER FINDS THAT MOM's testimony at trial was self-serving, argumentative, non-responsive, disingenuous, inconsistent, and contradicted by EXHIBIT A.

THE COURT FURTHER FINDS AND CONCLUDES **that MOM's subsequent** actions establish that not only did she expressly waive financial support from DAD for the benefit of GRADY, but that she made it abundantly clear to DAD that ***he was in no position to provide support*, as evidenced by MOM's behavior and testimony** establishing that she was in the superior financial position over DAD, which is further **corroborated by MOM's** emails and corresponding testimony that she is the one who provided DAD with financial support (i.e. iPhone). MOM boasted at trial that she is **the one who "subsidized" Dad by buying him an iPhone and providing him with** a credit card. MOM made it abundantly clear that DAD was in no position to provide financial **support. MOM further boasted that although DAD's mom offered to set up a college** fund for GRADY, MOM declined this as well.

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[58] Exhibit A
[59] *Id.*

THE COURT FINDS AND CONCLUDES that this case is distinguishable from *McKellar* in that MOM expressly and impliedly waived financial support from DAD **and his family for GRADY's benefit.**

Whereas in *McKellar*, MOM consistently requested that DAD make the payments required by the divorce decree, the evidence in the case at bar is devoid of anything to establish that MOM requested DAD to provide financial support.

The evidence further establishes that in addition to MOM's express waiver of support in EXHIBIT A, when DAD filed a Motion on February 2, 2023 to compel MOM to accept child support, MOM filed an OPPOSITION thereto on February 16, 2023 wherein MOM argued **that Dad's request for an Order compelling Mom to accept child support is premature, and Dad's "substantial arrears" may be addressed by this** Court at a later date in the event it finds termination of parental rights inappropriate.

The evidence further establishes that it was not until December 29, 2023 that MOM first sought child support.

In *McKellar*, **MOM offered to forgive DAD's** past and future child support obligations provided that DAD would consent to the adoption of **their child by MOM's** new husband. DAD refused. THE COURT held that "In light of these facts, we hold that Metzler [MOM] did not intentionally relinquish her right to collect child support arrearages from McKellar."[60]

[60] *McKellar v. McKellar*, 110 Nev. 200, 202, 871 P.2d 296, 297–98 (1994)

In the case at bar, MOM uses this holding to argue that this COURT cannot use ***MOM's offer to pay DAD $25,000, as well as a waiver of past and future child support,*** *in exchange for his relinquishment of termination rights,* against her. **MOM's reliance** on *MCKELLAR* in this instance is misplaced. THE COURT IS NOT finding that **MOM's** *offer to pay DAD $25,000 in in exchange for his relinquishment of rights* constitutes a waiver of child support.

THE COURT is not using MOM's offer to settle the case against her. THE COURT IS NOT MAKING ANY FINDING ABO**UT MOM'S OFFER because that is** something between the parties and is of no import to this COURT vis-à-vis its **determination of MOM'S waiver of child support.**

THE COURT FINDS AND CONCLUDES that, unlike in *McKellar*, in this case MOM expressly waived child support as evidenced in her email to DAD (Exhibit A) which is further corroborated by her conduct. Contrary to *McKellar*, where there was **NO EXPRESS WAIVER and MOM's conduct establishes that she consistently** requested that DAD make the payments required by the divorce decree, the evidence in the case at bar is devoid of anything to establish that MOM requested DAD to provide financial support.

The evidence further establishes that in addition to MOM's express waiver of support in EXHIBIT A, coupled with Mom's implied waiver of support, THE COURT FINDS AND CONCLUDES that when DAD filed a Motion on February 2, 2023 to compel MOM to accept child support, MOM filed an OPPOSITION thereto on

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February 16, 2023. MOM did not seek retroactive child support until December 29, 2023.

Based on the evidence presented and the papers and pleadings, THE COURT FINDS AND CONCLUDES that MOM failed to establish she is entitled to child support arrears in amount of $49,599.84. The evidence establishes that MOM waived child support from Dad and did not seek child support for the first time until December 29, 2023.

At the April 25, 2023 Hearing, THE COURT ORDERED DAD to pay $773.28 in monthly child support based on his reported gross monthly income of $4,883.00 ($55,000 annually).[61] On December 13, 2023, DAD filed a second FDF reporting his gross monthly income of $6,166.66 ($80,000 annually). THEREFORE, based on his **reported gross monthly income, DAD's child support obligation as of January 1, 2024** should have been $973.33.

THE COURT ORDERS MOM to file an UPDATED SCHEDULE OF **ARREARS reflecting DAD's child support obligation from April 25, 2023 through** December 31, 2023 in amount of $773.28, and from January 1, 2024 to date in amount of $973.33, with any payments credited thereon. The final amount due and owing shall **be OFFSET by MOM's Order to Show Cause SANCTIONS, supra, with the FINAL** BALANCE REDUCED TO JUDGMENT and collectible by any lawful means.

[61] **Dad's Financial Disclosure Form dated** February 2, 2023

Health Insurance

NRS 125B.030 Recovery by parent with physical custody from other parent. Where the parents of a child do not reside together, the physical custodian of the child may recover from the parent without physical custody a reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian. In 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.

NRS 125B.050 Period of limitations.

1. If there is no court order for support, any demand in writing to a parent not having physical custody for payment of support on behalf of a minor child, mailed to the last known address of the parent, tolls the running of the statute of limitations for the bringing of an action for that support.

2. A motion for relief after judgment and an independent action to enforce a judgment for support of a child may be commenced at any time.

3. If a court has issued an order for the support of a child, there is no limitation on the time in which an action may be commenced to:

(a) Collect arrearages in the amount of that support; or

(b) Seek reimbursement of money paid as public assistance for that child.

MOM seeks reimbursement for half of the health insurance premiums that she paid out of pocket for GRADY. While the COURT FINDS AND CONCLUDES that per NRS 125B.030, MOM is entitled to recoup half of the out-of-pocket costs that she incurred for payment **of GRADY's health insurance,** THE COURT FINDS AND CONCLUDES that MOM failed to establish any credible evidence that she has incurred out-of-pocket costs for GRADY. MOM did not produce any proof of payments. Instead, she produced a chart of premiums, but she admits that this chart is for premiums that she is recently subject to. THE COURT had already found in its *Findings of Fact,*

supra, that MOM is not credible. Although MOM had the benefit of esteemed counsel, MOM failed to establish that she is entitled to $24,278.39 for half of the out-of-pocket **cost for Grady's health insurance premium; THEREFORE, MOM's request is DENIED** WITHOUT PREJUDICE.

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.**

THE COURT FINDS that MOM is not the prevailing party in this matter. THEREFORE, **THE COURT DENIES MOM'S REQUEST FOR** ATTORNEY FEES. **Each party is to bear their own attorney's fees and costs.**

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

FINAL ORDERS

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this Court has subject matter jurisdiction over this action, personal jurisdiction over the parties, as well as UCCJEA jurisdiction over this custody proceeding, as Nevada is the home state of the child.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that clear and convincing evidence establishes that MOM committed one (1) total count of contempt of court as to COUNT 1; THEREFORE, pursuant to NRS 22.100(2), Mom is guilty of CONTEMPT OF COURT as to COUNT ONE and is SANCTIONED $500.00, which **is REDUCED TO JUDGMENT, and offset by DAD's CHILD SUPPORT ordered** herein, *infra*.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to NRS 22.100(2), Mom is **sentenced to 25 days' JAIL TIME at Clark County** Detention Center as a SANCTION for this Court's contempt finding. **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that because this CONTEMPT is civil **in nature, MOM shall be afforded a PURGE CLAUSE: MOM's 25 days** JAIL

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SENTENCE shall be STAYED upon Mom's ABSOLUTE COMPLIANCE with the Orders of this Court, including the Order entered on August 28, 2024, as well as Mom's ABSOLUTE COMPLIANCE with bringing Grady to ***every scheduled reunification therapy appointment with Mr. Stoll***. If MOM fails to bring Grady to any reunification therapy appointment, or if she fails to comply with the Orders of this Court, then **MOM's 25**-day JAIL TIME SANCTION shall be imposed and enforceable by any lawful means.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that MOM has shown cause as to why she should not be held in contempt of court as to COUNT 2; THEREFORE, the Court will not hold Mom in contempt for COUNT 2.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that **MOM'S** *Motion for Constructive Arrears, for Reimbursement of Medical Insurance Policy Costs; for Modification of Child Support and for Other Related Relief* is PARTIALLY DENIED and PARTIALLY GRANTED.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that based on **Dad's** December 13, 2023 FDF reporting his gross monthly income of $6,166.66 ($80,000 annually), **DAD's child support obligation as of January 1, 2024 should have** been $973.33. THEREFORE, DAD shall pay MOM $973.33 in monthly child support on the 1st day of every month.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that MOM is entitled to adjusted retroactive child support arrears, dating back to April 25, 2023. **MOM shall file an UPDATED SCHEDULE OF ARREARS reflecting DAD's child**

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support obligation from April 25, 2023 through December 31, 2023 in amount of $773.28, and from January 1, 2024 to date in amount of $973.33, with any payments **credited thereon. The final amount due and owing shall be OFFSET by MOM's Order** to Show Cause $500.00 SANCTION, *supra,* with the FINAL BALANCE REDUCED TO JUDGMENT and collectible by any lawful means.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that MOM failed to establish any credible evidence that she has incurred out-of-pocket costs for GRADY. THER**EFORE, MOM's** request for $24,278.39 from DAD as reimbursement for out-of-pocket insurance costs in her *Motion for Constructive Arrears, for Reimbursement of Medical Insurance Policy Costs; for Modification of Child Support and for Other Related Relief* is DENIED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that **MOM'S** REQUEST FOR ATTORNEY FEES IS DENIED WITH PREJUDICE. Each party is **to bear their own attorney's fees and costs.**

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Evidentiary Hearing as to CUSTODY STANDS on September 30, 2025 at 1:30 p.m.

STATUTORY NOTICES

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. 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:

MARI D. PARLADÉ
DISTRICT JUDGE
FAMILY DIVISION, DEPT. A
LAS VEGAS, NV 89101

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 nonrelocating 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 nonrelocating 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.010 through 31A.350, inclusive, regarding the immediate withholding or assignment of wages, commissions or bonuses for payment of child support, whether current or delinquent.

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

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

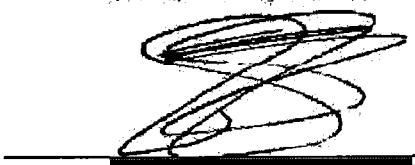
any modification made pursuant to a motion to modify the order will be effective as of the date the motion was filed.

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/addresschange-pdf-fillable.pdf

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated this 20th day of March, 2025



HONO[redacted]RLADÉ
DISTR[redacted]541
Mari D. Parlade
District Court Judge

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Parental Rights of: Grady Fagan, Minor(s).	CASE NO: D-23-660942-R DEPT. NO. Department A

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Findings of Fact, Conclusions of Law and Judgment 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: 3/20/2025

John Kelleher	efiling@kelleherandkelleher.com
Benjamin Blitch	benblitch@gmail.com
Samantha Fagan	Samanthafagan@aol.com

Benjamin Blitch's Motion to Enforce and/or for an Order to Show Cause Regarding Contempt

Electronically Filed
3/31/2025 12:46 PM
Steven D. Grierson
CLERK OF THE COURT

FILING CODE: MOT

Your Name: Benjamin Blitch
Address: 1715 W Spring Meadows Way
Kamas, UT 84036
Telephone: 435-671-5767
Email Address: benblitch@gmail.com
Self-Represented

DISTRICT COURT
CLARK COUNTY, NEVADA

Samantha Fagan Plaintiff, vs. Benjamin Blitch Defendant.	CASE NO.: D-23-660942-R DEPT: A

MOTION FOR AN ORDER TO ENFORCE AND/OR FOR AN ORDER TO SHOW CAUSE REGARDING CONTEMPT

NOTICE OF MOTION

The judge can make a decision based only on the written filings, or the judge can talk to both parties and ask questions at a court hearing first. You can choose which you prefer below.

Would you like to have a hearing with the judge? (☒ *check yes/no, the court will enter details*)

☐ **Yes.** Hearing Date: _____ Hearing Time: _____ at:

- ☐ **Family Courts & Services Center, 601 N. Pecos Rd. Las Vegas, NV 89101, courtroom ____**
- ☐ **Regional Justice Center, 200 Lewis Ave. Las Vegas, NV 89101, courtroom ___**

The hearing may be available online; if it is the court will send login information separately.

☒ **No.** The judge will write a decision after reviewing the request in chambers on: _____

TO: (*write opposing party's name*): Samantha Fagan

NOTICE: You may file a written response to this motion with the Clerk of the Court and provide the undersigned with a copy of your response within 14 days of receiving this motion. Failure to file a written response with the Clerk of Court within 14 days of your receipt may result in the requested relief being granted by the Court without a hearing prior to the scheduled hearing date.

Submitted By: (*your name*) /s/ Benjamin Blitch
☐ Plaintiff / ☒ Defendant

© 2023 Family Law Self-Help Center Motion for an Order to Show Cause

* You are responsible for knowing the law about your case. For more information on the law, this form, and free classes, visit www.familylawselfhelpcenter.org or the Family Law Self Help Center at 601 N. Pecos Road. To find an attorney, call the State Bar of Nevada at (702) 382-0504.

MOTION

(*Your name*) Benjamin Blitch, moves this Court for an order to enforce current court orders and for an order to show cause why the opposing party should not be held in contempt and punished accordingly for violating this court's order. (☒ *check one*)

☐ I tried to resolve this issue with the other party before filing this motion.

☒ I did not try to resolve this issue with the other party before filing this motion. Any attempt to resolve the issue would have been useless or impractical because (*explain why you did not try to resolve this issue directly with the other party before filing this motion*)
Ms. Fagan continues her pattern of behavior that is non-responsive, self-serving, disingenuous, and argumentative.

Financial Disclosure Form ("FDF") Certification. (☒ *check one*)

☒ This motion does not have anything to do with money or financial relief.

☐ I understand that I must file my FDF within 2 judicial days of filing this motion to support my request for financial relief. Failure to file a timely, complete, and accurate FDF may result in the court ruling against me and/or imposing sanctions.

☐ I filed a Financial Disclosure Form in the last 6 months and have no changes to report.

POINTS AND AUTHORITIES
LEGAL ARGUMENT

The refusal to obey a lawful order issued by the court is an act of contempt. NRS 22.010(3). The facts of contempt must be presented to the court through an affidavit. NRS 22.030(2). A person found guilty of contempt may be fined up to $500 for each act of contempt, may be imprisoned for up to 25 days, or both. A person found guilty of contempt may also be required to pay the reasonable expenses, including attorney's fees, of the person seeking to enforce the order. NRS 22.100.

FACTS AND ARGUMENT

1. **Violation.** I believe the other party is violating court orders. The Court should find the other party in contempt because the other party: (☒ *check all that apply*)

Child Support:
- ☐ Does not pay child support at all
- ☐ Pays less child support than ordered
- ☐ Pays child support late

Alimony:
- ☐ Does not pay alimony at all
- ☐ Pays less alimony than ordered
- ☐ Pays alimony late

Other:
- ☐ Does not obey the custody / visitation schedule
- ☐ Does not obey the Behavior Order
- ☐ Has not returned property to me
- ☒ Other: Ms. Fagan has not been in Absolute ~~Compliance of Reunification appointments by being 20 minutes late and providing~~ distractions to Grady

Details about the contempt(s) alleged above are in the attached Declaration.

2. **Garnishment.** (☒ *check appropriate boxes below*)

Does the violation have to do with unpaid child support and/or alimony? ☐ Yes ☒ No

If yes, do you want the judge to order the other party to have his/her wages garnished to pay future child support and/or alimony? ☐ Yes ☒ No

3. **Enforcement.** I would like the Court to issue any orders necessary to effectuate compliance with the court order.

4. **Other Relief.** In addition to the relief requested above, I would like the Court to also order the following: (*Explain anything else that you would like the judge to order, or enter "N/A" if you do not want anything else. Be specific.*) Please enforce the sanction for one count of contempt and order Ms. Fagan to serve ~~25 days in Clark County Detention Center.~~

I respectfully ask the Court to grant me the relief requested above, including an award of attorney's fees if I am able to retain an attorney for this matter, and any other relief the Court finds appropriate.

DATED March 31, 2025.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

DECLARATION IN SUPPORT OF MOTION FOR AN ORDER TO ENFORCE AND/OR FOR AN ORDER TO SHOW CAUSE REGARDING CONTEMPT

I have personal knowledge of the facts constituting the contempt(s), which are explained in detail below:

How to Fill Out The Next Section:

Get a copy of the court order that is being violated.

The order shows on the upper right corner of the first page the date the order was filed. Write this date in the section that says "date court order was filed." ***(ex., 2/1/2018)***

Find the pages where the court order says what the other party is supposed to do. Find the line number or paragraph number where the order specifically says what the other party is supposed to do. Write these numbers on the "page" and "line/paragraph number" line. ***(ex., page 3, line 21)***

Finally, write what the order says the party is supposed to do ***(ex. Defendant is supposed to pay $300 per month in child support)***, how the party is violating the order ***(ex. Defendant has not paid any child support)***, and the dates of the violation ***(ex. March 2018-present)***.

List each violation separately.
You can include violations for 2 separate court orders, and 2 violations for each court order.
You can add more pages if needed to describe more violations.

1. **First Court Order Being Violated.** The other party is violating the terms of a Court order that the Court entered on (*date court order was filed*) March 21, 2025.

   a. The Court order says on page 63, line/paragraph number 6 that the other party is supposed to: (*write what the order says the other party is supposed to do*):
   Mom's ABSOLUTE COMPLIANCE with the Orders of this Court, including the Order entered on August 28, 2024, as well as Mom's ABSOLUTE COMPLIANCE with bringing Grady to every scheduled reunification ~~therapy appointment with Mr. Stoll. If MOM fails to bring Grady to any reunification~~

   The other party is not following this part of the order. The other party is (*describe what the other party is doing or not doing that violates the order*)
   Ms. Fagan arrived 20 minutes late to the scheduled appt. 3/27/25. Resulting in Dad ~~missing nearly half of his scheduled time with Grady. Ms. Fagan has also shown~~ up argumentative with Mr. Stoll, again delaying the start of therapy. Ms. Fagan is ~~providing "conflicts" with nearly every date Mr. Blitch schedules.~~

   The violation happened on (*date(s) of violation*) March 27, 2025.

b. The Court order says on page 63, line/paragraph number 6 that the other party is supposed to: (*write what the order says the other party is supposed to do*):

Mom's ABSOLUTE COMPLIANCE with the Orders of this Court, including the Order entered on August 28, 2024, as well as Mom's ABSOLUTE COMPLIANCE with bringing Grady to every scheduled reunification therapy appointment with Mr. Stoll. If MOM fails to bring Grady to any reunification

The other party is not following this part of the order. The other party is (*describe what the other party is doing or not doing that violates the order*) While Ms. Fagan "shows up" she is not doing so with "absolute compliance". As she is showing up "severely late", and is argumentative with Mr. Blitch, Mr. Stoll and the HeadsUp office staff.

The violation happened on (*date(s) of violation*) March 27, 2025.

2. **Second Court Order Being Violated.** The other party is violating the terms of a Court order that the Court entered on (*date court order was filed*) _____. According to the Court order, the other party is supposed to do the following:

a. The Court order says on page _____, line/paragraph number _____ that the other party is supposed to: (*write what the order says the other party is supposed to do*):

The other party is not following this part of the order. The other party is (*describe what the other party is doing or not doing that violates the order*) _____

The violation happened on (*date(s) of violation*) _____.

b. The Court order says on page _____, line/paragraph number _____ that the other party is supposed to: (*write what the order says the other party is supposed to do*):

_____

_____

_____

The other party is not following this part of the order. The other party is (*describe what the other party is doing or not doing that violates the order*) _____

_____

_____

_____

The violation happened on (*date(s) of violation*) _____.

3. **Notice.** (☒ *check one*)

☒ The other party was served with a copy of the first court order on (*date the party was served with the order*) 8/28/2024 and was served with a copy of the second court order on (*date the party was served with the order*) 3/21/2025.

☐ The other party knows about the court order(s) because (*explain how the other party is aware of the court order*) _____

_____

_____

_____

4. **Harm.** I am being harmed or will be harmed by the other party's violation in the following ways: (*explain how the other party's violation is affecting you*).

Mr. Blitch's relationship with Grady is being irreparably harmed by Ms. Fagan's blatant disregard for scheduling, being on time, presenting Grady (having been fed that day, when sessions are at 3pm), and without distractions. Ms. Fagan has continued her pattern of behavior of resistance, non-responsiveness, and obstinance. Until this court enforces the sanction in the ruling from March 21, 2025, Ms. Fagan will continue to invent ways to interfere and push the boundaries of the court's patience. Grady needs the court to intervene in order to have a relationship with his father as Ms. Fagan has proven that her goal is to disparage Dad. (Ruling p.44 line 16). Ms. Fagan will continue her "willful disobedience" until the court enforces the sanctions in the ruling.

5. **Money Due / Arrears.** *If the other party is not paying child support or alimony, you have to fill out a form called a "Schedule of Arrears." The Schedule of Arrears lists every missed or partial payment with a grand total of what is now due (including any applicable interest or penalties).*

(☒ *check all that apply*)

☒ The other party's violation does not have to do with unpaid money.

☐ The other party owes me for unpaid child support. The other party has not paid a total of $_____ in child support. This amount should be reduced to judgment.

☐ The other party owes me for unpaid spousal support. The other party has not paid a total of $_____ in spousal support. This amount should be reduced to judgment.

☐ The other party has not paid me other amounts owed (*Explain how much money the other party owes you and why*): _____

_____

_____

This amount should be reduced to judgment.

6. **Need for Contempt Ruling.** The judge should find (*write the name of other party who is violating court orders*) Samantha Fagan in contempt because (*explain why the judge should hold the person in contempt*) _____
The court has already found Ms. Fagan in contempt, now Mr. Blitch is asking for enforcement of that sanction.

_____

_____

7. Any Exhibit(s) in support of this Motion will be filed separately in an Exhibit Appendix.

I have personal knowledge of the facts constituting the contempt(s) explained above. I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED March 31, 2025.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

Benjamin Blitch's Motion for an Order to Show Cause Regarding Contempt and to Enforce Child Custody and/or Visitation

Electronically Filed
5/5/2025 8:16 AM
Steven D. Grierson
CLERK OF THE COURT

FILING CODE: MOT
Your Name: Benjamin Blitch
Address: 1715 W Spring Meadows Way
Kamas, UT 84036
Telephone: 435-671-5767
Email Address: benblitch@gmail.com
Self-Represented

DISTRICT COURT
CLARK COUNTY, NEVADA

Samantha Fagan Plaintiff, vs. Benjamin Blitch Defendant.	CASE NO.: D-23-660942-R DEPT: A

MOTION FOR AN ORDER TO SHOW CAUSE REGARDING CONTEMPT AND TO ENFORCE CHILD CUSTODY AND/OR VISITATION

NOTICE OF MOTION

The judge can make a decision based only on the written filings, or the judge can talk to both parties and ask questions at a court hearing first. You can choose which you prefer below.

Would you like to have a hearing with the judge? (☒ *check yes/no, the court will enter details*)

☐ **Yes.** Hearing Date: _____ Hearing Time: _____ at:

- ☐ **Family Courts & Services Center, 601 N. Pecos Rd. Las Vegas, NV 89101, courtroom ____**
- ☐ **Regional Justice Center, 200 Lewis Ave. Las Vegas, NV 89101, courtroom ___**

The hearing may be available online; if it is the court will send login information separately.

☒ **No.** The judge will write a decision after reviewing the request in chambers on: _____

TO: (*write opposing party's name*): Samantha Fagan

NOTICE: You may file a written response to this motion with the Clerk of the Court and provide the undersigned with a copy of your response within 14 days of receiving this motion. Failure to file a written response with the Clerk of Court within 14 days of your receipt may result in the requested relief being granted by the Court without a hearing prior to the scheduled hearing date.

Submitted By: (*your name*) /s/ Benjamin Blitch

☐ Plaintiff / ☒ Defendant

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* You are responsible for knowing the law about your case. For more information on the law, this form, and free classes, visit www.familylawselfhelpcenter.org or the Family Law Self Help Center at 601 N. Pecos Road. To find an attorney, call the State Bar of Nevada at (702) 382-0504.

MOTION

(*Your name*) Benjamin Blitch moves this Court for an Order enforcing the custody and/or visitation schedule and/or for issuance of an Order to Show Cause regarding contempt. (☒ *check one*)

☒ I tried to resolve this issue with the other party before filing this motion.

☐ I did not try to resolve this issue with the other party before filing this motion. Any attempt to resolve the issue would have been useless or impractical because (*explain why you did not try to resolve this issue directly with the other party before filing this motion*)

_____

_____

POINTS AND AUTHORITIES
LEGAL ARGUMENT

The refusal to obey a lawful order issued by the court is an act of contempt. NRS 22.010(3). The facts of contempt must be presented to the court through an affidavit. NRS 22.030(2). A person found guilty of contempt may be fined up to $500 for each act of contempt, may be imprisoned for up to 25 days, or both. A person found guilty of contempt may also be required to pay the reasonable expenses, including attorney's fees, of the person seeking to enforce the order. NRS 22.100.

If it appears that a child has been or is likely to be concealed within the state or taken out of the state, the court shall order the child to appear and shall make a determination most advantageous to and in the best interest of the child. The court may authorize law enforcement to assist a party in obtaining physical custody of a child. A proceeding under this section must be given priority on the court's calendar. NRS 125C.0055.

FACTS AND ARGUMENT

1. **Number of Minor Children.** The parties have (*number*) 1 minor children in common.

Child's Name:	Date of Birth	State of Residence:
Grady Porter Fagan	9/20/2017	Nevada

2. **Violation.** The other party is not following the court-ordered timeshare. Details about the contempt are in the attached declaration.

3. **Contempt and Other Remedies.** The Court should issue an Order to Show Cause and find the offending party in contempt based on the details in the attached Declaration. In addition, I would like: (☒ *check any that apply*)

☐ **Compensatory Time.**

The court should award me the following time with the child(ren) to make up for the missed time due to the other parent's violation.

(*Describe when you would like to have the children to make up for the lost time*)

_____

_____

_____

☒ **Pickup Order / Warrant to Take Physical Custody of a Child.** The Court should enter an order and/or a warrant allowing me to pick up the children with the assistance of law enforcement.

4. In addition to the relief requested above, I would like the Court to also order the following: (*Explain anything else that you would like the judge to order, or enter "N/A" if you do not want anything else. Be specific.*)

1. Order for Temporary Sole Physical Custody of minor child Grady to Benjamin Blitch
2. Order allowing temporary relocation of minor child Grady to father's home in Summit County, UT.
3. Order Mr. Blitch's name be added to Grady's Birth Certificate.

I respectfully ask the Court to grant me the relief requested above, including an award of attorney's fees if I am able to retain an attorney for this matter, and any other relief the Court finds appropriate.

DATED May 1, 2025.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

DECLARATION IN SUPPORT OF MOTION FOR AN ORDER TO SHOW CAUSE REGARDING CONTEMPT AND TO ENFORCE CHILD CUSTODY AND/OR VISITATION

I have personal knowledge of the facts constituting the contempt(s), which are explained in detail below:

1. **Current Custody Order.** The current custody order was filed on (*date of your current custody order*) March 20, 2025. The court order says on page 3 line/paragraph number 24 that I am supposed to have time with the child(ren) on the following days/times: (*describe when the order states you are to have time with the children*) THEREFORE, THE COURT ORDERED that the parties shall maintain ~~the status quo, with Grady remaining in Samantha's sole care and custody as that is~~ in his best interests at this time.

2. **Notice.** (☒ *check one*)
   - ☒ The other party was served with a copy of the court order on (*date the party was served with the order*) March 20, 2025.
   - ☐ The other party knows about the court order(s) because (*explain how the other party is aware of the court order*) _____

3. **Other Custody Orders.** (☒ *check one*)
   - ☒ There are no other court orders that affect the custody and visitation order.
   - ☐ There is another court order that may affect the custody and visitation order. (*Give details about what court issued the order, when, what the order says, etc.*):

4. **Denial of Custody / Visitation.** The other parent is violating the custody / visitation order in the following ways (*explain when you last saw the children, your attempts to see the children, and any known reasons why the other parent will not let you see the children*):
See Addendum

(Attach additional pages if more space is needed)

5. **Police.** Have you contacted police about this? (☒ *check one*)

☐ No, I have not contacted the police about this situation.

☒ Yes, I contacted the police about this situation. (*Give details about when you contacted police, the police report, what action the police took, etc.*):
In October of 2024 I contacted the Boulder City Police Department for a well ~~check. On April 27, 2025 I contacted the Boulder City Police Department to check~~ on the occupancy status of 1502 Christina Dr. Boulder City, NV. BCPD CALL ~~#25BD08735 Officer C. Gelson P#334. Additional Police Reports will be filed and~~ included in additional documentation.

6. **Child Protective Services.** Have you contacted CPS about this? (☒ *check one*)

☒ No, I have not contacted CPS about this situation.

☐ Yes, I contacted CPS about this situation. (*Give details about when you contacted CPS, any action CPS took, the caseworker's name, etc.*):

7. **Harm.** I am being harmed or will be harmed by the other party's violation in the following ways: (*explain how the other party's violation is affecting you*).
See Addendum

8. **Need for Contempt Ruling.** The judge should find (*write the name of other party who is violating court orders*) Samantha Fagan in contempt because (*explain why the judge should hold the person in contempt*)
See Addendum

9. Any Exhibit(s) in support of this Motion will be filed separately in an Exhibit Appendix.

I have personal knowledge of the facts constituting the contempt(s) explained above. I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED May 1, 2025.

Submitted By: (*your signature*) /s/ Benjamin Blitch

(*print your name*) Benjamin Blitch

Motion for Order Showing Cause Addendum

I. Points and Authorities

Before relocating a minor child from jurisdiction in Nevada a custodial parent must obtain written consent from the non-custodial parent or the court per NRS 125C.006 (1a and b). If the custodial parent does not gain written consent and instead conceals the child's residence from the non-custodial parent then they are in violation of NRS 200.359 and shall be punished as provided in NRS 193.130.

In consideration of the best interest of the child as outlined in NRS 125C.0035, the court shall consider the parents willingness to allow a relationship with the non-custodial parent, the level of conflict between the parents, the ability of the parents to cooperate to meet the child's needs, the mental health of the parents, the developmental and emotional needs of the child, and **whether either parent has committed and act of abduction of the child.**

II. Facts and Argument

Ms. Fagan shows an active address of 1630 E 2450 S St. Unit 89 in St George, Utah starting in August of 2024, according to 'Check People'. This home is owned by Ms. Fagan's alleged husband, Scott Barnes. Ms. Fagan sent an unexpected and unsolicited email to Mr. Blitch in September 2024 stating that she and Grady were "settled in southern Utah", corroborating information that would be later found on 'Check People'. Also in September 2024, while pro se, she filed a motion to relocate. Her subsequent retained counsel retracted Ms. Fagan's motion to relocate, but the court noted and has record of said motion. Ms. Fagan also filed a motion to change venue, demonstrating her nefarious and desperate attempt to evade this courts orders which she had already significantly delayed (17 months), to Grady and Mr. Blitch's detriment.

Ms. Fagan then cancelled an appointment with the court ordered therapist, Mr. Stoll, on October 25, 2024 confirming again she was "in another state". Also, in October 2024 pictures from Google Street View confirm 1502 Christina Drive to be vacant, uncommonly different than the Google Street view from the previous year (2023) which showed occupancy specifically by Ms. Fagan and Grady. These photos include toys belonging to young Grady and Ms. Fagan's vehicles listed in her FDF, including a VW Van.

In December 2024, per local Boulder City Rental page, 1502 Christina Dr. was listed for rent, showing pictures of a vacant inside and outside of the home, again confirming Ms. Fagan had relocated. Zillow also confirmed 1502 Christina Dr. Boulder City, NV was listed for rent December 14, 2024.

Finally, in April and May of 2025 pictures of toys belonging to a male child as well as Ms. Fagan's VW van parked at her new residence 1630 E 2450 S St. Unit 89 in St. George, UT continues to confirm Ms. Fagan's own statement back in September of having "settled in southern Utah" Ms. Fagan was asked several times, through email exchanges with horribly worried dad, Mr. Blitch, during the course of this time period (9 months) what Grady's physical address was and where they were living to which she was non-responsive and argumentative.

When compelled by the Honorable Judge Parladé, who reminded Ms. Fagan she was under oath, Ms. Fagan responded that her current physical address for herself and Grady remained to be "1502 Christina Drive", demonstrating her lack of respect for the court once again. Ms. Fagan's sworn statement of residence is an obvious lie, consistent with the only pattern of behavior this court has seen her display self-serving, non-credible, non-responsive, resistant, argumentative behavior. Her intention was clearly to deceive Grady's father and the court and conceal the child, Grady. This highly concerning pattern of behavior illustrates that Grady is in extreme danger of further abduction and concealment by Ms. Fagan in order to effectuate her own self-serving interests of interfering with Mr. Blitch's relationship with his beloved child, Grady.

NRS 125C.006 – requires Ms. Fagan to have court permission to remove Grady from Clark County family court jurisdiction. She was knowledgeable of this as she filed for relocation and change of jurisdiction, although retracted. She was further made aware at contempt hearing December 6, 2024 that she was absolutely NOT to relocate Grady (out of state) per Judge Parladé who named Nevada as Grady's home state.

NRS 200.359 (1b) Identifies Ms. Fagan's actions as parental kidnapping subject to penalties of 1-4 years in jail $5,000, attorney's and restitution.

NRS 125. 0035 Additionally Ms. Fagan has not acted in best interest of the child by (4c) being resistant and argumentative in reunification sessions between Grady and his father., (4j) educational neglect – Grady has never been registered for school, including "home school" and is currently participating in an unaccredited program (FREE) as his only means of education lead by either Ms. Fagan, who stated repeatedly that she constantly travels for work, or by someone else Ms. Fagan has not identified. (4L) abduction of the child as outlined in NRS 200.359 (1b).

It is clear Ms. Fagan has lied to the court about the current physical location of Grady and refused to answer dad's repeated questions about Grady's whereabouts, among countless other questions regarding Grady's basic information. (extracurriculars, medical info). The only communication Ms. Fagan participates in is emails with Mr. Blitch arguing about Grady's availability to participate in court ordered reunification therapy. While Mr. Blitch has repeatedly

tried to accommodate her never ending requests, Ms. Fagan has proven to be unwilling to co-parent in any way.

It is also clear she has taken residence at her alleged husband's (Scott Barnes) house in St. George, UT. Ms. Fagan's behavior continues to be self-serving, argumentative, non-responsive and non-credible.

Considering Ms. Fagan's endless efforts to hinder Grady's relationship with his father and her physical relocation and concealment of Grady, Ms. Fagan is a risk for furthering her pattern of behavior acting NOT in Grady's best interest. Including, further abduction, as well as continuing his educational neglect and putting her job ahead of Grady's needs.

By relocating Grady without permission, continuing to keep him from his peers and public school and refusing to provide any information about his medical care, Ms. Fagan is concealing him not only from his father, but also from his community.

For these reasons, dad pleads with the court to act in Grady's best interest, and grant dad temporary sole physical custody with permission to temporarily relocate Grady to Summit County, UT and amend his birth certificate to include father Benjamin Blitch's name.

In Dad's physical custody, not only would Grady have access to both his parents, he would also enjoy a stable physical environment with his father, step-mother and minor step siblings, only travelling for family leisure. He would also be enrolled in public school in Summit County providing consistent accredited education. Dad would also ensure Grady would have regular medical care. Grady would also enjoy extracurriculars of his choosing and interests.