ORIGINAL

CHARLES J. HOSKIN, ESQ.
Nevada Bar No. 004291
DENISE A. PIFER, ESQ.
Nevada Bar No. 005739
HOSKIN HUGHES PIFER
6885 W. Charleston Blvd.
Las Vegas, Nevada 89117
(702) 240-4447
Attorneys for Petitioners

FILED

AUG 08 2008

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY H. Ingersoll
DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

MATTHEW JOHN McLAUGHLIN and MARILYN ANN McLAUGHLIN,

Petitioners,

vs.

EIGHTH JUDICIAL DISTRICT COURT, HONORABLE N. ANTHONY DELVECCHIO, Family Court Judge, Department K, and CHASTITY McLAUGHLIN PRIMMER, Real Party in Interest.

Respondents.

52202

Supreme Court Case No. ~~51733~~

District Court Case No. 07D-384042-C

PETITION FOR WRIT OF MANDAMUS TO CORRECT AND/OR CLARIFY ORDER

COMES NOW the Petitioners, Matthew John McLaughlin and Marilyn Ann McLaughlin by and through their attorneys, Charles J. Hoskin, Esq., and Denise A. Pifer, Esq., of Hoskin Hughes Pifer, and hereby move this Court for a Writ of Mandamus pursuant to NRAP 21 requiring the District Court to hear a Motion to Correct and/or

///

RECEIVED
AUG 08 2008
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

08-20555

///

Clarify Order.

DATED this 5th day of August, 2008.

Respectfully Submitted,

HOSKIN HUGHES PIFER

Charles J. Hoskin, Esq.
Nevada Bar No.: 004291
Denise A. Pifer, Esq.
Nevada Bar No.: 005739
6885 W. Charleston Blvd.
Las Vegas, NV 89117
Attorneys for Petitioners

POINTS AND AUTHORITIES

I.

Extraordinary Writs

NRAP 21 (a) provides as follows:

> Mandamus or prohibition to a judge or judges; petition for writ; service and filing. Application for a writ of mandamus or of prohibition directed to a judge or judges shall be made by filing a petition therefor with the clerk of the Supreme Court with proof of service on the respondent judge or judges and on all parties to the action in the trial court. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application; a statement of the issues presented and of the relief sough; a statement of the reasons why the writ should issues; and copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition. Upon receipt of the prescribed filing fee, the clerk shall docket the petition and submit it to the court.

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

II.

Statement of the Facts

The Petitioners are the grandparents of a minor child, JACOB McLAUGHLIN, born May 24, 2000. The Petitioners have acted as the guardians of the minor child for approximately eight (8) years. The Petitioner's filed a Motion in District Court to confirm them as the minor child's primary physical custodians. That Motion sought orders regarding legal custody, physical custody, contempt against the Respondent for failure to pay child support, a request for reimbursement of unreimbursed medical expenses and attorney's fees.

The Motion was heard on Motion calendar by the District Court on January 16, 2008. The District Court took the matter under advisement and, without taking testimony, issued a "Minute Order" on or about January 31, 2008. In that Minute Order, the District Court made final custody determinations without findings of fact and did not grant the Petitioner's an evidentiary hearing. No reference to the Petitioner's request for contempt, attorney's fees, legal custody or the issue of unreimbursed medical expenses was made in the District Court's Minute Order. Additionally, the Minute Order did not set forth, with specificity, the visitation schedule between the Petitioners and the minor child.

The Petitioners filed a Motion requesting that the District Court resolve these issues. That Motion was filed on February 11, 2008. It was heard by the District Court on February 26, 2008. At that hearing, the District Court clarified the visitation schedule between the Petitioners and the minor child. Following this hearing (on March

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true and correct copy of the foregoing Verification of Petition for Stay of Change of Custody Pending Evidentiary Hearing was forwarded to:

Honorable N. Anthony DelVecchio
District Court Judge
Family Division, Department K
601 North Pecos Rd.
Las Vegas, NV 89101

Stephen M. Caruso, Esq.
CARUSO LAW OFFICE
201 Las Vegas Blvd., South, #300
Las Vegas, NV 89101
Attorney for Defendant

by placing same in ordinary United States Mail, postage prepaid, on August 6th, 2008.

An employee of Hoskin Hughes Pifer

EXHIBIT 1

D-07-384042-C

DISTRICT COURT
CLARK COUNTY, NEVADA

Child Custody Complaint	COURT MINUTES	February 26, 2008

D-07-384042-C Matthew J McLaughlinet al, Plaintiff.
vs.
Chastity McLaughlin-Primmeret al, Defendant.

February 26, 2008	**10:30 AM**	**Motion for Judgment**	**Petitioners' Motion For A Decision Regarding Schooling, Holidays And Vacations, To Resolve Remaining Issues From January 16, 2007 Hearing And For An Award Of Attorney's Fees**

HEARD BY: Del Vecchio, N Anthony **COURTROOM:** Courtroom 06

PARTIES:

Chastity McLaughlin-Primmer, Defendant, present	STEPHEN CARUSO, Attorney, present
Jacob McLaughlin, Subject Minor, not present	
John Doe, Defendant, not present	
Marilyn McLaughlin, Plaintiff, present	Charles Hoskin, Attorney, present
Matthew McLaughlin, Plaintiff, present	Charles Hoskin, Attorney, present

COURT CLERK: Kathy Prock

JOURNAL ENTRIES

- Mr. Hoskin stated the issues are counseling and schooling. Mr. Hoskin further stated Defendant is in contempt for non-payment of medical expenses, child support arrears, she disregards the right of first refusal. Mr. Hoskin requested attorney's fees in that he attempted settlement to no avail.

Argument regarding Defendant being in contempt. Discussion regarding Defendant taking the minor child out of private school and placing the minor child in a public school.

D-07-384042-C

Mr. Caruso stated when Judge Steele dismissed the guardianship, there were no longer any Orders.

Further argument regarding the grandparents having visitation only one (1) day per month.

COURT FINDS it is the minor child's best interest to have a relationship with his grandparents.

COURT ORDERED, the minor child is to stay in the school he is in right now. Evidentiary Hearing set. In the interim, the grandparents are to continue to have their two (2) weekends per month. When the minor child is out of school, all track breaks are to be split. Holidays take precedence over weekend visitation. The issue of the Order To Show Cause is deferred to the Evidentiary Hearing. The prevailing party will be awarded attorney's fees.

Mr. Caruso shall prepare the Order and Mr. Hoskin will sign off.

8/21/08 9:00 AM EVIDENTIARY HEARING. WHETHER IT IS IN THE BEST INTEREST OF THE MINOR CHILD TO HAVE A RELATIONSHIP WITH HIS GRANDPARENTS

INTERIM CONDITIONS:

FUTURE HEARINGS:

Canceled: March 11, 2008 10:00 AM Motion for Judgment

August 21, 2008 9:00 AM Evidentiary Hearing
Del Vecchio, N Anthony
Courtroom 06

EXHIBIT 2

FILED

MAY 27 2 12 PM '08

CLERK OF THE COURT

ORDR
STEPHEN M. CARUSO, ESQ.
Nevada Bar No. 6588
CARUSO LAW OFFICES
201 Las Vegas Blvd. South, Suite 300
Las Vegas, Nevada 89101
Tel: 702-367-4357
Fax: 702-367-4350
Attorneys for Respondent

DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

* * * *

MATTHEW JOHN McLAUGHLIN and MARILYN ANN McLAUGHLIN,

Petitioners,

vs.

CHASTITY McLAUGHLIN PRIMMER and JOHN DOE,

Respondents.

Case No: D-07-384042-C
Dept No: K

ORDER

A hearing on Petitioners' Motion for a Decision Regarding Schooling, Holidays and Vacations, to Resolve Remaining Issues From January 16, 2008 Hearing and for an Award of Attorney's Fees having come on before this Court on the 26th day of February, 2008, Respondent, CHASTITY PRIMMER, being represented by STEPHEN M. CARUSO, ESQ., of CARUSO LAW OFFICES, and Petitioners, MARILYN McLAUGHLIN and MATTHEW McLAUGHLIN, being represented by CHARLES J. HOSKIN, ESQ., the Court having reviewed the papers and pleadings on file herein, and having heard the arguments of counsel and good cause appearing therefore,

THE COURT FINDS it is in the minor child's best interest to have a relationship with his grandparents and, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the minor child is to stay in the school he is in right now. Evidentiary Hearing is set. In the interim, the grandparents are to

MC

201 LAS VEGAS BLVD. SOUTH, STE. 300
LAS VEGAS, NEVADA 89101
PH (702) 367-4357 FX (702) 367-4350

continue to have their two (2) weekends per month. When the minor child is out of school, all track breaks are to be split. Holidays take precedence over weekend visitation. The issue of the Order to Show Cause is deferred to the Evidentiary Hearing. The prevailing party will be awarded attorney's fees.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that an Evidentiary Hearing Re: Whether it is in the Best Interest of the Minor Child to Have a Relationship With his Grandparents is set for August 21, 2008 at 9:00 a.m.

DATED this 27th day of May, 2008.

N. ANTHONY DEL VECCHIO
DISTRICT COURT JUDGE

Submitted by:

CARUSO LAW OFFICES

By_____
STEPHEN M. CARUSO, ESQ.
Nevada Bar No. 6588
201 Las Vegas Blvd. South, Suite 300
Las Vegas, Nevada 89101
Attorney for Respondent

Caruso Law Offices
201 LAS VEGAS BLVD. SOUTH, STE. 300
LAS VEGAS, NEVADA 89101
PH (702) 367-4357 FX (702) 367-4350

NOTC
STEPHEN M. CARUSO, ESQ.
Nevada Bar No. 6588
CARUSO LAW OFFICES
201 Las Vegas Blvd. South, Suite 300
Las Vegas, Nevada 89101
Tel: 702-367-4357
Fax: 702-367-4350
Attorneys for Respondent

DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

* * * *

MATTHEW JOHN McLAUGHLIN and MARILYN ANN McLAUGHLIN, Petitioners, vs. CHASTITY McLAUGHLIN PRIMMER and JOHN DOE, Respondents.	Case No: D-07-384042-C Dept No: K

NOTICE OF ENTRY OF ORDER

TO: ALL INTERESTED PARTIES.

YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an Order was entered in the above-entitled matter on the 27th day of May, 2008, a copy of which is attached hereto.

DATED this 27 day of May, 2008.

CARUSO LAW OFFICES

By _____
STEPHEN M. CARUSO, ESQ.
Nevada Bar No. 6588
201 Las Vegas Blvd. South, Suite 300
Las Vegas, Nevada 89101
Attorney for Respondent

Caruso Law Offices
201 LAS VEGAS BLVD. SOUTH, STE. 300
LAS VEGAS, NEVADA 89101
PH (702) 367-4357 FX (702) 367-4350

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I am an employee of CARUSO LAW OFFICES and that on the 29th day of May, 2008, I served the above and foregoing **NOTICE OF ENTRY OF ORDER** by placing a true and correct copy in the United States mail, in Las Vegas, Nevada, enclosed in a sealed envelope, upon which first class postage was fully prepaid, addressed to the following:

Charles J. Hoskin, Esq.
HOSKIN HUGHES PIFER
6885 W. Charleston Blvd.
Las Vegas, Nevada 89117
Attorney for Petitioners

Krista Barger
An employee of CARUSO LAW OFFICES

Caruso Law Offices
201 LAS VEGAS BLVD. SOUTH, STE. 300
LAS VEGAS, NEVADA 89101
PH (702) 367-4357 FX (702) 367-4350

EXHIBIT 3

0001
CHARLES J. HOSKIN, ESQ.
Nevada State Bar #4291
HOSKIN HUGHES PIFER
6885 W. Charleston Blvd.
Las Vegas, Nevada 89117
(702) 240-4447
Attorney for Petitioners

FILED
JUN 11 12 30 PM '08
CLERK OF THE COURT

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

MATTHEW JOHN McLAUGHLIN and MARILYN ANN McLAUGHLIN, Petitioners, vs. CHASTITY McLAUGHLIN PRIMMER and JOHN DOE, Respondents.	CASE NO. 07D-384042-C DEPT. NO. K

MOTION FOR RELIEF FROM ORDER FILED MAY 27, 2008, OR, IN THE ALTERNATIVE, MOTION TO RECONSIDER ORDER AND REQUEST TO CERTIFY ISSUES

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE

COME NOW, Petitioners, MATTHEW JOHN McLAUGHLIN and MARILYN ANN McLAUGHLIN, by and through their attorney, Charles J. Hoskin, Esq., of Hoskin Hughes Pifer, and hereby moves this Court for relief from the Order, filed May 27, 2008, pursuant

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

to NRCP 60, or, in the alternative to reconsider the Order entered May 27, 2008, based upon the fact that the Order does not reflect this Court's intentions, the history of this Court's prior orders nor the oral orders made by the Court from the bench.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Points and Authorities and all pleadings filed in this case, as well as the oral argument that may be adduced therefrom.

DATED this 11th day of June 2008.

HOSKIN HUGHES PIFER

By: _____
Charles J. Hoskin, Esq.
Nevada State Bar #4291
6885 W. Charleston Blvd.
Las Vegas, Nevada 89117
Attorney for Petitioners

NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing **Motion for Relief from Order Filed May 27, 2008, or, in the Alternative, Motion to Reconsider Order and Request to Certify Issues** on for hearing before the above-entitled Court on 7-21-08 10:00 AM / of _____, 2008, at ____:00 o'clock ___.m. of said day, or as soon thereafter as counsel can be heard in Department K.

HOSKIN HUGHES PIFER

By: _____
Charles J. Hoskin, Esq.
Nevada State Bar #4291
6885 W. Charleston Blvd.
Las Vegas, Nevada 89117
Attorney for Petitioners

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

POINTS AND AUTHORITIES

I.

FACTUAL BACKGROUND

This is a case which is based upon the requests of the maternal grandparents, who have acted as guardians for the minor child for a period of approximately eight (8) years, to have this Court confirm them as the primary physical custodians of the minor child. An initial hearing was held January 16, 2008. This Court took the matter under advisement and issued a Minute Order on or about January 31, 2008. In that Order, the Court made final custody determinations without sufficient finding or an evidentiary hearing. Such is the issue which is being raised on appeal.

Notwithstanding the clarity of the Court's Order, counsel could not agree upon the language of the written Order. Specifically, within the Minute Order, the Court stated: "The COURT ORDERS a **reversal** of the existing schedule with the minor child now residing with the natural mother and the **three (3) weekends** with the maternal grandparents." (Emphasis added).

While Petitioners' counsel believed the Court intended a complete reversal of the schedule, essentially flipping the time share between the maternal grandparents and the natural mother, Natural Mother's counsel disagreed. During the hearing held February 26, 2008, the issue of the Court's intent was raised. In discussing the reversing of the visitation schedule, this Court said (at 11:26:24):

> The reason why I reversed the schedule was to facilitate the transition, since it's been eight years. That's a long time.

The Court went on to state (at 11:27:30):

. . .

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

> What I am saying is: grandparents will continue to get their weekend, weekends, like I have ordered, to facilitate the transition. When [the minor child] is out of school or the summer track break, the break's divided, Mom, and that will get us to the evidentiary hearing.

Based upon the difficulty counsel was having in agreeing upon a written order, at 11:26:56, Mr. Hoskin, addressing the Court, stated:

> MR. HOSKIN: Typically, when you say "reverse it," you are talking about the drop off and the pick up, everything.
>
> THE COURT: Everything. Yeah, I don't know why – I don't know why there was so much ambiguity. I thought the order was pretty clear. I basically said, "We're going to switch." While it's going over – so, that's my order. It's pretty clear to me.
>
> MR. HOSKIN: And to me, Judge.
>
> MR. CARUSO: Your Honor, as far as – as far as if any holidays occur, holidays should take precedence over weekend visitation?
>
> THE COURT: Yeah, that's standard.
>
> MR. CARUSO: I know. We just wanted to make sure.

Notwithstanding the request for clarification from the bench, Mr. Caruso's preparation of the Order was little more than a "cut and paste" of the Clerk's minutes; however, the Clerk's minutes were inaccurate and incomplete.

Typically, in such a situation, counsel is aware as to what needs to be contained in an order to make it enforceable. Counsel then agrees, and an order is prepared.

. . .

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

When Mr. Caruso refused to make any changes or modifications to the Clerk's minutes, a separate order was prepared by Mr. Hoskin. *(A copy of that Order is attached hereto as Exhibit 1 and incorporated herein.)* That Order was prepared, utilizing verbatim language from prior orders, indicating a "reversal" of the visitation schedule from the Guardianship Court. This Court stated, on numerous occasions, it simply wanted to "reverse" the schedule. As such, a reversal was listed within that Order which says specifically:

> A. The child shall reside with the Natural Mother from Monday after school until Friday morning when she shall deliver the minor child to school.
>
> B. The minor child shall reside with Petitioners from Friday after school until Monday morning when Petitioners deliver the child to school.
>
> C. The exception to that schedule shall occur on the first weekend of each month, as determined by the Friday. During that weekend, the minor child shall reside with the Natural Mother. Additionally, during the Wednesday and Thursday preceding that first Friday, the minor child shall reside with Petitioners from after school until 7:30 p.m., when they shall deliver the minor child to the Natural Mother.

In fact, the Order referenced the prior Guardianship Order, filed January 8, 2007.

Mr. Hoskin's Order also included a holiday visitation schedule, which is a verbatim reiteration of the holiday visitation schedule which was contained within the January 8, 2007 Guardianship Order. It is interesting to note, however, that although Mr. Caruso references the holidays taking precedence in his oral argument, and he puts a single sentence referencing holidays within his Order, no definition of holidays is contained therein. In fact, it is Mr. Caruso's intention that all holidays are to be with the Natural Mother. *(See letter from Mr. Caruso dated March 31, 2008, attached hereto as Exhibit 2.)*

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

Both orders were submitted to the Court ,and the Court chose to sign Mr. Caruso's incorrect and incomplete Order.

Mr. Caruso's Order references that the grandparents' visitation shall be **two weekends** per month; however, at the January 16, 2008 hearing, the Court found that there should be a "a reversal of the existing schedule with the minor child now residing with the natural mother and the **three (3) weekends** with the maternal grandparents." (Emphasis added). Mr. Caruso has yet to explain how the visitation went from a reversal of the prior visitation schedule (i.e., three weekends per month, plus one mid-week visitation) to only two weekends per month; however, notwithstanding that fact, he included that language in his proposed Order and convinced this Court to sign off on that language. *(A copy of Mr. Caruso's Order is attached hereto as Exhibit 3.)*

The purpose of this Motion is not to change the Court's Order but merely to express its intent, which is clear from its Minute Order, resulting from the January 18, 2008 hearing. The prior visitation schedule is to be "reversed."

At the February 26, 2008 hearing, the Court reclarified its intent that the visitation should be "reversed." However, based upon a clerical error made by the clerk, and a refusal by Mr. Caruso to include a holiday visitation schedule, the Order which has now been entered is incorrect.

II.

ARGUMENT

A. The Court May Correct a Clerical Mistake in an Order, based upon NRCP 60(a).

NRCP 60(a) stated, In pertinent part:

> Clerical mistakes in judgments, orders or parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the

> motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

In the instant circumstance, the Order entered clearly is not consistent with the Court's intent for that Order.

This Court intended to reverse the visitation schedule, which would provide three (3) weekends per month to the maternal grandparents and a mid-week visitation on the week where they were not exercising weekend visitation.

Additionally, the Court intended that the existing holiday visitation schedule should be put into place. Without such clarification, the maternal grandparents would not be entitled to exercise any holiday visitation, pursuant to Mr. Caruso's interpretation of this Court's orders *(see Exhibit 2)*.

As a result, this Court may correct the error and revise the Order entered May 27, 2008.

B. Alternatively, the Court May Correct the Error Based Upon NRCP 60(b).

Should the Court somehow find that the mistake referenced hereinabove is not a clerical mistake, the Court can utilize NRCP 60(b) to correct the Order based upon "mistake" or "inadvertence."

It is not difficult to define what the Clerk and Mr. Caruso included in the Order as a "mistake." Further, based upon Mr. Caruso's attitude towards this case, it clearly could have been inadvertence, based upon his desire to make things as difficult as possible for the maternal grandparents.

No matter how this Court approaches this matter, the Order must be revised.

. . .

. . .

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

C. Alternatively, this Court May Reconsider the Motion and Provide Further Clarification.

This Court has the power to rehear a motion and reconsider its orders. When the motion has been denied and a further hearing is sought, the proper procedure is to ask leave to renew the motion or to receive a rehearing. *Murphy v. Murphy*, 64 Nev. 440, 183 P.2d 632 (1947).

Rehearings are not typically permitted for the purpose of reargument, unless there is a reasonable probability that the Court may have arrived at an erroneous conclusion. *Geller v. McCowan*, 64 Nev 106, 178 P.2d 380 (1947). *See also State Exrel. Copelan v. Woodbury,* 17 Nev. 337, 30 P.1006 (1883).

In this case, the Court's conclusion is clearly not that which is contained within the existing Order.

Petitioners are well aware that a party may not raise a new point for the first time on a rehearing. See *In Re: Ross*, 99 Nev. 657, 668 P.2d 1089 (1983). In fact, Petitioners are not raising any new points. Petitioners are simply requesting that the Court enter an Order which is consistent with its rulings from the bench.

D. The Court Should Certify Any Issues It Desires to Consider Beyond the Scope of Correcting the Existing Order.

This case is currently on appeal before the Nevada Supreme Court, regarding the Order from the January 26, 2008 hearing. However, in the instant Motion, the Court is looking at the Order resulting from a subsequent hearing, and the request is simply to correct that Order. As such, it is not believed that a certification of issues is necessary in order to grant this Court the power to correct its error.

However, should this Court believe that any pending issues should be certified, Petitioners are requesting this Court enter an order certifying those issues so the Supreme

Court may determine whether to permit this Court to exercise jurisdiction to resolve those issues.

E. Petitioners Should Be Awarded Attorney's Fees.

Counsel for Natural Mother is aware that this Court previously reversed the visitation schedule and awarded three (3) weekends per month with the maternal grandparents by specifically reversing the prior visitation schedule. Notwithstanding that knowledge, an Order was prepared and submitted, which reduced that visitation to two (2) weekends per month. Further, that prepared and submitted Order referenced that holidays would take precedence over standard visitation; however, it did not define those holidays.

but for the desire by counsel for Natural Mother to mislead this Court and to misrepresent the finding of this Court, the instant Motion would not be necessary; however, an erroneous Order has been entered, and it must be corrected. As a result, Petitioners are requesting that their reasonable attorney's fees be reimbursed.

DATED this 11th day of June 2008

HOSKIN HUGHES PIFER

By: _____
Charles J. Hoskin, Esq.
Nevada State Bar #4291
6885 W. Charleston Blvd.
Las Vegas, Nevada 89117
Attorneys for Petitioners

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

Exhibit 1

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

ORDR

CHARLES J. HOSKIN, ESQ.
Nevada State Bar #004291
HOSKIN HUGHES PIFER
6885 W. Charleston Blvd.
Las Vegas, NV 89117
(702) 240-4447
Attorney for Petitioners

DISTRICT COURT

CLARK COUNTY, NEVADA

MATTHEW JOHN McLAUGHLIN and MARILYN ANN McLAUGHLIN, Petitioners, vs. CHASTITY McLAUGHLIN PRIMMER and JOHN DOE, Respondents.	CASE NO. 07D-384042-C DEPT. NO. K Date of Hearing: February 26, 2008 Time of Hearing: 10:00 a.m.

ORDER

This matter having come on for hearing this 26th day of February 2008, upon Petitioners' Motion for Decision Regarding Schooling, Holidays and Vacations and to Resolve the Remaining Issues from January 16, 2008 Hearing and for an Award of Attorney's Fees; Petitioners being present and represented by their counsel, Charles J. Hoskin, Esq.; Respondent, Chastity Primmer ("Natural Mother"), being present and represented by her counsel, Steven M. Caruso, Esq.; the Court having reviewed the papers and pleadings on file herein, having heard the arguments of counsel, and good cause appearing:

THE COURT FINDS that it is in the best interests of the minor child to continue his relationship with Petitioners.

THE COURT FURTHER FINDS that good cause exists to set an evidentiary hearing regarding the minor child's best interests being served by continuing in the relationship with Petitioners.

NOW, THEREFORE, IT IS HEREBY ORDERED that the minor child shall stay in the public school in which Natural Mother recently enrolled the minor child.

IT IS FURTHER ORDERED that, as previously ordered by the Court, the visitation schedule which existed in the guardianship action shall be reversed, as follows:

A. The child shall reside with the Natural Mother from Monday after school until Friday morning when she shall deliver the minor child to school.

B. The minor child shall reside with Petitioners from Friday after school until Monday morning when Petitioners deliver the child to school.

C. The exception to that schedule shall occur on the first weekend of each month, as determined by the Friday. During that weekend, the minor child shall reside with the Natural Mother. Additionally, during the Wednesday and Thursday preceding that first Friday, the minor child shall reside with Petitioners from after school until 7:30 p.m., when they shall deliver the minor child to the Natural Mother.

The Order previously defining that visitation schedule, from which this Court reversed the schedule, was filed January 8, 2007 in the guardianship action.

IT IS FURTHER ORDERED that, when the minor child is out of school, all track breaks and vacations from school shall be equally divided between Petitioners and Natural Mother. Petitioners shall be entitled to the first half of those breaks, and Natural Mother are entitled to the second half.

IT IS FURTHER ORDERED that holidays shall take precedence over weekend visitation. The holiday schedule which previously existed in the guardianship action shall

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

control. That schedule, as found in the Order, filed January 8, 2007, is as follows–save and except for the "Spring Break" section previously ordered and substituting "Petitioners" for "Guardians"):

> IT IS FURTHER RECOMMENDED that the parties shall exercise a holiday and vacation time share arrangement as follows (the holiday and/or vacation time share shall supercede any standard visitation arrangement):
>
> A. **National/State Holidays:**
>
> 1. During even-numbered years, Natural Mother shall have visitation as follows:
>
> (a) Martin Luther King Weekend: beginning on Friday preceding the holiday weekend at 4:00 p.m. and concluding Monday at 7:00 p.m.
>
> (b) Memorial Day Weekend: beginning on Friday preceding the holiday weekend at 4:00 p.m. and concluding Monday at 7:00 p.m.
>
> (c) Veterans Day Holiday: beginning the day preceding the holiday at 4:00 p.m. and concluding the day of the holiday at 7:00 p.m.
>
> 2. During even-numbered years, Petitioners shall have visitation as follows:
>
> (a) Presidents Day Weekend: beginning on Friday preceding the holiday weekend at 4:00 p.m. and concluding Monday at 7:00 p.m.
>
> (b) Labor Day Weekend: beginning on Friday preceding the holiday weekend at 4:00 p.m. and concluding Monday at 7:00 p.m.
>
> (c) Nevada Day Weekend: beginning on Friday preceding the holiday weekend at 4:00 p.m. and concluding Monday at 7:00 p.m.

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

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B. **Easter:** Easter shall be defined as beginning Easter Sunday at 8:00 a.m. and ending the same day at 8:00 p.m. this period shall be alternated annually between the parties; Natural Mother shall have visitation with the child during odd-numbered years and Petitioners during even-numbered years.

C. **Thanksgiving:** Thanksgiving shall be defined as beginning the Wednesday preceding Thanksgiving after school and concluding the Sunday after Thanksgiving at 7:00 p.m. This period shall be alternated annually between the parties; Natural Mother shall have visitation with the child during odd-numbered years and Petitioners during even-numbered years.

D. **Christmas:** Christmas shall be divided into two sections, as follows: Section One shall be defined as beginning the day school lets out for standard Holiday Break at 4:00 p.m. and concluding December 25th at 12:00 noon; Section Two shall be defined as beginning December 25th at 12:00 noon and concluding the day prior to school resuming after Holiday Break at 4:00 0p.m. These sections shall be alternated annually between the parties; Natural Mother shall have the Section One visitation with the child during even-numbered years and Petitioners during odd-numbered years, and vice versa.

E. **Fourth of July:** The Fourth of July shall be defined as beginning July 4th at 8:00 a.m. and concluding that same day at 8:00 p.m. This period shall be alternated annually between the parties; Petitioners shall have visitation with the child during odd-numbered years and Natural Mother during even-numbered years. The parties agree the holiday shall extend to a three-day weekend when it falls on a weekend, Friday or Monday.

~~F. **Spring**~~

G. **Mothers Day:** Mothers Day is defined as beginning at 8:00 a.m. and concluding at 8:00 p.m. Natural Mother shall have that day yearly.

IT IS FURTHER ORDERED that the issue regarding Petitioners' Order to Show Cause shall be deferred to the evidentiary hearing, awaiting a determination concerning the enforceabilitity of the guardianship orders. The prevailing party(ies) shall be awarded attorney's fees as a result of that hearing.

IT IS FURTHER ORDERED that an evidentiary hearing regarding the issues referenced hereinabove is set for August 21, 2008, at 9:00 a.m. before this Court.

DATED this _____ day of April 2008.

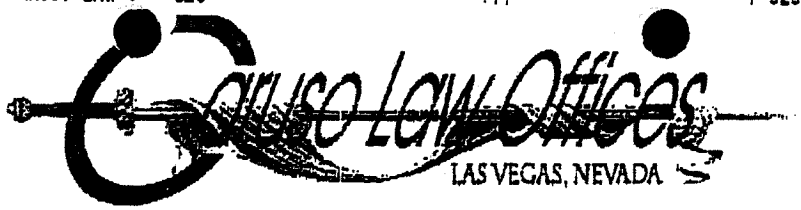
_____
DISTRICT COURT JUDGE

HOSKIN HUGHES PIFER

By: _____
CHARLES J. HOSKIN, ESQ. 6349.
Nevada Bar No. 4291
6885 W. Charleston Blvd.
Las Vegas, NV 89117
Attorney for Petitioners

HOSKIN HUGHES PIFER
ATTORNEYS AT LAW
6885 W. Charleston Blvd., Las Vegas, Nevada 89117
Telephone: (702) 240-4447 Facsimile: (702) 258-4740

Exhibit 2



March 31, 2008

Sent Via Facsimile Only: (702) 258-4740

Charles J. Hoskin, Esq.
HOSKIN HUGHES PIFER
6885 W. Charleston Blvd.
Las Vegas, Nevada 89117

Re: Primmer adv. McLaughlin
Case No. D384042

Dear Mr. Hoskin:

The Orders that this office submits to the Court are taken from the Minutes that result from the appearance at issue. Apparently, as with the G case, when the results of a hearing are not to your liking, you try to go in after the fact, and draft an Order that is more in line with the result that you wish you had received.

Indeed, apparently you understand that "holidays shall take precedence over visitation," means: it means that your clients will not ever, under any circumstances, have visitation on any holiday, unless my client - Jacob's mother - deigns to take the child over there.

Please inform us in writing if you intend to sign the Order as written; otherwise we will submit it without your signature.

Yurs, etc.

CARUSO LAW OFFICES

Dictated but not read

STEPHEN M CARUSO, ESQ.

SMC/kb
Enclosure

cc: Chastity Primmer

Exhibit 3

FILED

MAY 27 2 12 PM '08

CLERK OF THE COURT

ORDR
STEPHEN M. CARUSO, ESQ.
Nevada Bar No. 6588
CARUSO LAW OFFICES
201 Las Vegas Blvd. South, Suite 300
Las Vegas, Nevada 89101
Tel: 702-367-4357
Fax: 702-367-4350
Attorneys for Respondent

DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

* * * *

MATTHEW JOHN McLAUGHLIN and MARILYN ANN McLAUGHLIN,

Petitioners,

vs.

CHASTITY McLAUGHLIN PRIMMER and JOHN DOE,

Respondents.

Case No: D-07-384042-C
Dept No: K

ORDER

A hearing on Petitioners' Motion for a Decision Regarding Schooling, Holidays and Vacations, to Resolve Remaining Issues From January 16, 2008 Hearing and for an Award of Attorney's Fees having come on before this Court on the 26th day of February, 2008, Respondent, CHASTITY PRIMMER, being represented by STEPHEN M. CARUSO, ESQ., of CARUSO LAW OFFICES, and Petitioners, MARILYN McLAUGHLIN and MATTHEW McLAUGHLIN, being represented by CHARLES J. HOSKIN, ESQ., the Court having reviewed the papers and pleadings on file herein, and having heard the arguments of counsel and good cause appearing therefore,

THE COURT FINDS it is in the minor child's best interest to have a relationship with his grandparents and, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the minor child is to stay in the school he is in right now. Evidentiary Hearing is set. In the interim, the grandparents are to

Caruso Law Offices
201 LAS VEGAS BLVD. SOUTH, STE. 300
LAS VEGAS, NEVADA 89101
PH (702) 367-4357 FX (702) 367-4350

MC

SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK

MATTHEW JOHN MCLAUGHLIN AND MARILYN ANN MCLAUGHLIN,
Petitioners,
vs.
THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK, AND, THE HONORABLE N. ANTHONY DEL VECCHIO, DISTRICT JUDGE, FAMILY COURT DIVISION,
Respondents,
and
CHASTITY MCLAUGHLIN-PRIMMER,
Real Party in Interest.

Supreme Court No. 52202
District Court Case No. D384042

RECEIPT FOR DOCUMENTS

TO: N. Anthony Del Vecchio , District Judge
Hoskin Hughes & Pifer and Charles J. Hoskin and Denise A. Pifer
Stephen M. Caruso

You are hereby notified that the Clerk of the Supreme Court has received and/or filed the following:

08/08/08 Filing Fee due.

08/08/08 Filed Petition for Writ of Mandamus.
Petition for Writ of Mandamus to Correct and/or Clarify Order.

DATE: August 08, 2008

Tracie Lindeman, Clerk of Court

By: _____
Deputy Clerk