

Docket No. 22A218

In the
Supreme Court of the United States

ALI SHAHROKHI

Petitioner

vs.

KIZZY BURROW

Respondent

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF NEVADA**

PETITION APPENDIX

T. MATTHEW PHILLIPS, ESQ.
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TABLE OF CONTENTS

APPENDIX A

Shahrokhi's Federal Lawsuit against Trial Judge, Harter, [(Sept. 1, 2020); Case No. 2:20-cv-01623; (unpublished); (Caption Page, 1 of 22)

APPENDIX B

Nevada Supreme Court Order of Affirmance, [(May. 12, 2022); Case No's. 81978,82245; (unpublished); (11 pages)].

APPENDIX C

State Court, Amended, Decision and Order re: Finding of Domestic Violence, [Sept. 21, 2020); Case No D-18-581208-P; (Sealed); (9 pages)].

APPENDIX D

Shahrokhi's State Pre-Trial Objection, Raising Federal Questions of Law, Substantive & Procedural Due Process. THIS WAS NEVER ADJUDICTAED and Still CONTESTED. [(September. 11, 2021), (42 pages)].

APPENDIX E

State Court Order Setting Civil Non-Jury Trial; Case No. D-18-581208-P; [(July. 30, 2020), (6 pages)].

APPENDIX F

State Court Notice Regarding Order of Issues to be Addressed at Trial, Domestic Violence Fact Finding [(August. 5, 2020); Case No. D-18-581208-P, Clark County, Nev.;(sealed case), (3 pages)].

APPENDIX G

State Court Notice of Hearing and Order Regarding Procedures; Case No. D-18-581208-P, Clark County, Nev.; [(sealed case), (August 28, 2020); (first 4 pages)].

APPENDIX H

State Trial Judge Denying Shahrokhi's Pre-Trial and Federal Questions of Law before 3-day Bench Trial, Stating Federal Questions of Law and

Constitution are Appellate Matters; Case No. D-18-581208-P, Clark County, Nev.; (sealed case), (September 20, 2020); (2 pages)].

APPENDIX I

Supreme Court of Nevada Denial of Shahrokhi's Request for Judicial Notice, re: Pre-Trial Objection, Federal Questions of Law, These Issues are Not MOOT, Never been Adjudicated and Still CONTESTED by Shahrokhi. Case Nos 81978,82245; (May. 10, 2022), (1 page)].

APPENDIX J

Trial judge's fraudulent chapter 7 BK application/documents that Nevada Supreme Court has turned a blind eye to, Federal Case No.15-17012-LEB, [(December. 22,2015), (10 pages for now)].

APPENDIX K

Nevada's Commission on Judicial Discipline refusing to bring formal charges of public discipline against the trial judge for his conducts throughout Shahrokhi's state proceedings; [(October. 12, 2020), (1 page)].

APPENDIX L

Trial Judge's JEA, Delivering Shahrokhi Trial's Exhibits/Evidence the Day of the Trial (not before the trial) via email. [Sept 21,2020, EMAIL].

APPENDIX M

Transcripts of Day 1(one) of the Trial, Domestic Violence Fact Findings, [(Sept. 21, 2020); (20 pages of the 236 pages)].

AFFIDAVIT *of* ALI SHAHROKHI

My name is ALI SHAHROKHI. I am the Petitioner for this Petition for a Writ of Certiorari by Supreme Court of Nevada. All the attached documents are true and correct copies. If called upon to testify, I could and would give competent and truthful evidence.

- A. Attached as Appendix A is a true and correct copy of Shahrokhi's Federal Lawsuit against Trial Judge, Harter, [(Sept. 1, 2020); Case No. 2:20-cv-01623; (unpublished); (Caption Page, 1 of 22)].
- B. Attached as Appendix B is a true and correct copy of Nevada Supreme Court Order of Affirmance, [(May. 12, 2022); Case Nos. 81978, 82245; (unpublished); (11 pages)].
- C. Attached as Appendix C is a true and correct copy of State Court, Amended, Decision and Order re: Finding of Domestic Violence, [Sept. 21, 2020); Case No D-18-581208-P; (Sealed); (9 pages)].
- D. Attached as Appendix D is a true and correct copy of Shahrokhi's State Pre-Trial Objection, Raising Federal Questions of Law, Substantive & Procedural Due Process. THIS WAS NEVER ADJUDICTAED and Still CONTESTED. [(September. 11, 2021), (42 pages)].

E. Attached as Appendix E is a true and correct copy State Court Order Setting Civil Non-Jury Trial; Case No. D-18-581208-P; [(July. 30, 2020), (6 pages)].

F. Attached as Appendix F is a true and correct copy of State Court Notice Regarding Order of Issues to be Addressed at Trial, Domestic Violence Fact Finding [(August. 5, 2020); Case No. D-18-581208-P, Clark County, Nev.];(sealed case), (3 pages)].

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H. Attached as Appendix H is a true and correct copy of State Trial Judge Denying Shahrokhi's Pre-Trial and Federal Questions of Law before 3-day Bench Trial, Stating Federal Questions of Law and Constitution are Appellate Matters; Case No. D-18-581208-P, Clark County, Nev.; (sealed case), (September 20, 2020); (2 pages)].

I. Attached as Appendix I is a true and correct copy of Supreme Court of Nevada Denial of Shahrokhi's Request for Judicial Notice, re: Pre-Trial Objection, Federal Questions of Law, These Issues are Not MOOT, Never been Adjudicated and Still CONTESTED by Shahrokhi. Case Nos. 81978,82245; (May. 10, 2022), (1 page)].

J. Attached as Appendix J is a true and correct copy of Trial judge's fraudulent chapter 7 BK application/documents that Nevada Supreme Court has turned a blind eye to, Federal Case No.15-17012-LEB, (December 22, 2015), (10 pages for now).

K. Attached as Appendix K is a true and correct copy of Nevada's Commission on Judicial Discipline refusing to bring formal charges of public discipline against the trial judge for his conducts throughout Shahrokhi's state proceedings; (October. 12, 2020), (1 page).

L. Attached as Appendix L is a true and correct copy of Trial Judge's JEA, Delivering Shahrokhi Trial's Exhibits/Evidence the Day of the Trial (not before the trial) via email.

M. Attached as Appendix M is a true and correct copy of Transcripts of Day 1(one) of the Trial, Domestic Violence Fact Findings, [(Sept. 21, 2020); (20 pages of the 236 pages)].

I declare under penalty of perjury under the laws of the United States of America, the foregoing is both true and correct.
Dated: November 26, 2022

/S/ALI SHAHROKHI.
Ali Shahrokhi,
Affiant

EXHIBIT “A”

1
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FILED	RECEIVED
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COUNSEL/PARTIES OF RECORD	
SEP - 1 2020	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

7 Plaintiff in Propria Persona
8
9

10 **UNITED STATES DISTRICT COURT**

11 **LAS VEGAS, NEVADA**

12 **2:20-cv-01623-JAD-NJK**

13 **ALI SHAHROKHI, individually**)
14 **and as natural father and next**)
15 **friend for B.E.S, minor**)
16 **Plaintiff,**)
17) “42 U.S.C. §§1983 and 1985”
18) “Venue is proper under 28 U.S.C. §1391”
19) “Violation of 14th Amendment Rights”
20)
21 **(1) JUDGE MATTHEW HARTER,**)
22 **Individually,**)
23 **THOMAS STANDISH,**)
24 **PHILIP SPRADLING,**)
25 **KIZZY BURROW, AND**)
26 **DOES 1 – 10,**)
27 **Defendants**)
28)

JURY DEMAND

EXHIBIT “B”

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALI SHAHROKHI,
Appellant,
vs.
KIZZY J. S. BURROW A/K/A KIZZY
BURROW,
Respondent.

No. 81978

FILED

MAY 12 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *S. Yerney*
DEPUTY CLERK

ALI SHAHROKHI,
Appellant,
vs.
KIZZY BURROW,
Respondent.

No. 82245

ALI SHAHROKHI,
Appellant,
vs.
KIZZY BURROW,
Respondent.

No. 83726

*ORDER OF AFFIRMANCE (DOCKET NOS. 81978, 82245, AND 83726)
AND DISMISSING APPEAL IN PART (DOCKET NO. 83726)*

These appeals challenge several orders in a custody dispute. Eighth Judicial District Court, Clark County; Linda Marie Bell, Chief Judge, Mathew Harter, Judge, and Dawn Throne, Judge.¹

Appellant Ali Shahrokhi and respondent Kizzy Burrow never married and have one minor child together. Sometime after their relationship ended, Kizzy obtained a temporary restraining order against Ali and the parties filed competing complaints for child custody. After an evidentiary hearing, the district court awarded Kizzy sole legal and physical

¹We have determined that Docket No. 83726, which is subject to the child custody fast track rule, should be submitted for decision on the fast track briefs and the appellate record, without any further briefing or oral argument. *See* NRAP 3E(g)(1).

custody of the minor child, permitted her to relocate with the minor child to Oregon, and awarded her attorney fees and costs. Ali now challenges these orders, and several others, on various grounds.

As a preliminary matter, Ali makes several constitutional arguments, all of which lack merit upon de novo review. *See Jackson v. State*, 128 Nev. 598, 603, 291 P.3d 1274, 1277 (2012) (holding that this court applies de novo review to constitutional issues). First, Ali's constitutional challenge to NRS 125C.0035 fails because he and Kizzy have equal fundamental rights to care for their child, leaving the best interest of the child as the sole consideration to decide custody. *See Rico v. Rodriguez*, 121 Nev. 695, 704, 120 P.3d 812, 818 (2005) (holding that “[i]n a custody dispute between two fit parents, the fundamental constitutional right to the care and custody of the children is equal”; therefore, “the dispute in such cases can be resolved best, if not solely, by applying the best interests of the child standard”).

Ali also argues that the district court deprived him of his constitutional procedural due process rights by failing to provide him with adequate notice and an opportunity to be heard regarding certain motions. “Due process is satisfied by giving [the] parties ‘a meaningful opportunity to present their case.’” *J.D. Constr., Inc. v. IBEX Int’l Grp.*, 126 Nev. 366, 376, 240 P.3d 1033, 1040 (2010) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 349 (1976)); *see also Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879 (2007) (“[P]rocedural due process ‘requires notice and an opportunity to be heard.’” (quoting *Maiola v. State*, 120 Nev. 671, 675, 99 P.3d 227, 229 (2004))). The record shows that Ali was served with the motions, which included information regarding any related hearings, and he either submitted a written opposition, appeared at the scheduled hearing, or failed

to request a hearing pursuant to local rule. Therefore, Ali's due process claims fail because in all alleged instances, Ali was provided both "notice and an opportunity to be heard" with respect to the issues before the court.² *Callie*, 123 Nev. at 183, 160 P.3d at 879. We now turn to Ali's challenges to specific court orders.

Docket No. 81978

In Docket No. 81978, Ali challenges the denial of his request to disqualify the presiding judge, two district court orders finding he committed domestic violence, and the order granting Kizzy sole legal and physical custody and permitting her to relocate to Oregon.

Motion to disqualify

Ali challenges Chief Judge Linda Bell's denial of his motion to disqualify Judge Mathew Harter, arguing that Judge Harter displayed bias which would "cause a reasonable person to question the judge's impartiality." *Towbin Dodge, LLC v. Eighth Judicial Dist. Court*, 121 Nev. 251, 260, 112 P.3d 1063, 1069 (2005); *see also* NCJC Rule 2.11(A) ("A judge

²We note there is no right to a jury trial in family court proceedings. *See In re Parental Rights as to M.F.*, 132 Nev. 209, 215, 371 P.3d 995, 999-1000 (2016) (holding that there is no right to a jury trial for termination of parental right proceedings and explaining the policy rationale for why having juries decide family division cases is improper); *Barelli v. Barelli*, 113 Nev. 873, 879, 944 P.2d 246, 249 (1997) (affirming the district court's conclusion that there is no right to a jury trial in divorce proceedings because there is no such right in domestic proceedings).

We have considered Ali's remaining constitutional arguments and determine that they do not warrant reversal. *See Miller v. Burk*, 124 Nev. 579, 588-89, 188 P.3d 1112, 1118-19 (2008) (explaining that this court "will not decide constitutional questions unless necessary" to resolve the issues on appeal). And the record belies Ali's arguments that the district court ignored his pretrial objections or that it improperly deemed him a vexatious litigant.

shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned."). Most of Ali's arguments fail because they are based on rulings and official actions in the child custody proceedings,³ *see Matter of Dunleavy*, 104 Nev. 784, 789, 769 P.2d 1271, 1275 (1988) ("[R]ulings and actions of a judge during the course of official judicial proceedings do not establish legally cognizable grounds for disqualification."), none of which displayed "a deep-seated favoritism or antagonism that would make fair judgment impossible," *Kirksey v. State*, 112 Nev. 980, 1007, 923 P.2d 1102, 1119 (1996) (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)). Nor do we agree that Ali's pending civil rights action against the judge in federal court required disqualification.⁴ *See City of Las Vegas Downtown Redevelopment Agency v. Hecht*, 113 Nev. 644, 649, 940 P.2d 134, 138 (1997) (holding that a party "should not be permitted to create a situation involving a judge and then claim that the judge" should be removed due to the events the party created). Because Ali

³We further note that the record does not support many of Ali's allegations, including allegations of *ex parte* communications between Judge Harter, Kizzy, and her counsel, allegations that the district court marshals threatened him with violence, or allegations that Judge Harter gave legal advice to the parties or counsel throughout the proceedings.

⁴Ali's campaign-contribution disqualification arguments lack merit because he does not allege that Kizzy's counsel's contributions to Judge Harter exceeded statutory limits and this court has held that "a contribution to a presiding judge by a party or an attorney does not ordinarily constitute grounds for disqualification." *City of Las Vegas Downtown Redevelopment Agency v. Eighth Judicial Dist. Court*, 116 Nev. 640, 644, 5 P.3d 1059, 1062 (2000); *see also Ivey v. Eighth Judicial Dist. Court*, 129 Nev. 154, 162, 299 P.3d 354, 359 (2013) ("Campaign contributions made within statutory limits cannot constitute grounds for disqualification of a judge under Nevada law.")

failed to show that Judge Harter exhibited extreme bias that would “permit manipulation of the court and significantly impede the judicial process,” which is required to overcome the presumption that a judge is personally unbiased, *Millen v. Eighth Judicial Dist. Court*, 122 Nev. 1245, 1254-55, 148 P.3d 694, 701 (2006) (quoting *Hecht*, 113 Nev. at 635-36, 940 P.2d at 128-29), we conclude that the chief judge did not abuse her discretion in refusing to disqualify Judge Harter, *see Ivey*, 129 Nev. at 162, 299 P.3d at 359 (reviewing the denial of a motion to disqualify for an abuse of discretion).

Domestic violence findings

Ali next challenges the district court’s domestic violence findings on various grounds. We reject any argument the proceedings were criminal or in excess of the court’s jurisdiction. While the district court’s order refers to criminal law to define relevant terms, *see, e.g.*, NRS 33.018 (defining acts which constitute domestic violence), it makes clear that the court’s domestic violence findings were pursuant to NRS 125C.0035(5) to determine if that statute’s best-interest presumption applied in this case.⁵

⁵Because the district court’s domestic violence findings were made pursuant to NRS 125C.0035(5) and not NRS Chapter 33, we decline to consider Ali’s arguments that the district court proceedings deprived him of the additional constitutional protections afforded to criminal defendants. We also decline to consider any argument that Kizzy’s complaint did not put Ali on notice of domestic violence allegations because the argument is not cogent and Ali fails to support it with citation to relevant authority. *See Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (noting that this court need not consider claims unsupported by cogent argument or relevant authority). We further note that the district court is required by statute to consider whether a parent seeking custody of a minor child has committed acts of domestic violence, *see* NRS 125C.0035(4)(k) (providing that whether a parent seeking physical

See NRS 125C.0035(5) (creating a rebuttable presumption that physical custody is not in the child's best interest where the district court has found that a parent committed "acts of domestic violence against the child, a parent of the child or any other person residing with the child"); NRS 3.223(1)(a) (providing that family courts have exclusive jurisdiction in any proceeding brought pursuant to NRS Chapter 125C); *Landreth v. Malik*, 127 Nev. 175, 186-88, 251 P.3d 163, 170-71 (2011) (concluding that family court judges "ha[ve] the same constitutional power and authority as any [other] district court judge" such that they have jurisdiction to resolve issues beyond those listed in NRS 3.223). And the record supports the district court's application of NRS 125C.0035(5)'s best-interest rebuttable presumption, as it provides substantial evidence that Ali engaged in multiple acts of domestic violence against Kizzy, including threats to hit her and burn her clothing, harassing her, and intimating that he knows where she lives.⁶ Considering this evidence, which the district court deemed credible, combined with Ali's failure to meaningfully rebut the statutory presumption,⁷ we conclude that the district court did not abuse its

custody of a minor child has committed acts of domestic violence is a relevant factor in determining the best interest of the child), and neither domestic violence nor child custody are among those areas of the law upon which the Nevada Rules of Civil Procedure imposes heightened pleading standards, *see generally* NRCP 9.

⁶This includes evidence from Kizzy's prior TPO action, testimony from Kizzy, an interview with the minor child, and numerous text message and Our Family Wizard messages between the parties.

⁷The record reveals that Ali presented no evidence during the domestic violence phase of the district court's evidentiary hearing. We are not persuaded by Ali's arguments that he was not afforded adequate notice or an opportunity to respond to Kizzy's domestic violence allegations, as he

discretion by applying NRS 125C.0035's presumption to find that giving Ali physical custody would not be in the child's best interest. *See Castle v. Simmons*, 120 Nev. 98, 102-03, 86 P.3d 1042, 1045-46 (2004) (explaining that the district court analyzes NRS 125C.0035(5)'s rebuttable presumption based on a totality of the evidence and further holding that "we will not reweigh the credibility of witnesses on appeal").

Custody and relocation

We next reject Ali's argument that the district court erred when it applied the factors set forth in *Druckman v. Ruscitti*, 130 Nev. 468, 473, 327 P.3d 511, 515 (2014), in granting Kizzy's relocation request. *See Stacco v. Valley Hosp.*, 123 Nev. 526, 530, 170 P.3d 503, 505-06 (2007) (recognizing that this court reviews whether a district court applied the correct legal standard *de novo*). We disagree that the district court's stipulated order granting Kizzy temporary sole physical custody constituted an order awarding physical custody such that the district court had to apply the NRS 125C.007 relocation factors instead.⁸ *See Druckman*, 130 Nev. at 473, 327 P.3d at 514 (explaining that, in the absence of a court order awarding a

was present at numerous court hearings during which the court, parties, and counsel discussed the need for an evidentiary hearing specifically regarding those allegations and because Ali elected to conduct that hearing on the first day set for trial on Kizzy's custody and relocation requests. *Cf. Pearson v. Pearson*, 110 Nev. 293, 297, 871 P.2d 343, 345 (1994) ("[A] party will not be heard to complain on appeal of errors which he himself induced . . ." (quoting 5 Am. Jur. 2d *Appeal and Error* § 713 (1962))).

⁸NRS 125C.007(1) explains that the factors set forth in that statute apply to all petitions to relocate brought pursuant to NRS 125C.006 or 125C.0065; those latter statutes apply to petitions for relocation only where there is a prior court order establishing either primary or joint physical custody.

parent physical custody, the predecessor statute to NRS 125C.006 does not apply).

Our review of the record also supports the district court's findings regarding the *Druckman* factors. The record shows that Kizzy demonstrated good-faith reasons for the move to Oregon, including her relationship with her fiancé and her desire to escape Ali's obsessive behavior. *See id.* at 473, 327 P.3d at 515 (requiring a parent to demonstrate a good faith basis for relocation before the district court may consider the motion); *see also Jones v. Jones*, 110 Nev. 1253, 1260-61, 885 P.2d 563, 568-69 (1994) (explaining that the best interest of the child must be considered in conjunction with the well-being of the custodial parent and recognizing that “[t]he custodial parent's right to pursue another relationship is integrally connected to the health and well-being of the custodial parent”). And the record also supports the district court's detailed findings regarding the *Schwartz*⁹ factors, *see Druckman*, 130 Nev. at 473, 327 P.3d at 515, and the factors set forth in NRS 125C.0035. Because the district court's findings regarding the parties' inability to cooperate to meet the child's needs; “which parent is more likely to allow the child to have . . . a continuing relationship with the noncustodial parent”; the child's “physical, developmental and emotional needs”; and Ali's acts of domestic violence against Kizzy are supported by substantial evidence, we conclude that the district court's decision to award Kizzy sole physical custody was not an abuse of discretion.¹⁰ *See* NRS 125C.0035; *see Wallace v. Wallace*, 112 Nev.

⁹*Schwartz v. Schwartz*, 107 Nev. 378, 382-83, 812 P.2d 1268, 1271 (1991).

¹⁰We decline to address Ali's remaining arguments in this regard because they are either irrelevant or unsupported by the record. And we

1015, 1019, 922 P.2d 541, 543 (1996) (reviewing a child custody order for an abuse of discretion); *see also Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 242 (2007) (explaining that this court “will not set aside the district court’s factual findings [in child custody determinations] if they are supported by substantial evidence”).

We reject Ali’s contention that the district court violated SCR 251, which generally requires child custody issues be resolved within six months of a responsive pleading. Indeed, the rule allows extensions of time for “[e]xtraordinary cases that present unforeseeable circumstances” so long as the district court enters “specific findings of fact regarding the circumstances that justify the extension of time.” SCR 251. Here, the record supports the district court’s finding that Ali was the primary cause of the delay in resolving the parties’ competing custody requests: Ali delayed proceedings on multiple occasions, including by filing numerous writ petitions, several requests to continue trial, multiple failed motions to disqualify the presiding judge, as well as additional delays due to Ali’s wavering agreement to participate in child custody and psychological evaluations.¹¹ Thus, the invited error doctrine bars Ali’s argument

need not address Ali’s arguments regarding termination of parental rights, given that the district court’s order does not terminate Ali’s parental rights.

¹¹Indeed, in the span of several months, Ali refused to participate in any counseling, then agreed to participate in counseling (and sought a trial continuance to do so) but failed to pay the retainer fee necessary to begin counseling, then later renewed his opposition to counseling. Given Ali’s representations that he would participate in a psychological evaluation, we decline to consider his appellate arguments regarding the district court’s authority to order him to do so. *See Pearson*, 110 Nev. at 297, 871 P.2d at 345 (explaining that “a party will not be heard to complain on appeal of error which he himself induced or provoked the court . . . to commit”).

regarding the delay and we conclude the district court complied with SCR 251. *See Pearson*, 110 Nev. at 297, 871 P.2d at 345 (“The doctrine of ‘invited error’ embodies the principle that a party will not be heard to complain on appeal of errors which he himself induced or provoked the court or the opposite party to commit.” (quoting 5 Am. Jur. 2d *Appeal and Error* § 713 (1962))).

Docket No. 82245

In Docket No. 82245, Ali challenges the order requiring him to pay Kizzy’s attorney fees and costs. We review for an abuse of discretion, *see Gunderson v. D.R. Horton, Inc.*, 130 Nev. 67, 82, 319 P.3d 606, 616 (2014), and conclude that the district court was authorized to award Kizzy her “reasonable attorney fees . . . and other costs of the proceeding” as the prevailing party. *See* NRS 125C.250 (authorizing an award of attorney fees to the prevailing party in a child custody matter). We also reject Ali’s contention that the district court improperly evaluated the parties’ disparity in income when considering the issue, as the district court’s order makes clear that it considered the information provided in both Ali’s and Kizzy’s most recent financial disclosure forms when making its decision.¹² *See Miller v. Wilfong*, 121 Nev. 619, 623-24, 119 P.3d 727, 730 (2005) (requiring the district court to “consider the disparity in income of the parties when awarding fees” in a family law case).

Docket No. 83726

In Docket No. 83726, Ali challenges several post-judgment orders. As to some of those orders, our review pursuant to NRAP 3(g) reveals a jurisdictional defect. Specifically, some of the orders designated

¹²We have considered Ali’s remaining arguments regarding the district court’s fee award and determine that they lack merit.

in Ali's notices of appeal are not substantively appealable. *See* NRAP 3A(b). This court has jurisdiction to consider an appeal only when authorized by statute or court rule. *Taylor Constr. Co. v. Hilton Hotels*, 100 Nev. 207, 209, 678 P.2d 1152, 1153 (1984). No statute or court rule provides for an appeal from an order denying a request to transfer a matter to a different district court department, an order denying a post-judgment motion to dismiss (including a post-judgment anti-SLAPP special motion to dismiss), an order denying a motion for sanctions pursuant to NRCP 11, or an order denying a "Demand for Bill of Particulars and Cause of Accusation U.S. Constitution 6th Amendment."¹³ Because these are not appealable orders, we dismiss the appeal in part as to those orders.

Ali argues that the district court abused its discretion when it denied his motion for relief from the judgment pursuant to NRCP 60(b). *See Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 656, 428 P.3d 255, 257 (2018) (reviewing a district court's ruling on a motion for relief from judgment pursuant to NRCP 60(b) for an abuse of discretion). We disagree. As the district court correctly observed, the evidence forming the basis of Ali's motion was available to him before trial and Ali failed to prove that the information was fraudulently concealed from the district court. *See* NRCP 60(b)(2)-(3) (authorizing relief from a final judgment due to "newly discovered evidence that, without reasonable diligence, could not have been discovered in time to move for a new trial" or "fraud[,] misrepresentation, or misconduct by an opposing party"). The district court also did not abuse

¹³This court previously dismissed Ali's appeal from two of these orders because they were not substantively appealable. *See Shahrokhi v. Burrow*, 2021 WL 5028911, No. 83662 (Nev. Oct. 28, 2021) (Order Dismissing Appeal).

its discretion when it found Ali failed to prove the district court's order was void for lack of subject matter jurisdiction, *see* NRCP 60(b)(4), and Ali did not demonstrate "any other reason [to] justif[y the] relief" requested, NRCP 60(b)(6). We further conclude that Ali's newly discovered evidence regarding Donald Pearson's interest in a legal business enterprise in Oregon is collateral to the final judgment, which addressed issues of custody, relocation, and child support; therefore, this information did not justify relief from the judgment pursuant to NRCP 60(b). As to Ali's argument that the district court abused its discretion in striking his supplement to his Rule 60 motion, we decline to consider this argument because he failed to support it with any cogent argument or relevant authority. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (noting that this court need not consider claims unsupported by cogent argument or relevant authority).

Lastly, as to Ali's challenges to the orders denying his motions for costs related to the writ petition before this court in Docket No. 82803, we conclude that the district court did not err because neither NRS 18.060 nor NRAP 39 allow an award of costs to a prevailing party in an original proceeding for writ relief.¹⁴ *See* NRS 18.060 (providing this court with

¹⁴This court rejected Ali's nearly identical request for costs pursuant to NRAP 39 for this same reason. *See Shahrokhi v. Eighth Judicial Dist. Court*, Docket No. 82803 (Order, July 16, 2021).

Although we affirm the district court's denial of costs pursuant to NRS 18.060 for a different reason, *Pack v. LaTourette*, 128 Nev. 264, 267, 277 P.3d 1246, 1248 (2012), we also agree with its conclusion that Ali was not entitled to costs under the statute because this court's writ of mandamus in Docket No. 82803 neither granted him a new trial nor did it modify the underlying judgment.

discretion to award costs of an appeal “[w]here a new trial is ordered [or] a judgment is modified”); NRAP 39 (providing for an award of costs to a prevailing party in a civil appeal); *Logan v. Abe*, 131 Nev. 260, 264, 350 P.3d 1139, 1141 (2015) (explaining that this court reviews a party’s eligibility for an award of costs pursuant to statute de novo). And although Ali urges that he was entitled to costs pursuant to NRS 18.020(4), we decline to consider this argument because he failed to raise it before the district court. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (providing that an argument not raised in the district court is “waived and will not be considered on appeal”). For the foregoing reasons, we

ORDER the appeal in Docket No. 83726 DISMISSED IN PART and the judgments of the district court AFFIRMED.¹⁵


Parraguirre, Sr.J.


Herndon, J.


Gibbons, Sr.J.

cc: Hon. Linda Marie Bell, Chief Judge
Hon. Mathew Harter, District Judge
Hon. Dawn Throne, District Judge
Ali Shahrokhi
Kizzy Burrow
Eighth District Court Clerk

¹⁵The Honorable Mark Gibbons, Senior Justice, participated in the decision of this matter under a general order of assignment.

EXHIBIT “C”

09/22/2020 1:49 PM

CLERK OF THE COURT

Eighth Judicial District Court

Clark County, Nevada

KIZZY BURROW,)
vs.)
Plaintiff,)
ALI SHAHROKHI,)
Defendant.)
Case: D-18-581208-P
Dept: N
Hearing Date: 09/21/2020
Hearing Time: 9:00 a.m.

AMENDED
DECISION AND ORDER RE: FINDING OF DOMESTIC VIOLENCE
(Amended Typo on Page 7, Line 25 Changing "Defendant" to "Plaintiff")

I. NOTICE

Defendant claimed that he was unaware that the evidentiary hearing would begin with a determination on whether domestic violence occurred. This Court's staff has confirmed that Defendant was a party that was served electronically *in addition* to his prior attorney at the time.

In the Decision and Order dated 08/05/2020, the following language was included:

Defendant is put ON NOTICE that especially given the chronic, historical delays in this matter, THIS WILL NOT BE A REASON TO CONTINUE THE CURRENT 3 DAY EVIDENTIARY HEARING. EDCR 7.40(c). If he is going to retain new counsel, it is suggested he do so immediately, showing them a copy of this order wherein it is clear that the evidentiary hearing will *not* be continued again. In fact, a copy of the Order Setting Trial filed on 07/30/2020 will accompany this Decision and Order so that Defendant is put on NOTICE directly of the requirements and deadlines.

Further, the issue of whether an act of domestic violence was committed by Defendant is a separate, but interrelated issue. *See* presumptions set forth in NRS 125C.0035(5) and in *Hayes v. Gallacher*, 115 Nev. 1, 972 P.2d 1138 (1999). Accordingly, **the first issue to be determined at the 3 day evidentiary hearing will be if an act of domestic violence occurred**, specifically under NRS 33.018(1)(e) (“A knowing, purposeful or reckless course of conduct intended to harass the other.”). The balance of the issues (relocation, custody, etc.) will follow that specific determination. (*emphasis in original*).

Further, in a review of the entire Transcript of Hearing on 07/30/2020, it is painfully obvious this Court actually wanted to have a hearing on the domestic violence issue prior to the trial on custody/relocation. The date of 08/05/2020 was tentatively set, then Defendant and his counsel later changed their minds. Transcript of Hearing on 07/30/2020, P. 11, lines 16-18 (“COURT: I can hold the evidentiary hearing on whether that constitutes domestic violence in a shorter period of time than that. MR. SHAHROKHI: Do that. Let’s do that.”); P. 19, lines 15-17

1 (“MR. PAGE: My client has changed his mind. My client would now like to go forward at the
2 three-day trial, everything.”). Further, even though Defendant recently requested the matter be
3 continued yet again, in his “Motion to Remove Fred Page, Esq. Immediately” filed on
4 07/30/2020, he requested specifically that the “Hearing set for September 21, 22, 23 MUST
5 remain in place.” (P. 2, line 3).

6 Defendant continues throughout his voluminous pleadings seems to indicate that the
7 Court of Appeals of the State of Nevada in its Order entered 11/06/2019 was completely in his
8 favor. Defendant should re-read the decision. The Court found in Footnote 1 that he had notice
9 of the prior hearing. The Court on Page 5 noted “the exigent circumstances under which the
10 district court made these orders.” The Court noted “increasingly threatening communication
11 from [Defendant].” The Court noted “[Defendant’s] willingness to disobey court orders if
12 [Plaintiff] did not comply with his demand.” The Court noted “[Defendant] discovered
13 [Plaintiff’s] address and threatened to remove the child from there and to arrest [Plaintiff’s]
14 boyfriend.” The Court noted “[Defendant] had also obtained personal information about
15 [Plaintiff’s] attorney and claimed to know where he lived. Finally, the Court held: **“Thus, the**
16 **district court’s concerns about the parties’ safety and the child’s well-being are supported**
17 **by the evidence before the court.”** Thereafter deeming “the district court’s justified safety
18 concerns.” The Court later on P. 7 cited to the *Kirkpatrick* case for the proposition: “When
19 exigent circumstances cause a court to make temporary child custody modifications without prior
20 notice or a full adversarial hearing, the fundamental interests at stake require that such a hearing
21 be provided ***as soon as possible thereafter.***”

22 As directed, on 12/12/2019 after the *remititur* was received, this Court held a hearing
23 noting it would “absolutely attempt to set and immediate trial, at the Defendant’s request, as soon
24 as we can.” Transcript of Hearing on 12/12/2019, P. 6, lines 17-19. “THE COURT: Mr. Page, I
25 will give you the trial. You let me know how soon you want it.” *Id.*, P. 8, lines 15-16. The
26 matter was set for February 10, 11 and 12 and the Trial Setting Order was filed that day. On
27 02/06/2020, Defendant now representing himself in *pro se*, asked for a continuance. Transcript
28 of Hearing on 02/06/2020, P.3, line 8. The trial was then continued to May 18, 19 and 20. On

1 05/12/2020, the matter was back before this Court, this time Defendant had hired Mr. Page. The
2 matter was continued again because Mr. Page had pending discovery motions and wanted more
3 time to get the evaluations done. Transcript of Hearing on 02/06/2020, P.2-4. The matter was
4 then set for a status check on 07/11/2020. On, 07/11/2020, it was indicated that Defendant
5 decided to change his mind, he did not proceed with the evaluations and he was now back to
6 arguing everything this Court did was void, his rights were continued to be violated, *etc.* *See*
7 *entire* Transcript of Hearing on 02/06/2020. As noted above, the trial was then set for September
8 21, 22 and 23 with the additional notice as set forth above on Page 1. It is noted again that
9 Defendant has asked for another continuance of this matter, which has been DENIED.

10 **II. DOMESTIC VIOLENCE ISSUE**

11 **A) Legal Basis:**

12 "The legislature intended that *courts presume that any domestic violence negatively impacts the*
13 *best interests of the children.*" *Castle v. Simmons*, 120 Nev. 98, 86 P.3d 1042 (2004).
14 It is reversible error for the trial court not to take into consideration acts of domestic violence
when determining custody of the child. *Russo v. Gardner*, 114 Nev 283, 956 P.2d 98 (1998);
McDermott v. McDermott, 113 Nev. 1134, 946 P.2d 177 (1997).

15 NRS 33.018(1) states:

16 ***Domestic violence occurs when a person commits one of the following acts against or***
17 ***upon his spouse, former spouse, any other person to whom he is related by blood or***
18 ***marriage, a person with whom he is or was actually residing, a person with whom he***
has had or is having a dating relationship, a person with whom he has a child in
common, the minor child of any of those persons or his minor child:

19 . . .
20 (e) **A knowing, purposeful or reckless course of conduct intended to harass the**
other. Such conduct **may include, but is not limited to:**
(1) ***Stalking.***

21 NRS 200.571(1) states:

22 **A person is guilty of *harassment* if:**

23 (a) Without lawful authority, **the person *knowingly threatens:***
(1) **To cause bodily injury in the future to the person threatened** or to any other
24 person;
(2) **To cause physical damage to the property of another person;**
(3) To subject the person threatened or any other person to physical confinement or
25 restraint; or
(4) To do any act which is intended to substantially harm the person threatened or any
26 other person with respect to his or her physical or mental health or safety; **and**
(b) **The person by words or conduct places the person receiving the threat in**
reasonable fear that the threat will be carried out.

27
28

1 **NRS 200.575(1)¹** states:

2 A person who, without lawful authority, **willfully or maliciously engages in a course of**
3 **conduct directed towards a victim that would cause a reasonable person under**
4 **similar circumstances to feel terrorized, frightened, intimidated, harassed or fearful**
5 **for his or her immediate safety or the immediate safety of a family or household**
6 **member, and that actually causes the victim to feel terrorized, frightened,**
7 **intimidated, harassed or fearful for his or her immediate safety or the immediate**
8 **safety of a family or household member,** commits the crime of **stalking.**

9 **NRS 125C.0035(5)²**

10 Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the
11 court after an evidentiary hearing and finding **by clear and convincing evidence** that
12 either parent or any other person seeking physical custody has engaged in one or more
13 acts of **domestic violence** against the child, a parent of the child or any other person
14 residing with the child creates **a rebuttable presumption that sole or joint physical**
15 **custody of the child by the perpetrator of the domestic violence is not in the best**
16 **interest of the child.** Upon making such a determination, the court shall set forth:
17 (a) **Findings of fact that support the determination that one or more acts of domestic**
18 **violence occurred;** and
19 (b) **Findings that the custody or visitation arrangement ordered by the court adequately**
20 **protects the child and the parent or other victim of domestic violence who resided with**
21 **the child.**

22 *Matter of Parental Rights as to J.D.N.*, 128 Nev. ___, 283 P.3d 842 (2012) (TPR case) (held that
23 “in civil matters, presumptions can be rebutted by a preponderance of the evidence” even
24 though the initial burden of proof is by clear and convincing evidence.)

25 *Clear and convincing evidence*: “Evidence indicating that the thing to be proved is highly
26 probable or reasonably certain.” *Black’s Law Dictionary* (11th ed. 2019).

27 *Preponderance of the evidence*: “The greater weight of the evidence; . . . the party that, on the
28 whole, has the stronger evidence, however slight the edge may be.” *Black’s Law Dictionary*
29 (11th ed. 2019).

30 **B) ANALYSIS**

31 Plaintiff’s Application for a Temporary Protective Order (TPO) was filed on 12/05/2020.

32 Plaintiff’s typewritten “statement” included specific allegations of physical abuse. It was signed
33 in affidavit form. Plaintiff testified at 09:48 in the video record of the evidentiary hearing held
34 today that everything contained in the TPO Application was correct. The TPO Application

35 ¹ It is simply noted that under **NRS 200.575(4)**, stalking becomes more severe when done
36 electronically. (“**A person who commits the crime of stalking with the use of an Internet or network**
37 **site, electronic mail, text messaging** or any other similar means of communication to publish, display
38 or distribute information in a manner that substantially increases the risk of harm or violence to the
39 **victim** shall be punished for a category C felony as provided in NRS 193.130.”). The communications
40 at issue were all by electronic means.

41 ² **NRS 125C.230(1)** is identical to **NRS 125C.0035(5)**, except **NRS 125C.230(3)** clarifies that
42 “domestic violence” means the commission of any act described in **NRS 33.018**.

1 further included a text message from Defendant where he vulgarly threatens to burn her clothes,
2 he was going to “punch your sorry ass right in the f*cking face n see how u like get dropped with
3 a limp d*ck in your mouth b*tch,” and that “I’m gonna b waiting by the door for u tonight.”
4 Defendant made a statement at approximately 12:40 in the video record at the evidentiary hearing
5 today that this text was from July 2018. In the second text clearly dated 08/07/2018, Defendant
6 threatens “I will f*cking beat the f*ck out of you n gladly go to jail mother [sic] ducked.”

7 The Transcript of Hearing on 03/27/2019 contains the following:

8 P.6, L. 22-23: “MR. FRIEDMAN: **They’re his texts, no question about that.**”
9 P.7, L7-9: “THE COURT: Does he have anything that she sent him that rises even close
to that level? THE DEFENDANT: I do.”
10 L11: [reiterates] “THE DEFENDANT: I do.”
11 P.9, L9-10: “MR. STANDISH: No, I don’t think it exists, your Honor.”
12 L16: “THE DEFENDANT: I do have them.”
13 L20: “MR. FRIEDMAN: **There’s no dispute they’re his text messages.**”
14 P.11, L12-13 “MR. FRIEDMAN: **[W]hat my client did was 100 percent wrong, it’s**
15 **despicable, there’s not question about it.**”
16 L22-24: “THE COURT: I’m leaning towards this should be an evaluation, especially if
17 she wants to relocate out of state.”
18 P.13, L9-12: “THE COURT: [A]t this point I want to see something from your client.
Again, very adamant, shaking his head. He’s got all this stuff that makes her look just as
bad.”
19 P. 14, L2-4: “MR. FRIEDMAN: **So all the horrific ones—and, again, they’re terrible**
20 **and there’s no excuse for them. But they weren’t sent when these parties**
21 **separated.**”
22 L10: “MR. FRIEDMAN: . . . **these despicable messages.**”
23 P 28, L7-9: “THE COURT: they’re going to update me with some very shocking stuff
24 like you just filed for me to see. We’ll we’ll see what he has.”

25 The return hearing was on 04/10/2019. No proofs of Plaintiff’s alleged similar texts were
26 filed before the return date. On 05/03/2019, this Court granted Plaintiff’s first attorney his
27 request to withdraw. That same day (05/03/2019), Defendant did file Exhibits containing the text
28 messages he referenced at the hearing that were sent to him by Plaintiff, *allegedly* reaching the
level of his threats listed as *Exhibit 1*. “I’m the smartest f*cking b*tch you will ever meet Ali”
and “I’m going to miss fighting with you after Boogie turns 18.” These do not reach anywhere to
the level of Defendant’s “despicable messages.”

25 Ironically, these exhibits filed by Defendant himself include the TPO Order filed
26 01/03/2019 that includes the “Mutual Behavior Order” along with the 9 specific provisions
27 contained on P. 2. Defendant denied knowledge of such at the evidentiary hearing. Additionally,
28 his exhibits contain the “Domestic Violence Report” from 12/03/2019 which Defendant also

1 denied existed. According to the report, both parties told the reporting officers that the other one
2 had “shoulder checked” them.

3 Defendant has submitted numerous emails sent by Defendant as noted by Plaintiff in her
4 Pre-Trial Memorandum. In these, on 07/16/2018 he calls Plaintiff a “mother f*cker,” a “piece of
5 sh*t” and a “f*cking piece of garbage.” Exhibit 5 filed 03/25/2019. On 07/15/2019, Defendant
6 calls Plaintiff a “piece of garbage” tells her she “can go eat d*ck” and a “lose hooker.” *Id.*,
7 Exhibit 6. On 07/16/2018, he calls Plaintiff a “one stupid deluited f*cking idiot.” Exhibit 2 filed
8 05/01/2019. On 07/15/2018, Defendant tells Plaintiff “F*ck u stupid mother f*cker.” and
9 “f*cking mentally bankrupted and deluited.” *Id.* Exhibit 3.

10 Given the time parameters with which this decision must be made, the 213 pages from the
11 *OurFamilyWizard* (OFW) communication program would be overwhelming. *Res ipsa loquitur*:
12 Latin “the thing speaks for itself.” *Black's Law Dictionary* (11th ed. 2019). Although the term is
13 normally is used in tort law, there is no other way to describe the cumulative entries by
14 Defendant. Just a few noted entries as discussed at trial, in Plaintiff’s Pre-Trial Memorandum
15 and was noted by the Court of Appeals of the State of Nevada. On 06/24/2019, Defendant
16 informs Plaintiff he now knows her physical address, calls her fiancé a pedophile (which is a
17 running theme for Defendant, he also alleged Plaintiff’s counsel was a pedophile of his own
18 children and noted he knew where he lived in an email) and says he will put her fiancé “under
19 citizen arrest.” It is this Court’s understanding parties are put on notice by the OFW program not
20 to CAPITALIZE as it is common knowledge nowadays this equates to yelling. Defendant’s
21 entries are *replete* with capitalizations. Court’s Exhibit 1. On 07/10/2019, Defendant states he
22 “will challenge you every single day of my life” including “8 years of litigation” (when the minor
23 child will emancipate). The underlying record and Defendant’s 7 pre-trial Writs confirms this
24 form of legal harassment.

25 On 07/11/2019, this Court ordered the OFW communication to stop. Defendant’s only
26 response when confronted by this Court: “MR. SHAHROKHI: “These are all communications
27 that the child doesn’t have access to. ***These are digital communications.*** He doesn’t see ‘em.”
28 Transcript of Hearing on 07/11/2019, P.13, L5-7.

1 Defendant requested that the child interview conducted at the Family Mediation Center
2 on 02/26/2019 be entered as an exhibit. It was admitted as Court's Exhibit 3. In it, the minor
3 child states “that his parents were physically violent towards each other though he denied having
4 seen the incidents firsthand. [He] said, I've never seen it but I could hear punching and bodies
5 banging against the walls” and added “I have heard both of them doing it.” *Id.* at p.2. It is noted
6 that Defendant himself stated at approximately 12:54 in the video record that he was 6' 3" and
7 Plaintiff was 5' 2." Later, when asked about each parent, the child stated about Plaintiff he
8 wished: “She can work a little less days and times.” *Id.* at 4. Regarding Defendant, the child
9 stated he wished that he would: “**Not to get super angry and to be more calmId.**

10 When Defendant was called by Plaintiff's counsel to testify, he “Plead the 5th
11 Amendment.” This is clearly Defendant's right and it will not be held against him. Defendant
12 further claimed only a criminal court could determine a domestic violence issue and the “highest”
13 burden of proof applied. Both of these statements are incorrect. *Beyond a reasonable doubt*, the
14 standard in criminal cases is the highest burden and this Court clearly has jurisdiction to
15 determine the issue.

16 Given the evidence and testimony, this Court cannot find *by a clear and convincing*
17 *standard* that a battery occurred pursuant to NRS 33.018(1)(a). However, given the
18 aforementioned digital communications by Defendant directed at Plaintiff, this Court FINDS *by*
19 *clear and convincing evidence* (as defined above) that Defendant did commit domestic violence
20 as defined by NRS 33.018(1)(e). Under NRS 200.571(1), this Court FINDS that Defendant
21 *without lawful authority, knowingly threatened Plaintiff (1) to cause bodily injury in the future*
22 *and (2) to cause physical damage to Plaintiff's property (i.e., burn her clothes)* and that *the*
23 *words of Defendant placed Plaintiff in reasonable fear that the threat would be carried out.*
24 Under NRS 200.571(2), this also Court FINDS that Defendant *without lawful authority, willfully*
25 *engaged in a course of conduct directed towards Plaintiff that would cause a reasonable person*
26 *under similar circumstances to feel terrorized, frightened, intimidated, harassed and fearful for*
27 *her immediate safety.* NRS 125C.0035(5)(a). Additionally, this Court FINDS *that the custody*
28 *or visitation arrangement ordered by the court adequately protects the child and the parent or*

other victim of domestic violence who resided with the child. NRS 125C.0035(5)(a).

Defendant was specifically granted the opportunity to rebut the presumption, which would be by *a preponderance of evidence* (defined above). Defendant indicated that he believed through his cross-examination he had proved that Plaintiff was a liar. He submitted nothing further when given the opportunity. Accordingly, this Court FINDS that Defendant has failed to rebut the presumption set forth in NRS 125C.0035(5).

As this Court did not consider the alleged physical violence by *either* party, as it was not established by either party by *clear and convincing evidence*, the court cannot determine that *each party has engaged in acts of domestic violence* and therefore, NRS 125C.0035(6) does not apply.

Dated this 22nd day of September, 2020

MEF

4A8 0BD 75DF AB85
Mathew Harter
District Court Judge

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DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Petition by: CASE NO: D-18-581208-P
Kizzy Burrow, Petitioner. DEPT. NO. Department N

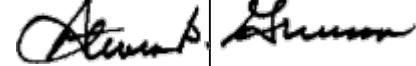
AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 9/22/2020

Thomas Standish	tom@standishlaw.com
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EXHIBIT “D”



1 Ali Shahrokhi
2 10695 Dean Martin Dr. #1214
3 Las Vegas, NV 89141
4 (702) 835-3558
5 Alibe76@gmail.com
6 In Proper Person

5
6 **DISTRICT COURT, FAMILY DIVISION**
7 **CLARK COUNTY, NEVADA**

8 KIZZY BURROW,) Case No.: D-18-581208-P
9 Plaintiff,)
10 vs.) Dept No.: N
11 ALI SHAHROKHI,) Date of Hearing:
12 Defendant.) Time of Hearing:
13) **Oral Argument Requested: YES**
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**DEFENDANT'S MOTION REQUESTING RESOLUTION OF ESSENTIAL
PRE- TRIAL, QUESTIONS OF LAW, MOTIOON RAISING OBJECTIONS
AND PLEA TO THE JURISDICTION**

16 Comes now Ali Shahrokhi, Movant and asks this court to answer the following questions
17 of law as essential to justice and essential to proper protection of substantive and procedural due
18 process in this case; and asks this court to take judicial notice of well-established substantive and
19 procedural rights applicable in this case; and raises objections; and Shahrokhi raises a plea to this
20 court's subject matter jurisdiction.

21 Shahrokhi requests this court to issue a protective order and quash any request by
22 Respondent that this court take judicial state action in the absence of all substantive and
23 procedural guarantees applicable to the rights at issue in these proceedings being afforded.

24 Shahrokhi asks this Court to resolve the following questions of law **1)** whether the parties
25 to this child custody dispute between fit parents are entitled to the substantive protections
26 associated with the First, Fourth, and Fourteenth Amendment rights at issue in custody

1 proceedings; **2**) whether the parties are entitled to the procedural protections of an Eldridge
2 balancing test; **3**) whether the parties are entitled to obtain a just, fair, equitable and impartial
3 adjudication of the rights of litigants under established principles of substantive law; **4**) whether
4 the parent-child association that litigants have with their child is an intimate and expressive close
5 family association protected by the First Amendment; **5**) whether Respondent's petition asks this
6 court to impose time, place, or manner prior restraints on Shahrokhi's speech, association, and
7 worship with Shahrokhi's child; **6**) whether Respondent's petition asks this court to impose
8 content-based prior restraints; **7**) whether the litigants' parent child association rights are
9 individual rights independent of the marital status of the litigants or of changes in that status; and
10 **8**) whether the child has standing to have its "best interests" or any other interests asserted by the
11 judge or by any appointed officer in these proceedings?

14 **ARGUMENT**

15 **Child Custody Litigation Burdens Fundamental Rights**

16 The United States Supreme Court has held that subjecting a parent to child custody
17 litigation is sufficiently burdensome on the right to be constitutionally significant. This holding
18 establishes that this Court must establish a constitutionally compliant threshold condition that
19 justifies the imposition of child custody litigation upon parents who enter these proceedings with
20 full and equal fundamental rights to their child and who must be presumed to be fit and who
21 must be presumed to be acting in their own child's best interest.

22
23 **JN-1:** Shahrokhi asks this Court to take judicial notice of the holding in Troxel v.
24 Granville, 530 US 57, 75 (Supreme Court 2000), (the burden of litigating a domestic relations
25 proceeding can itself be "so disruptive of the parent-child relationship that the constitutional right
26 of a custodial parent to make certain basic determinations for the child's welfare becomes
27 implicated.")

1 **JN-2:** Shahrokhi asks this Court to take judicial notice of the Courts many holdings that
2 the state's asserted interests may not be a broad sweeping interest such as a broad assertion of
3 acting in the best interest of the child but that the state's asserted interest must be narrowly
4 focused and asserted on the same plane of generality as the right being infringed. See
5 Employment Div., Dept. of Human Resources of Ore. v. Smith, 494 US 872, 909, 910 (Supreme
6 Court 1990), (It is not the State's broad interest ... that must be weighed against respondents'
7 claim, but the State's narrow interest...)

9 **OBJECTIONS**

10
11
12 **OBJ-1:** Shahrokhi objects to this Court proceeding with any request by respondent to
13 limit the rights or to impose duties upon Shahrokhi except where Respondent has justified such
14 request by demonstrating a narrow compelling state interest, that the statutes authorizing such
15 request are narrowly tailored, and by demonstrating that the relief requested is the least
16 restrictive relief available to the court sufficient to achieve the narrow compelling state interest.

17
18 **OBJ-2:** Shahrokhi objects to this Court proceeding with any request by respondent to
19 limit the rights or to impose duties upon Shahrokhi based on a broadly articulated best interest of
20 the child justification and objects to all but the most narrowly tailored justification for
21 proceeding with a request to infringe Shahrokhi's fundamental rights.

22
23 **Palmore Standard**

24
25 The United States Supreme Court has held in a child custody modification case between
26 fit parents incident to divorce that the trial court is a state actor acting under color of state law
27 and consequently limited by the federal constitution, that a trial court's viewpoint regarding the
28 best interest of a child is insufficient justification to infringe fundamental rights, and that there
are harms to children that are non-justiciable in custody cases.

Harm to the child: Children face all sorts of harm in life that is non-justiciable. Nothing inherent in these proceedings authorizes this Court to hold these litigants to a different standard of harm in childcare than is applied to fit married parents. The parents' constitutionally protected privacy choices regarding marriage and family living arrangements cannot be punished or burdened by presuming they can convey authority to this Court to create standards of harm that apply only to these litigants. The best interest of the child standard does not provide judicial authority to create ex post facto determinations of what constitutes harm to a child. The best interest of the child standard does not provide judicial authority for this Court to define harm based on this Court's own viewpoint regarding matters of conscience in child-rearing.

JN-3: Shahrokh asks this Court to take judicial notice of Palmore and its holdings as controlling precedent in this case which limits this Court's discretion to infringe the constitutional rights of the litigants in this case, see Palmore v. Sidoti, 466 US 429, 432, 433 (Supreme Court 1984), (Footnote), (The actions of state courts and judicial officers in their official capacity have long been held to be state action governed by the Fourteenth Amendment. *Shelley v. Kraemer*... *Ex parte Virginia*... "Public officials sworn to uphold the Constitution may not avoid a constitutional duty by bowing to the hypothetical effects of private racial prejudice that they assume to be both widely and deeply held.").¹

¹ Palmore came to the Court on petition for certiorari from a Florida appellate court where the Florida Supreme Court was constitutionally prohibited from hearing the case. The case was a child custody modification case incident to divorce where the father sought to deprive the mother of custody because of certain harm to the child from living in a racially mixed household. The Court directly held that the Shelley precedent applies in child custody modification cases and consequently the family law trial court

1 **JN-4:** Shahrokhi asks this Court to take judicial notice of its status as a state actor acting
2 under color of state law in these proceedings.

3 **JN-5:** Shahrokhi asks this Court to take judicial notice of Justice Thomas' and Scalia's
4 statements in their concurrence to Grutter regarding the Palmore holding, see Grutter v.
5 Bollinger, 539 US 306, 352 (Supreme Court 2003), (concurrence Justice Thomas & Scalia) (An
6 even greater governmental interest involves the sensitive role of courts in child custody
7 determinations. In Palmore v. Sidoti... the Court held that even the best interests of a child did
8 not constitute a compelling state interest).²

11 **OBJECTIONS**

12 **OBJ-3:** Shahrokhi objects to any finding by this Court that *Palmore* is not controlling on
13 this court in this case.

14 **OBJ-4:** Shahrokhi objects to any argument, finding, or the following of any policy
15 (written or unwritten) holding that the federal constitution does not apply in this case or that it
16 does not limit this Court's Discretion in this case.

20 judge was a state actor taking state action under color of state law and was
21 thus subject to Fourteenth Amendment equal protection limitations. Both
22 parents were found to be fit. The child's welfare was held to be the
23 controlling factor. The Court held that strict scrutiny applied and that the
24 best interest of the child, although substantial, was not sufficiently
25 compelling to justify infringement of Fourteenth Amendment guarantees.

26 ² *Grutter* was a racial discrimination case regarding the use of race as a
27 factor in law school admissions. This case is not presented for the context
28 of the case but to restate the holding in *Palmore* as understood by justices
Scalia and Thomas.

1 **OBJ-5:** Shahrokhi objects to the best interest of the child standard or legislative mandate
2 being used by this Court as a predicate to infringe constitutional rights or as a compelling state
3 interest to support infringement of fundamental rights.

4 **OBJ-6:** Shahrokhi objects to any implied or other harm to the child incident to either
5 parent's marital choices being used as justification to interfere with parent-child family privacy
6 rights.

7 **OBJ-7:** Shahrokhi objects to any determinations of harm to the child where specific
8 written charges have not been properly served on Shahrokhi and where the alleged harm has not
9 been previously defined by state statute.

10 **Domestic Relations**

11 The United States Supreme Court has never held that a state may regulate domestic
12 relations outside of constitutional constraints. In *Zablocki*, the Court specifically held that the
13 state's regulation of domestic relations is subject to constitutional limitations.

14 **JN-6:** Shahrokhi asks this Court to take judicial notice of the Courts statement regarding
15 this issue as being essential to the Court's holding in *Zablocki*.

16 **JN-7:** Shahrokhi asks this Court to take judicial notice of the well-settled precedent that
17 individual decisions regarding marriage—to marry, not to marry, and to divorce—are privacy
18 rights protected at strict scrutiny—choices which may not be punished by the state, and choices
19 which may not establish standing or jurisdiction for a trial court to invade other protected family
20 associations such as the parent-child association,—see *Zablocki v. Redhail*, 434 US 374, 399
21 (Supreme Court 1978), (State power over domestic relations is not without constitutional limits.
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1 The Due Process Clause requires a showing of justification "when the government intrudes on
2 choices concerning family living arrangements").³

3 Zablocki came to the Court on appeal from a federal district court as a class action case asserting equal protection rights related to marriage and the state infringing the right to marry because of unpaid child support obligations. The Court held that the decision to marry was a privacy right of the same type as the right to make decisions regarding child rearing, education, and family relationships. The Court held that as a privacy right, infringements of this right must survive strict scrutiny constitutional review. The Court held that "collection device rationales" for child support cannot justify infringement of fundamental rights. Therefore, infringements on the parent-child family relation right must also survive strict scrutiny. This case provides discussion of the right to dissolve a marriage as established in *Boddie v. Connecticut* which is relevant here where the state imposes punishments upon parents of minor children absent strict scrutiny protections being applies where a parent of a minor child exercises the choice to dissolve a marriage with the child's other parent or where the parents choose not to marry. What is of vital importance is that even though the justices all acknowledged that domestic relations regulation was the province of the state, the Court was unanimous in its opinion that federal constitutional limitations apply to state domestic relations regulation. The only dissent reasoned that rational basis rather than strict scrutiny was the appropriate degree of limitation on state action.

OBJECTIONS

OBJ-8: Shahrokhi objects to any authority to infringe constitutional rights exercised by this Court that is predicated on either parent's choices regarding marriage or choices regarding divorce as an unconstitutional burden on or an unconstitutional punishment of the right of choice in these matters.

OBJ-9: Shahrokhi objects to a constitutionally protected choice exercised by either parent being used as predicate authorizing this Court to invade Shahrokhi's parent-child association with Shahrokhi's own child or authorizing this Court to place any limitation on Shahrokhi's and Shahrokhi's child's concomitant speech, association, or worship rights with each other upon.

OBJ-10: Shahrokhi objects to any limitation, direct or indirect, on Shahrokhi's speech, association, or worship rights with Shahrokhi's child or on the child's concomitant rights except where the Court's order is demonstrated to survive strict scrutiny review and is demonstrated to be the least restrictive means available to the Court.

First Amendment

SCOTUS has held that family relationships are protected by the First Amendment because intimate associations cannot exist without expression of intimacy which necessarily makes these associations both intimate and expressive.

1 **JN-8:** Shahrokhi asks this Court to take judicial notice of the well-established precedent
2 that close family associations are protected by the First Amendment as both intimate and
3 expressive associations, see Board of Directors of Rotary Int'l v. Rotary Club of Duarte, 481 US
4 537, 545 (Supreme Court 1987), (We have emphasized that the First Amendment protects those
5 relationships, including family relationships, that presuppose "deep attachments and
6 commitments to the necessarily few other individuals with whom one shares not only a special
7 community of thoughts, experiences, and beliefs but also distinctively personal aspects of one's
8 life.")⁴

11 ⁴ *Rotary International* comes to the Court on appeal from a California state
12 appellate court and presents a First Amendment question regarding the
13 association right. The court distinguished between private and personal
14 exclusive relationships such as family relationships which are protected by
15 the First Amendment from inclusive public relationships, such as the
16 association that Rotary International created, which are not protected by the
17 First Amendment. This stands in direct contrast to the common family law
18 belief that intimate family associations are protected only by the Fourteenth
19 Amendment and not the First. Because the First Amendment does apply to
20 parent-child associations, the full body of First Amendment substantive
21 rulings on associational rights must be applied to the parent-child
22 association where they have not been applied in the past. The Court held, in
23 *rotary International*, that "[i]mpediments to the exercise of one's right to
24 choose one's associates"—such as a family court limiting the times, places,
25 and manner of association—"can violate the right of association protected by
26 the First Amendment." The Court, in coming to its holding in this case,
27 analyzed whether the relationship being examined was one of stated opinions
28 or firmly held beliefs—such as a parent's beliefs or viewpoint regarding the
best interest of their own child—which the Court stated would invoke

1 **JN-9:** Shahrokhi asks this Court to take judicial notice of the Courts holding that parents
2 have a right and duty to educate their children where the exercise of this right and duty requires
3 protected expression, see Meyer v. Nebraska, 262 US 390, 400 (Supreme Court 1923),
4 (Corresponding to the right of control, it is the natural duty of the parent to give his children
5 education suitable to their station in life...)⁵ See also, Wisconsin v. Yoder, 406 US 205, 232
6 (Supreme Court 1972), (The duty to prepare the child for "additional obligations," referred to by
7

8
9 expressive protections under the First Amendment. Consequently, this case
10 holds that private family relationships are afforded First Amendment
11 protections as exclusive or intimate associations where communication of
12 intimacy is the essential component and are afforded First Amendment
13 protections as expressive associations where the purpose of the association
14 is to instill knowledge, beliefs, and viewpoints in children as a parental
15 right and duty.
16

17 ⁵ Meyer was the first case where the Court established the right to family
18 autonomy. The Court invalidated as unconstitutional a state law that
19 prohibited teaching children in any language other than English. The Court
20 held that the right to establish a home and to bring up children is a liberty
21 right protected by the term liberty. Meyer clearly presents a First Amendment
22 speech restriction but was decided as a liberty issue and not a First
23 Amendment right partly because the First Amendment had not yet been
24 incorporated into the Fourteenth Amendment and applied to the states, see
25 Gitlow v. New York, 268 U.S. 652 (1925). The Court stated in Meyer, "the
26 legislature has attempted materially to interfere with the calling of modern
27 language teachers, with the opportunities of pupils to acquire knowledge, and
28 with the power of parents to control the education of their own." The
acquiring of knowledge has since been held to be protected by the First
Amendment.

1 the Court, must be read to include the inculcation of moral standards, religious beliefs, and
2 elements of good citizenship.)⁶

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6 Yoder was a case where the state sought to mandate public education beyond
7 the 8th grade and the Amish community refused to allow their children to
8 attend public school after 8th grade because of their higher right to educate
9 their children in their own religion and their own way of life. The state
10 sought to establish a compelling state interest by asserting a broad interest
11 in educating children but the Court held that broad assertions of a state
12 interest—such as the broad assertion of best interest of the child
13 justification—cannot serve to justify specific invasions of First Amendment
14 rights, “Where fundamental claims of religious freedom are at stake, however,
15 we cannot accept such a sweeping claim...” The state argued that its parens
16 patriae authority authorized it to overrule the Amish Parents—just as courts
17 today argue that parens patriae authority authorizes them to infringe
18 parental rights under a best interest of the child standard—but the Court
19 rejected the parens patriae argument. The Court addressed and rejected the
20 state’s interest in promoting **the best interest of the children** as against
21 the children’s parents’ right to determine the children’s religious
22 upbringing. Just following the best interest of the child analysis the Court
23 stated, “Indeed it seems clear that if the State is empowered, as parens
24 patriae, to “save” a child from himself or his Amish parents by requiring an
25 additional two years of compulsory formal high school education, the State
26 will in large measure influence, if not determine, the religious future of
27 the child.” The Court established the authority of the parent as primary over
28 the authority of the state in child rearing. The Court’s ultimate holding
rejected broad sweeping parens patriae authority—such as best interest of the
child—and held that the state must make a particularized demonstration of its

1 **JN-10:** Shahrokh asks this Court to take judicial notice of the fact that this Court's child
2 custody and possession order will influence if not determine the child's future in many matters of
3 conscience.⁷

4 **JN-11:** Shahrokh asks this Court to take judicial notice that the expressive element of the
5 parent-child association, the right of the parent to teach and the right of the child to receive
6 education, is protected at strict scrutiny, see Buckley v. Valeo, 424 US 1 (Supreme Court 1976),
7 (In considering this provision we must apply the same strict standard of scrutiny, for the right of
8 associational privacy developed in *NAACP v. Alabama* derives from the rights of the
9 organization's members to advocate their personal points of view in the most effective way.)
10
11

12 **TIME, PLACE, AND MANNER PRIOR RESTRAINTS**
13
14

15 Any child custody or child possession order between two fit parents will necessarily be a
16 limit on the times, the places, and the manner in which either parent may speak, associate, and
17 worship with their child and will be a limit on the child's concomitant rights. The fact that all
18 such orders impose this restraint does not and cannot convey unbridled discretion upon a trial
19 court to impose its own viewpoint regarding the child's best interest as a justiciable resolution to
20 the parents' conflict of full and equal rights and their conflict over when, where, and how each
21

22
23 interest in the specific context of the instant case and show that it is
24 compelling in that particular context.
25

26 ⁷ *Yoder*, supra at 232 "Indeed it seems clear that if the State is empowered,
27 as parens patriae, to "save" a child from himself or his Amish parents by
28 requiring an additional two years of compulsory formal high school education,
the State will in large measure influence, if not determine, the religious
future of the child."

1 parent may exercise their full and equal parental rights apart from the other parent. No legislative
2 mandate can obviate the constitutional guarantees that must be afforded these rights.

3 Shahrokhi argues that where the trial court imposes prior restraints upon the times,
4 places, and manner in which Shahrokhi and child may share “a special community of thoughts,
5 experiences, and beliefs but also distinctively personal aspects of one's life”⁸ the trial court is
6 restraining First Amendment protected speech which demands, at a minimum, enhanced scrutiny
7 substantive protections and where the justification for these restraints is content or viewpoint
8 based demands strict scrutiny protections.
9

10
11 **JN-12:** Shahrokhi requests this court to take judicial notice of the undisputable fact that a
12 child custody or possession order by this court regulating how each fit parent in this suit may
13 exercise rights over and possession of the child, even an equal 50/50 order, is by necessity a
14 limitation, on the times, the places, and the manner in which either parent may speak with,
15 associate with, and worship with their child.
16

17
18 **JN-13:** Shahrokhi asks this Court to take judicial notice of the well-established law that
19 content neutral time, place, and manner restraints on First Amendment protected activities must
20 survive enhanced scrutiny review with appropriate ends/means balancing.⁹
21

22 **JN-14:** Shahrokhi asks this Court to take judicial notice of the Court's more recent
23 holdings regarding the specific requirements of enhanced scrutiny in these matters particularly
24 where the state asserts a necessity in exercising “broad” powers such as exercising broad
25

⁸ Roberts v. United States Jaycees, 468 US 609, 620 (Supreme Court 1984).

⁹ Ward v. Rock Against Racism, 491 US 781, 804 (Supreme Court 1989), (A time,
place, and manner regulation of expression must be content neutral, serve a
significant government interest, be narrowly tailored to serve that interest,
and leave open ample alternative channels of communication.)

1 authority under the best interest of the child standard, see Packingham v. North Carolina,
2 (Supreme Court 2017), (Even making the assumption that the statute is content neutral and thus
3 subject to intermediate scrutiny, the provision cannot stand. In order to survive intermediate
4 scrutiny, a law must be “narrowly tailored to serve a significant governmental interest.” ... In
5 other words, the law must not “burden substantially more speech than is necessary to further the
6 government’s legitimate interests.” ... response from the State is that the law must be this broad
7 to serve its preventative purpose ... The State has not, however, met its burden to show that this
8 sweeping law is necessary or legitimate to serve that purpose.)
9

10 Shahrokhi argues that where either parent asks this Court to make a best interest
11 determination, to evaluate the relative value of either parent’s speech with the child, to evaluate
12 the relative value of either parent’s association with the child, to evaluate the relative value of
13 either parent’s lawful and constitutionally protected parental choices that parent is asking this
14 Court to impose a content-based time, place, or manner restriction on First Amendment protected
15 activities that constitutes viewpoint discrimination.
16

17 **JN-15:** Shahrokhi asks this Court to take judicial notice of the well-established law that
18 content-based time, place, and manner restraints on First Amendment protected activities must
19 survive strict scrutiny review and must survive least restrictive means review.
20

22 **OBJECTION** 23

24 **OBJ-11:** Shahrokhi objects to any request by Respondent for this Court to impose
25 limitations on the parent-child association as a violation of rights protected by the First
26 Amendment.
27

1 **OBJ-12:** Shahrokhi objects to any request by Respondent for this Court to impose
2 limitations on the parent-child association except where the full array of substantive guarantees
3 afforded First Amendment rights have been afforded to the parties by the trial court.

4 **OBJ-13:** Shahrokhi objects to any request by Respondent to this Court asking this Court
5 to use state authority under color of state law to impose prior restraints on Shahrokhi's and
6 Shahrokhi's child's concomitant rights except where Respondent has provided the Court with
7 everything necessary to demonstrate that the Court's order can survive strict scrutiny review and
8 that the requested orders are the least restrictive option available to the Court, see *Buckley*, *supra*.
9

10 **OBJ-14:** Shahrokhi objects to any child custody or possession orders issued by this
11 Court, either temporary or permanent orders, which have not been demonstrated to survive strict
12 scrutiny review and which have not been demonstrated to be the least restrictive means available
13 to the Court.
14

16 **CENSORSHIP** 17

18 Shahrokhi argues that child custody or possession orders that do not fully and equally
19 protect each parent's full and equal rights to their child, inherently and by necessity, elevate one
20 parent's speech, association, and worship rights and authority over the other parent's. Such
21 orders constitute censorship of parent-child speech, association, and worship.
22

23 Shahrokhi argues that where state statutes regulating these proceedings provide for
24 default or standard custody and possession orders that fail to fully and equally respect the full
25 and equal rights of each fit parent and of the child to those parents, those statutes create a de
26 facto censorship scheme.
27

1 Shahrokhi argues that where the state's scheme vests this trial Court with broad
2 discretion to determine which parent's speech, association, and worship will be elevated over the
3 other parent's without the necessity of affording the full array of substantive guarantees
4 necessary to overcome constitutional prohibitions against state censorship schemes, this Court
5 has been vested by the legislature with unbridled discretion to censor intimate and expressive
6 close family speech, association, and worship.
7

8 Shahrokhi argues that where this Court accepts this unbridled discretion and fails to
9 provide the non-discretionary substantive guarantees necessary to constitutionally validate this
10 discretion, this Court exercises unbridled discretion to censor intimate and expressive close
11 family speech, association, and worship.
12

13 **JN-16:** Shahrokhi asks this Court to take judicial notice of the well-established
14 constitutional law holding that the mere existence of unbridled discretion to infringe rights
15 protected by the First Amendment is unconstitutional on its face whether or not the official
16 exercises that discretion.¹⁰
17

19
20 ¹⁰ Intern. Soc. for Krishna Consciousness v. Eaves, 601 F. 2d 809, 823 (5th
21 Circuit 1979), (By facially invalidating excessively broad grants of
22 discretion, then, the Court has revealed that the problem is not potential
23 abuses but the very existence of broad, censorial power.); Southeastern
24 Promotions, Ltd. v. Conrad, 420 US 546, 559, 560 (Supreme Court 1975), (The
25 settled rule is that a system of prior restraint "avoids constitutional
26 infirmity only if it takes place under procedural safeguards designed to
27 obviate the dangers of a censorship system."); Kent v. United States, 383 US
28 541, 552-554 (Supreme Court 1966), (the statute contemplates that the
Juvenile Court should have considerable latitude ... But this latitude is not
complete. At the outset, it assumes procedural regularity sufficient in the

1 Shahrokhi asks this Court to exercise its discretion and hold that the censorship scheme
2 established by the state to censor parent-child speech, association, and worship in these
3 proceedings is unconstitutional on its face.

4 In the alternative, Shahrokhi asks this Court to exercise its non-discretionary judicial duty
5 to afford all substantive and procedural guarantees necessary to ensure that this Court's orders in
6 these proceedings are demonstrated to avoid the exercise of unbridled discretion in regulating the
7 First Amendment rights at issue in these proceedings.

10 particular circumstances to satisfy the basic requirements of due process and
11 fairness, as well as compliance with the statutory requirement of a "full
12 investigation." ... The statute gives the Juvenile Court a substantial degree
13 of discretion ... It does not confer upon the Juvenile Court a license for
14 arbitrary procedure.); San Francisco Arts & Athletics, Inc. v. United States Olympic Comm., 483 US 522, 568 (Supreme Court 1987) (dissent), (this broad
15 discretion creates the potential for significant suppression of protected
16 speech. "[A] law subjecting the exercise of First Amendment freedoms to the
17 prior restraint of a license, without narrow, objective, and definite
18 standards to guide the licensing authority, is unconstitutional." ... This
19 broad discretion, with its potential for abuse, also renders § 110
20 unconstitutionally overbroad on its face.); Prime Media, Inc. v. City of Brentwood, 485 F. 3d 343, 351 (6th Circuit 2007), ("when a licensing statute
21 allegedly vests unbridled discretion in a government official over whether to
22 permit or deny expressive activity, one who is subjected to the law may
23 challenge it facially without the necessity of applying for, and being
24 denied, a license." ... Such a licensing requirement "constitutes a prior
25 restraint and may result in censorship." ... Thus, the prior restraint of a
26 licensing provision coupled with unbridled discretion itself amounts to an
27 actual injury.);

1 Shahrokhi will attest that it is Shahrokhi's belief that where this Court protects the full
2 and equal rights of each parent in these proceedings, issues orders that provide for 50/50 custody
3 and possession, and where this Court only overrules parental choices upon the demonstration of
4 a compelling justification, upon the application of least restrictive means, and without
5 unnecessarily imposing the trial court's viewpoint in these matters this court will be providing
6 the foundation for demonstrating that the Court has not acted with unbridled discretion.
7

8 **CHILD SUPPORT AS SPEECH**

9 It is well-established that money spent in support of speech is protected as speech and
10 that where the state limits a person's ability to spend money in support of speech, the state limits
11 speech.
12

13 Shahrokhi argues that consequently, where the state imposes child-support obligations
14 which exceed the minimum amount necessary to meet the child's minimum basic needs the state
15 is enhancing the discretionary speech of one parent and diminishing the discretionary speech of
16 the other parent. This condition is particularly acute with teenagers where a parent's control over
17 the child's actions is limited. Many times, the only influence a parent will have over a child to
18 compel the child to listen to the speech is the child's need for money to fund teenage activities.
19 Where the state establishes one parent with control over money for the child's discretionary
20 needs, the state implements a censorship scheme.
21

22 **JN-17:** Shahrokhi asks this Court to take judicial notice of the use of money to promote
23 or limit speech as a means of censorship¹¹ and to take judicial notice of the fact that Shahrokhi is
24

25
26 ¹¹ Citizens United v. Federal Election Com'n, 130 S. Ct. 876, 904, 905, 908
27 (Supreme Court 2010), ([T]he concept that government may restrict the speech
28 of some elements of our society in order to enhance the relative voice of
others is wholly foreign to the First Amendment... All speakers... use money

1 arguing that child support awards under the state's statutes and guidelines serve as a censorship
2 scheme that is unconstitutional on its face where it exceeds an amount sufficient to meet the
3 basic minimum needs of the child.

4 **JN-18:** Shahrokhi asks this Court to take judicial notice of the fact that an equal 50/50
5 award of custody and possession between fit parents is a least restrictive alternative available to
6 the Court that ensures that the child will be adequately cared for, thus depriving the Court of a
7 compelling justification for the award of child support and depriving the Court of a means/end
8 justification for the award of child support.

9
10 **JN-19:** Shahrokhi asks this Court to take judicial notice of the fact that if the amount the
11 state pays to foster parents for the care of children who are in the state's care is not sufficient to
12 meet the minimum reasonable needs of the child then the state itself is failing to meet the
13 minimum reasonable needs of the child.

14
15 **JN-20:** Shahrokhi asks this Court to recognize the natural limit on the duty of care a state
16 may impose on a parent as that level where the support imposed begins to enhance or restrict
17 discretionary speech and that duty of care that is equally applicable to all fit parents.

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22 amassed from the economic marketplace to fund their speech. The First
23 Amendment protects the resulting speech... under the Government's reasoning,
24 wealthy media corporations could have their voices diminished to put them on
25 par with other media entities. There is no precedent for permitting this
26 under the First Amendment... When Government seeks to use its full power... to
27 command where a person may get his or her information or what distrusted
28 source he or she may not hear, it uses censorship to control thought. This is
 unlawful. The First Amendment confirms the freedom to think for ourselves.)

1 **JN-21:** Shahrokh asks this Court to take judicial notice that in addition to the basic child
2 support scheme constituting censorship an income-based award of child support is also a distinct
3 censorship scheme that censors speech based on the income of the speaker which creates two
4 unequal classes of child, one subject to censorship and the other not subject to censorship.

5 **JN-22:** Shahrokh asks this Court to take judicial notice that awards of child support in
6 these proceedings, that differ from the standard of care applicable to children whose parents have
7 not been subject to child custody proceedings, create an unequal standard of care where one class
8 of child is entitled to greater standards of care than other children and establishes the state as the
9 arbiter and censor of how that discretionary care is provided as a matter of censorship.

12 **OBJECTIONS**

13 **OBJ-15:** Shahrokh objects to any award of child support that has not survived strict
14 scrutiny constitutional review and that has not been demonstrated to be the least restrictive
15 means available to the Court.

17 **OBJ-16:** Shahrokh objects to any award of child support above that level necessary to
18 meet the child's basic minimum needs, not to exceed what the state pays for foster care, as a
19 censorship scheme.

21 **The States Purpose**

24 It is well-established that where the state asserts a legitimate compelling interest, the
25 state's statutes must fall if they fail to accomplish that stated purpose.¹²

27
28

¹² Smith v. Daily Mail Publishing Co., 443 US 97, 104, 105 (Supreme Court
1979), (the reasoning of Davis that the constitutional right must prevail
over the state's interest in protecting juveniles applies with equal force

1 Where the state asserts that its interest in protecting the best interest of the child should
2 prevail over the Constitutional rights of the parents, the state must demonstrate that its actions
3 achieve that stated purpose. This places a burden on the state to prove that its viewpoint on the
4 child's best interest is "better" than either parent's viewpoint, which is an impossible burden for
5 the state to meet.

6
7 Further, where the child has First Amendment Constitutional rights that are infringed by
8 the Trial Court's orders absent full substantive and procedural guarantees, the state necessarily
9 fails in its stated purpose of protecting the best interests of the child because those orders
10 irreparably injure the child. Irreparable injury caused by a trial court judge absent provision of all
11 applicable constitutional guarantees cannot possibly be in the "best" interest of the child.

12
13 **JN-23:** Shahrokhi asks this Court to take judicial notice the well-established
14 constitutional precedent that even small infringements on First Amendment rights constitutes
15 irreparable injury, see Elrod v. Burns, 427 US 347, 373, 374 (Supreme Court 1976), (The loss of
16 First Amendment freedoms, for even minimal periods of time, unquestionably constitutes
17 irreparable injury)

18
19 **JN-24:** Shahrokhi asks this Court to take judicial notice that, as a state actor, this Court is
20 prohibited from infringing the Constitutional rights of the child as a super-parent and must instead
21 comply with all applicable constitutional guarantees before directly or indirectly infringing the
22 child's constitutional rights.

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28 here... Thus, even assuming the statute served a state interest of the highest
order, it does not accomplish its stated purpose.)

1 **JN-25:** Shahrokhi asks this Court to take judicial notice of the state's burden of justifying
2 that its infringements of parental rights under a best interest of the child standard is actually
3 "best" for the child.

4 **JN-26:** Shahrokhi asks this Court to take judicial notice of the fact that the judge in this
5 case is the only state actor in this case, or alternatively is the state actor being asked to take state
6 action, and consequently that it is the judge who must meet this burden of proof.

9 **OBJECTIONS**

10 **OBJ-17:** Shahrolkhi objects to this Court exceeding its judicial mandate to provide
11 justiciable resolution to the conflict of rights between the fit parents and acting as a super-parent
12 exercising power the trial court does not legitimately have to make parenting decisions for the
13 child or to impose the trial court's viewpoint on the lawful parental decisions of Shahrokhi.

14 **OBJ-18:** Shahrokhi objects to this Court classifying any infringement, direct or indirect,
15 of the child's First Amendment rights as being in the child's best interest.

16 **OBJ-19:** Shahrokhi objects to any orders limiting, directly or indirectly, any
17 constitutional rights of the child under a best interest of the child standard where this Court fails
18 to demonstrate in the record how that infringement of constitutional rights achieves the state's
19 stated purpose of acting in the best interest of the child.

20 **Neutral and Unbiased Decision-Maker**

21 Where this court makes a presumption that it will act in the best interest of the child, who
22 is a non-party to the suit and who lacks standing to have their interests asserted in this suit,
23 Shahrokhi asks this court to demonstrate how this court will be a neutral and unbiased decision-
24 maker adjudicating the conflict of fundamental rights between the litigants.

1 Shahrokhi argues that where this court pre-determines that it will act in the best interest
2 of the child and that this court has broad discretion to limit the constitutional rights of the
3 litigants based on its own viewpoint of the best interest of the child, this court is acting as a child
4 advocate. Where the court acts as child advocate without a prior impartial adjudication that the
5 interests of parent and child diverge, the court is taking an executive, non-judicial action that
6 deprives it of constitutionally mandated neutrality and impartiality regarding the conflict
7 between the parties.

9 Where the trial court is a state actor and assumes the statutorily imposed duty to act in the
10 child's best interest, this action cannot be purely an action between private parties. This action is
11 between the parties and the state's appointed child advocate who in this case is the trial court
12 judge. Consequently, Shahrokhi argues that the parties have been deprived of their due process
13 right to a neutral and unbiased decision-maker in a judicial proceeding.

14 **JN-27:** Shahrokhi asks this Court to take judicial notice of the well-established
15 constitutional law entitling the parties to a neutral and impartial judicial decision-maker in these
16 proceedings.¹³

17 **JN-28:** Shahrokhi asks this Court to take judicial notice of the alleged conflict of interest
18 created between this Court's acceptance of the legislative mandate to act in the best interest of

23
24 ¹³ Marshall v. Jerrico, Inc., 446 US 238, 242 (Supreme Court 1980), (The Due
25 Process Clause entitles a person to an impartial and disinterested tribunal
26 in both civil and criminal cases... [neutrality] preserves both the
27 appearance and reality of fairness... by ensuring that no person will be
28 deprived of his interests in the absence of a proceeding in which he may
present his case with assurance that the arbiter is not predisposed to find
against him.)

1 the child and this Court's constitutional judicial duty to be a neutral and impartial judicial
2 decision-maker in these proceedings.

3 **OBJECTIONS**
4

5
6 **OBJ-20:** Shahrokhi objects to the best interest of the child standard being applied as a
7 legitimate standard sufficient to resolve the judicial conflict of rights between the parties in this
8 suit because acting in the interest of a third party cannot resolve the dispute between the parties
9 and because such action exceeds the jurisdiction of a judicial officer whose authority derives
10 solely from the conflict between the parties.
11

12
13 **OBJ-21:** Shahrokhi objects to this Court acting in the best interest of the child as a
14 violation of this Court's constitutional duty to remain a neutral and unbiased judicial decision-
15 maker in these proceedings.
16

17 **Balancing Test**
18

19 SCOTUS has held many times in many different contexts including the family law
20 context that when a party challenges the adequacy of the state's civil procedures in a proceeding
21 that imposes substantial loss of rights protected by or through the Fourteenth Amendment the
22 state must demonstrate a balancing of a specific set of factors.¹⁴
23

24
25 ¹⁴ Parham v. JR, 442 US 584, 599, 600, 617, 618 (Supreme Court 1979), (The
26 parties agree that our prior holdings have set out a general approach for
27 testing challenged state procedures under a due process claim. Assuming the
28 existence of a protectible property or liberty interest, the Court has
required a balancing of a number of factors... Normally, however, since this

1 **JN-29:** Shahrokhi asks this Court to take judicial notice of the fact that Shahrokhi
2 challenges the procedures standardly applied in child custody proceedings between fit parents
3 being applied in this case because 1) these procedures infringe fundamental rights absent
4 substantive guarantees, 2) unconstitutionally place the burden of proof upon those facing loss of
5 fundamental rights, 3) fail to acknowledge the substantive rights at issue in the proceedings, 4)
6 fail to establish the substantive guarantees that apply, 5) fail to express the state's interest on the
7 same plane of generality as the loss of rights imposed, 6) apply a justification to deprive
8 fundamental rights that SCOTUS has held is insufficiently compelling to justify infringement of
9 Fourteenth Amendment rights, 7) fail to adequately identify the negative impact of an erroneous
10 order, 8) fail to adequately protect against the risk of an erroneous order, and 9) that fail to apply
11 a sufficiently strong standard of evidence.
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14 **JN-30:** Shahrokhi asks this Court to take judicial notice that Shahrokhi argues that these
15 proceedings cannot be procedurally fair absent a demonstrated application of the Mathews
16 balancing test and objects to any further limitation on constitutional rights absent a full
17 Mathews balancing test hearing demonstrated in the record.¹⁵
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20 interest is inextricably linked with the parents' interest in and obligation
21 for the welfare and health of the child, the private interest at stake is a
22 combination of the child's and parents' concerns... While the determination of
23 what process is due varies somewhat when the state, rather than a natural
24 parent, makes the request for commitment, we conclude that the differences in
25 the two situations do not justify requiring different procedures)

26 ¹⁵ Mathews v. Eldridge, 424 US 319, 333, 348, 349 (Supreme Court 1976);
27 Wilkinson v. Austin, 545 US 209, 221, 224, 225 (Supreme Court 2005);
28 Connecticut v. Doehr, 501 US 1, 10 (Supreme Court 1991); Washington v.
 Harper, 494 US 210, 229 (Supreme Court 1990); Cleveland Bd. of Ed. v.

1 **JN-31:** Shahrokh asks this Court to take judicial notice of the federal public
 2 policy that it is always in the public interest to prevent the violation of a party's
 3 constitutional rights¹⁶ and that where Respondent is asking this court to exercise state

5 Loudermill, 470 US 532, 538, 541 (Supreme Court 1985); Hewitt v. Helms, 459
 6 US 460, 473 (Supreme Court 1983); Logan v. Zimmerman Brush Co., 455 US 422,
 7 433 (Supreme Court 1982); Santosky v. Kramer, 455 US 745, 753 (Supreme Court
 8 1982); Vitek v. Jones, 445 US 480, 491 (Supreme Court 1980); Parham v. JR,
 9 442 US 584, 617, 618 (Supreme Court 1979); Mackey v. Montrym, 443 US 1, 10
 10 (Supreme Court 1979); Board of Curators of Univ. of Mo. v. Horowitz, 435 US
 11 78, 99, 100 (Supreme Court 1978); Smith v. Organization of Foster Families
 12 For Equality & Reform, 431 US 816, 847 (Supreme Court 1977); Hortonville
 13 Joint School Dist. No. 1 v. Hortonville Ed. Assn., 426 US 482, 494 (Supreme
 14 Court 1976); Goss v. Lopez, 419 US 565, 577, 578 (Supreme Court 1975);
 15 Morrissey v. Brewer, 408 US 471, 481 (Supreme Court 1972)

16 Dennis v. United States, 339 US 162, 168 (Supreme Court 1950), (In
 17 exercising its discretion, the trial court must be zealous to protect the
 18 rights of an accused.); Cate v. Oldham, 707 F. 2d 1176, 1190 (11th Circuit
 19 1983), (The strong public interest in protecting First Amendment values);
 20 Melendres v. Arpaio, 695 F. 3d 990, 1002 (9th Circuit 2012), (it is always in
 21 the public interest to prevent the violation of a party's constitutional
 22 rights.); International Refugee Assistance Project v. Trump, _____ (4th
 23 Circuit 2017), (upholding the Constitution undeniably promotes the public
 24 interest... "[U]pholding constitutional rights surely serves the public
 25 interest." ... "[I]t is always in the public interest to prevent the violation
 26 of a party's constitutional rights." ... "[T]he public as a whole has a
 27 significant interest in ensuring . . . protection of First Amendment
 28 liberties." ... These cases recognize that when we protect the constitutional
 rights of the few, it inures to the benefit of all.); Jackson Women's Health

1 power to infringe Shahrokh's civil rights, this court has a constitutional and public
2 policy duty to protect those civil rights.¹⁷

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7 Organization v. Currier, 760 F. 3d 448, 458 (5th Circuit 2014), (footnote),
8 ("[I]t is always in the public interest to prevent the violation of a party's
9 constitutional rights."); Jones v. Caruso, 569 F. 3d 258, 278 (6th Circuit
10 2009), (the public as a whole has a significant interest in ensuring equal
11 protection of the laws and protection of First Amendment liberties)

12 ¹⁷ Zinermon v. Burch, 494 US 113, 135 (Supreme Court 1990), (because
13 petitioners had state authority to deprive persons of liberty, the
14 Constitution imposed on them the State's concomitant duty to see that no
15 deprivation occurs without adequate procedural protections.); Covington &

16 Lexington Turnpike Road Co. v. Sandford, 164 US 578, 593 (Supreme Court
17 1896), (it is within the scope of judicial power and a part of judicial duty
18 to restrain anything which... operates to deny to the owners of property ... that
19 equal protection which is the constitutional right of all owners of other
20 property. There is nothing new or strange in this. It has always been a part
21 of the judicial function to determine whether the act of one party (whether
22 that party be a single individual, an organized body or the public as a
23 whole) operates to divest the other of any rights of person or property.);

24 Romeo v. Youngberg, 644 F. 2d 147, 165 (Court of Appeals, 3rd Circuit 1980),
25 (appropriate deference ... does not diminish the judicial duty to safeguard
26 liberty interests... A court performs two functions with respect to such a
27 right: ... it places limits on the state's power to impose ... on those who do
28 not desire it. A right ... does not create a corresponding duty to submit ...
such a simple equation would sanction unacceptable invasions of personal
autonomy.)

OBJECTIONS

OBJ-22: Shahrokh objects to any deprivation of rights protected by or through the Fourteenth Amendment by this court absent the application of a Mathews Balancing Test.

OBJ-23: Shahrokh objects to any deprivation of rights protected by or through the Fourteenth Amendment by this court absent the application of a full constitutional procedural rights analysis.

OBJ-24: Shahrokh objects to any deprivation of rights protected by or through the Fourteenth Amendment by this court absent the application of a full constitutional substantive rights analysis.

OBJ-25: Shahrokh objects to any deprivation of rights protected by or through the Fourteenth Amendment by this court absent the application of a full constitutional equal protection rights analysis.

Adjudication of Rights

The controversy in these proceedings is the fact that each parent enters these proceedings with full and equal parental rights to the same child and the parties seek to exercise those rights independently and separately.

The controversy in these proceedings cannot be a controversy over each parent's viewpoint regarding the best interest of the child nor can it be a controversy between the parents' viewpoints and the state's viewpoint regarding the best interest of the child, nor can it be a

1 controversy over which parent's viewpoint regarding the child's best interest is the state's
2 preferred viewpoint as these controversies are non-justiciable and this Court lacks subject-matter
3 jurisdiction as a matter of constitutional law to resolve these controversies regardless of what any
4 state mandate to the contrary may provide.¹⁸

5
6 First, the child does not have a constitutional right to assert their best interest.¹⁹

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8 Second, the child lacks standing to be a party to the case and therefore cannot
9 assert its own interests or have the state assert its interests on its behalf. Where the
10 parents must be presumed by constitutional mandate to be making decisions that are in
11 the child's best interest, there can be no controversy between either parent and the child
12 until the state overcomes these presumptions in the record.

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14 Third, the constitution demands that parents be presumed fit and that fit parents be
15 presumed to be acting in their child's best interest,²⁰ the state's interest in caring for the

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¹⁸ Article VI, United States Constitution, the supremacy clause, "This
19 Constitution, and the laws of the United States which shall be made in
20 pursuance thereof; and all treaties made, or which shall be made, under the
21 authority of the United States, shall be the supreme law of the land; and the
22 judges in every state shall be bound thereby, anything in the Constitution or
23 laws of any State to the contrary notwithstanding."

¹⁹ Reno v. Flores, 507 US 292, 305 (Supreme Court 1993), ([best interest] is a
25 policy judgment rather than a constitutional imperative.)

²⁰ Troxel v. Granville, 530 US 57, 65, 87 (Supreme Court 2000), (there is a
27 presumption that fit parents act in the best interests of their children...
28 Our cases leave no doubt that parents have a fundamental liberty interest in
caring for and guiding their children, and a corresponding privacy interest-

1 child is de minimus where the parents are fit,²¹ and SCOTUS has held that the state
2 cannot assert a child's interests until the state has proven that the interests of parent and
3 child have diverged.²² These issues go directly to the necessity of a controversy between
4 a parent and a child before the state may pursue a child's best interest.

5 While some may argue that these presumptions have only previously been applied
6 in cases where the state is a party and not between private parties or between fit parents,
7 that argument fails:

8 Troxel was a case between private parties where the Court based its holding
9 against state action on these parental presumptions.²³ In Troxel, the Court held that

10 absent exceptional circumstances—in doing so without the undue interference
11 of strangers to them and to their child.)

12²¹ Stanley v. Illinois, 405 US 645, 657, 658 (Supreme Court 1972), (The
13 State's interest in caring for Stanley's children is de minimis if Stanley is
14 shown to be a fit father. It insists on presuming rather than proving
15 Stanley's unfitness solely because it is more convenient to presume than to
16 prove.)

17²² Santosky v. Kramer, 455 U. S. 745, 759 (1982) (State may not presume, at
18 factfinding stage of parental rights termination proceeding, that interests
19 of parent and child diverge)

20²³ Troxel v. Granville, 530 US 57, 68, 69, 70 (Supreme Court 2000), (the
21 record reveals that the Superior Court's order was based on precisely the
22 type of mere disagreement we have just described and nothing more. The
23 Superior Court's order was not founded on any special factors that might
24 justify the State's interference with Granville's fundamental right to make
25 decisions concerning the rearing of her two daughters... The decisional
26 framework employed by the Superior Court directly contravened the traditional
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1 disagreements between a fit parent and a trial court judge regarding private
2 constitutionally protected choices in child-rearing cannot justify infringement of
3 fundamental parental choices because these choices must be presumed to be valid, lawful,
4 and in the child's best interest.

5
6 *Palmore*, *supra* was a custody modification case between fit parents where the
7 Court held that the state could not presume that harm to a child, that was objectively
8 likely to occur as a result of parental choices or privacy choices, was the type of harm
9 that is judicially remediable. The mother's choices regarding marriage were protected and
10 presumed to be in the child's best interest irrespective of the trial court's viewpoint on the
11 matter. Here the parental presumptions were applied in a custody modification case
12 between two fit parents.

14
15 Fourth, a parent's determination of a child's best interest is so deeply dependent
16 upon that parent's viewpoints and beliefs on matters of conscience such as the
17 importance of religion, of politics, of freedom, of democracy, of education, of service to
18 society, of a moral perspective, of the importance of family, of dating, of sex, of sexual
19 expression, of the roles of the sexes, of how children should dress, of how they should
20 behave, etc. that the best interest determination can only be considered a determination
21 on matters of conscience.

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26 presumption that a fit parent will act in the best interest of his or her
27 child... In that respect, the court's presumption failed to provide any
28 protection for Granville's fundamental constitutional right to make decisions
concerning the rearing of her own daughters.)

1 The sole purpose of the judiciary is to determine the rights of parties. Formulating,
2 pursuing, or vindicating the state's best interest of the child policy for a particular child is an
3 executive duty that may not be constitutionally performed by the judiciary.

4 **JN-32:** Shahrokhi asks this Court to take judicial notice of the well-established
5 constitutional precedent that it is this trial court's sole and only duty to adjudicate the rights of
6 the parties in the narrow context of the conflict of rights between the parties and not to vindicate
7 the state's policy of acting in the state's viewpoint of what is in the child's best interest, see
8 Lujan v. Defenders of Wildlife, 504 US 555, 576 (Supreme Court 1992), ("The province of the
9 court," as Chief Justice Marshall said ... "is, solely, to decide on the rights of individuals."
10 Vindicating the public interest (including the public interest in Government observance of the
11 Constitution and laws) is the function of Congress and the Chief Executive.)

12 **JN-33:** Shahrokhi asks this Court to take judicial notice of the fact that it is the trial
13 court's duty, even to act *sua sponte*, in establishing and validating its own subject matter
14 jurisdiction, not only in terms of jurisdiction granted the court by the legislature, but also in
15 terms of the jurisdiction the state and federal constitutions deny the court even in the face of
16 legislative grant to the contrary.

17 **JN-34:** Shahrokhi asks this Court to take judicial notice of the well-established fact of
18 constitutional law that the parties are entitled to "a just, fair, equitable and impartial adjudication
19 of the rights of litigants under established principles of substantive law."²⁴

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28 ²⁴ Excerpt from Rule 1 of the Texas Rules of Civil Procedure used as an
example because of its excellent language.

OBJECTIONS

OBJ-26: Shahrokhi objects to this Court exercising subject matter jurisdiction in a manner that asserts or vindicates the interests of a third party who lacks standing to be a party to this suit even where that third party is a child who has an interest in the outcome of the proceedings.

OBJ-27: Shahrokh objects to this Court presuming authority to infringe fundamental rights absent full adjudication of the rights at issue in these proceedings whether acting under a best interest of the child standard or under any other standard.

OBJ-28: Shahrokh objects to this Court taking dispositional actions of any kind until it has demonstrated its constitutional authority to take those actions through a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law.

Rights are Individual

It is well-established that the rights protected by and through the Fourteenth Amendment are individual rights.²⁵

It is well-established that a parent's right to custody of their own child is a personal right.²⁶

²⁵ Shelley v. Kraemer, 334 US 1, 22 (Supreme Court 1948), (The rights created by the first section of the Fourteenth Amendment are, by its terms, guaranteed to the individual. The rights established are personal rights.)

1 It is well-established that the associational rights of parents and their minor children
2 cannot be dependent upon the marital status of the child's parents because bastardy laws have
3 been held to be invidious.

4 It is well-established that children cannot be punished for the sins of their parents whether
5 that sin is to procreate outside of wedlock or whether that sin is for parents with minor children
6 to divorce.²⁷ Therefore, the concomitant fundamental rights of the child²⁸ in these proceedings

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10 ²⁶ May v. Anderson, 345 US 528, 534 (Supreme Court 1953), (In the instant
11 case, we recognize that a mother's right to custody of her children is a
12 personal right entitled to at least as much protection as her right to
13 alimony.)

14 ²⁷ Levy v. Louisiana, 391 US 68, 72 (Supreme Court 1968), (We conclude that it
15 is invidious to discriminate against them when no action, conduct, or
16 demeanor of theirs is possibly relevant to the harm that was done the
17 mother.); Weber v. Aetna Casualty & Surety Co., 406 US 164, 175 (Supreme
18 Court 1972), (The status of illegitimacy has expressed through the ages
19 society's condemnation of irresponsible liaisons beyond the bonds of
20 marriage. But visiting this condemnation on the head of an infant is
21 illogical and unjust. Moreover, imposing disabilities on the illegitimate
22 child is contrary to the basic concept of our system that legal burdens
23 should bear some relationship to individual responsibility or wrongdoing.)

24 ²⁸ Prince v. Massachusetts, 321 US 158, 165, 166 (Supreme Court 1944), (The
25 rights of children to exercise their religion, and of parents to give them
26 religious training and to encourage them in the practice of religious belief,
27 as against preponderant sentiment and assertion of state power voicing it,
28 have had recognition here... this Court had sustained the parent's authority to
provide religious with secular schooling, and the child's right to receive
it, as against the state's requirement of attendance at public schools...)

1 cannot be infringed any more than the fundamental rights of the parents can be infringed as a
2 consequence of the parents making the constitutionally protected choice regarding marriage—to
3 never marry or to divorce.²⁹ These choices are individually constitutionally protected privacy
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6 children's rights to receive teaching in languages other than the nation's
7 common tongue were guarded against the state's encroachment. It is cardinal
8 with us that the custody, care and nurture of the child reside first in the
9 parents, whose primary function and freedom include preparation for
10 obligations the state can neither supply nor hinder... And it is in
11 recognition of this that these decisions have respected the private realm of
12 family life which the state cannot enter.); Fiallo v. Bell, 430 US 787, 810
13 (Supreme Court 1977), (dissent), (The right to live together as a family
14 belongs to both the child who seeks to bring in his or her father and the
15 father who seeks the entrance of his child.); Wooley v. City of Baton Rouge,
16 211 F. 3d 913, 923 (5th Circuit 2000), (Because a child's right to family
17 integrity is concomitant to that of a parent, we define the scope of Jordan's
18 rights in this context with reference to his mother's rights. (footnote)
19 Duchesne, 566 F.2d at 825; Bennett v. Town of Riverhead, 940 F.Supp. 481,
20 488-89 (E.D.N.Y.1996) ("This interest is reciprocal in that it belongs to the
21 children as much as it does to parents").)

22²⁹ Harman v. Forssenius, 380 US 528, 540 (Supreme Court 1965), (It has long
23 been established that a State may not impose a penalty upon those who
24 exercise a right guaranteed by the Constitution. ... "Constitutional rights
25 would be of little value if they could be . . . indirectly denied," ... or
26 "manipulated out of existence."); MLB v. SLJ, 519 US 102, 114, 115 (Supreme
27 Court 1996), ("[o]n many occasions we have recognized the fundamental
28 importance . . . under our Constitution" of "the associational interests that
surround the establishment and dissolution of th[e] [marital] relationship.")

1 choices and the rights of parents and child to have associations with each other are individual
2 rights not a right conveyed through marriage.

3 **JN-35:** Shahrokhi asks this Court to take judicial notice of the well-established
4 constitutional fact that choices by parents of minor children either not to marry or to divorce
5 provide state justification to infringe the individual fundamental rights of parent or child.

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7 **OBJECTIONS**
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10 **OBJ-29:** Shahrokhi objects to constitutionally protected privacy choices regarding
11 marriage exercised by parents of minor children being used as justification for state proceedings
12 that infringe Constitutional rights.

13 **OBJ-30:** Shahrokhi objects to subject matter jurisdiction being established based on the
14 predicate of divorce between parents of minor children or based on those parents choosing not to
15 marry.

16 **OBJ-31:** Shahrokhi objects to any judicial or legislative presumptions that the rights of
17 parents depend in any way upon a marriage between the child's parents or that those individual
18 rights are in any way diminished when parents divorce.

19 **OBJ-32:** Shahrokhi objects to this Court discriminating against Shahrokhi or Shahrokhi's
20 child as a consequence of either parent's marital choices as discrimination based upon marital
21 status or changes in marital status in violation of the Equal Protection Clause of the Fourteenth
22 Amendment.

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Objection to Existing State Precedent

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5 Family law courts cite extensive state precedent holding that best interest is a proper and
6 feasible criterion for determining custody between fit parents based on the obiter dicta in *Reno*.
7 However, obiter dicta cannot support a legal theory especially whereas here the overwhelming
8 weight of Court precedent weighs against the dicta.

9

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11 None of the existing state precedent has included substantive rights analysis where the
12 custody or possession order is challenged under First Amendment content based prior restraints
13 on free speech where the Court has held that best interest of the child is not compelling and
14 where the precedent did not include a Mathews balancing test of the process due where the rights
15 at issue are protected by the First Amendment at strict scrutiny.

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18 **JN-36:** Shahrokhi asks this Court to take judicial notice of the fact that the following
19 phrase from *Reno* is obiter dicta having no controlling or persuasive impact on these proceedings
20 Reno v. Flores, 507 US 292, 303, 304 (Supreme Court 1993), ("The best interests of the child," a
21 venerable phrase familiar from divorce proceedings, is a proper and feasible criterion for making
22 the decision as to which of two parents will be accorded custody.)

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OBJECTIONS

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26 **OBJ-33:** Shahrokhi objects to the application of any state precedent regarding this
27 Court's best interest of the child discretion where that precedent failed to apply a Mathews
28 balancing test; failed to analyze First Amendment substantive rights of intimate and expressive

1 close family parent-child speech, association, and worship; or failed to evaluate this discretion
2 under First Amendment, censorship, licensing, and unbridled discretion standards.

3 **Parenthood Defines Shahrokhi's Identity**

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6 **JN-37:** Shahrokhi asks this Court to take judicial notice that Shahrokhi made an intimate,
7 private, and constitutionally protected choice to become a parent.

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9 **JN-38:** Shahrokhi asks this Court to take judicial notice that being a parent is a massive
10 element of Shahrokhi's personal identity.

11
12 **JN-39:** Shahrokhi asks this Court to take judicial notice that the intimacy of daily activity
13 with Shahrokhi's child is essential to Shahrokhi's identity.

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15 **JN-40:** Shahrokhi asks this Court to take judicial notice that guiding and directing
16 Shahrokhi's child into developing the child's own concept of personhood and individuality is an
17 essential element of Shahrokhi's identity.

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19 **JN-41:** Shahrokhi asks this Court to take judicial notice that the removal of custody,
20 possession, or parental authority by the state is an invasion of Shahrokhi's personal identity and
21 personal privacy.

22 **OBJECTIONS**

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24 **OBJ-34:** Shahrokhi objects to this Court invading Shahrokhi's personal privacy by
25 limiting Shahrokhi's custody of Shahrokhi's child, by limiting Shahrokhi's possession of
26 Shahrokhi's child, or by limiting Shahrokhi's parental authority over Shahrokhi's child except
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where the Court has demonstrated that its orders survive strict scrutiny and where the Court has demonstrated that its orders are the least restrictive means available to it.³⁰

CONCLUSION

It is well-established that the constitution applies in this case, that the rights at issue in these proceedings include First Amendment rights, that the rights are individual and independent of marriage or of divorce, that the rights are fundamental, that the state actor acting under color of state law bears the burden of proof before infringing these rights, that a trial judge's viewpoint regarding a child's best interest is NOT compelling, that the constitution demands that parents be presumed to be acting in their child's best interests, that parental disputes regarding matters of conscience in childrearing are nonjusticiable disputes, and that the sole duty of this court is to determine the rights of the litigants and to protect those rights.

JN-42: Shahrokh asks this Court to take judicial notice of these well-established constitutional rights and to exercise its non-discretionary duty to protect these rights in these

³⁰ Planned Parenthood of Southeastern Pa. v. Casey, 505 US 833, 851, 929 (Supreme Court 1992), (Our precedents "have respected the private realm of family life which the state cannot enter."... These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State... The Court has held that limitations on the right of privacy are permissible only if they survive "strict" constitutional scrutiny)

1 proceedings regardless of this Court's desire to act in the interests of a third party child,
2 regardless of this Court's strongly held personal beliefs regarding child-rearing, and regardless of
3 this Court's viewpoints regarding the relative strength or weaknesses of either parent's exercise
4 of constitutionally protected, private, parental-decision-making-rights.

5 Shahrokhi recognizes that these actions will leave the Court feeling as if it lacks guidance
6 on how to proceed. However, Shahrokhi encourages the Court to look to the constitution, to the
7 Courts extensive First Amendment precedent, and to the Court's extensive family law precedent
8 where the Court has always upheld constitutional rights in the context of the case that was
9 presented to them.

10 The context of this case is one of Constitutional right taking precedent over viewpoint
11 discrimination. This Court simply cannot go wrong by studiously protecting the rights of each fit
12 parent and trusting those fit parents to make best interest value choices, even if those parents
13 make different choices than the Court would make. If those parents are acting lawfully, i.e. are
14 fit, then this Court performs its constitutional duty to the child where it protects the rights of each
15 fit parent to be a parent. Whether God or mere chance placed this child under the parental
16 supervision of these two parents, it is not for a judge to alter absent compelling justification.

17 The judicial burden is to justly and fairly apply the substantive law giving supremacy to
18 the supreme law of the land. The judicial burden is not to be a super-parent or to own a super-
19 parent's feelings of guilt or moral responsibility to a child. A judge's moral burden in a child
20 custody legal proceeding between fit parents is vindicated when the judge applies the substantive
21 law justly and fairly to protect the rights of the parents.

PRAYER

Movant, Ali Shahrokhi, prays that this motion in all things be granted. Shahrokhi prays that Shahrokhi be afforded the full substantive, procedural, and equal protection of Shahrokhi's and Shahrokhi's child's fundamental rights, that the court affirmatively determine what process is due given the unique conditions in this case and apply the procedural protections necessary to protect substantive rights implicated in any proceeding arising from this or any related action and that the court act on this motion without delay.

Shahrokh prays that all declaratory relief be granted, that judicial notice be taken, and that objections be entered in the record as requested and for all further relief available by law.

DATED this day of September 11, 2020

Respectfully Submitted by:

Ali Shahrokhi
AuthentiSIGN®
Ali Shahrokhi
In Proper Person
16/10/2015 4:10:00 PM

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DECLARATION OF ALI SHAHROKHI
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I, Ali Shahrokhi, state that I have read this *Motion* and that the contents are true and correct of my own personal knowledge, except for those matters I have state that are not of my own personal knowledge, but that I only believe them to be true, and as for those matters, I do believe they are true.

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

10 EXECUTED this 11th day of Septemebr, 2020.
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14 *Ali Shahrokhi*
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EXHIBIT “E”

FILED IN OPEN COURT

JUL 30 2020

STEVEN D. GRIERSON
CLERK OF THE COURT

[Signature] DEPUTY

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA BY *[Signature]*

3 ****

4 HILARY MOFFETT

5 IN THE MATTER OF THE PETITION CASE NO: D-18-581208-P
6 BY:
7 KIZZY BURROW, PETITIONER. DEPARTMENT N

8 **ORDER SETTING CIVIL NON-JURY TRIAL**
(Child Custody/Paternity/Visitation/Relocation)

9 **DATE OF TRIAL: September 21, 22, and 23, 2020**

10 **TIME OF TRIAL: 9:00 am**

11 **LENGTH OF TRIAL: 3 days (3 hours in am and**
12 **3 hours in pm each day)**

13 **EACH PARTY AND COUNSEL ARE PUT ON NOTICE THAT THIS**
14 **DEPARTMENT'S ORDER SETTING TRIAL MAY BE DIFFERENT THAN**
15 **OTHER DEPARTMENTS. THE PARTIES MAY NOT STIPULATE TO**
16 **MODIFY THIS ORDER WITHOUT THE EXPRESS WRITTEN AUTHORITY**
17 **OF THE COURT.**

18 **THE PARTIES ARE PUT ON NOTICE THAT the Court has said:**
19 ***"We have repeatedly stated that we expect all [court actions] to be pursued in a***
manner meeting high standards of diligence, professionalism, and competence."
20 ***Cuzdey v. State, 103 Nev. 575, 578, 747 P.2d 233 (1987). Further, NRS 1.210(2)-***
21 ***(3) state that every court shall have power to enforce order in the proceedings***
before it and compel obedience to its lawful orders. Failure to abide by this order
22 ***may result in sanctions pursuant to NRS 22.100, EDCR 5.102(l) and/or EDCR***
23 ***7.60, including attorney's fees, costs, or even dismissal of this action. THIS***
24 ***DOCUMENT IS AN ORDER and simply notes existing laws and rules expected***
25 ***to be followed. "[I]gnorance of the law...is inexcusable." Mayenbaum v. Murphy,***
26 ***5 Nev. 383, 384 (1870). Nevada Code of Judicial Conduct 2.2[4] states, "[i]t is not***
27 ***a violation of this Rule for a judge to make reasonable accommodations to ensure***

self-represented litigants the opportunity to have their matters fairly heard"; however, this Canon does not indicate that a judge can provide legal advice or assist any participant with litigating his or her case.

IT IS HEREBY ORDERED that this case shall be set for a **CIVIL NON-JURY TRIAL** at the aforementioned date and time. The trial will be held in **courtroom 24** at the Family Court and Services Center, located at 601 North Pecos Road, Las Vegas, Nevada, 89101. Immediately advise the Court if the matters that are set for trial have been settled. The parties are put on notice that, pursuant to EDCR 7.60(b), failure to do so may result in sanctions (including attorney's fees) if a party unnecessarily "multiplies the proceedings in a case as to increase costs."

IT IS FURTHER ORDERED that each party must *substantially comply* with all parts of EDCR 5.524. A party representing him or herself in proper person is put on notice that the forms from the Self-Help Center at Family Court may not adequately address all of the requirements of this Order. This situation will not be considered a basis to supersede or forego the requirements of this Order.

THE PARTIES ARE PUT ON NOTICE that, unless requested in writing, this Court will normally waive calendar calls for judicial economy since it does not stack trials. Despite this protocol, pursuant to EDCR 5.524(a): “the designated trial attorneys for all the parties [or a party *in proper person*] **shall meet** together [*at least* 14 days prior to the scheduled trial date] and arrive at [any] stipulations and agreements, for the purpose of simplifying the issues to be tried.” Pursuant to EDCR 5.524(b), the pretrial memorandum **must be filed and served** upon all the other parties not less than ten (10) calendar days before the aforementioned scheduled trial date set forth above. This Court reminds the parties that document and witness list disclosures are due prior to this date pursuant to NRCP 16.2/NRCP 16.205, and that EDCR 5.524(a) clarifies that, “no new exhibits or witnesses are to be added, although previously disclosed witnesses or exhibits may be eliminated.”

THE PARTIES ARE PUT ON NOTICE that pursuant to EDCR 5.524(b), "the pretrial memorandum must concisely state" proposed positions. Therefore, failure of a party to include arguments with legal citations regarding unusual or complex issues in their pretrial memorandum may be deemed a waiver of said claims.

1 at the time of trial. Furthermore, all factors set forth in NRS 125C.0035(4) ("Best
2 interests of child") **must** be addressed in detail. Additionally, if relocation out of state
3 with a child is an issue pursuant to NRS 125C.006 or 125C.0065, all factors set forth
4 in NRS 125C.007 **must** be addressed in detail. If the case is for non-parent (e.g.
5 grandparent) visitation, all factors set forth in NRS 125C.050 **must** be addressed in
6 detail. If the case is for non-parent custody, all factors set forth in *Locklin v. Duka*,
7 112 Nev. 1489, 929 P.2d 930 (1996) **must** be addressed in detail. Pursuant to NRS
8 125C.010, the terms of any proposed custody/visitation schedule must be addressed in
9 detail. If paternity is disputed, the parties **must** address in detail any *relevant* factors
10 set forth in NRS Ch. 126 and/or NRS Ch. 125C, including the presumptions set forth
11 therein.

12 **IT IS FURTHER ORDERED** that pursuant to EDCR 5.102(d), close of discovery
13 shall be completed no later than 30 calendar days prior to the aforementioned trial date.

14 **Time deadlines set forth in NRCP 16.2 / NRCP 16.205 regarding document and witness**
15 **disclosures will control. The document disclosure list, witness list, and any objections**
16 **thereto must be filed with the Clerk of the Court. The opposing party shall then be**
17 **served (along with all documents and witness list to be used at trial) within the**
18 **timeframes set forth in NRCP 16.2 / NRCP 16.205.** Service must be made via verifiable
19 means (electronic, receipt of copy, personal service, etc.). Service by mail will **not** be
20 sufficient for document and witness disclosures. Pursuant to EDCR 5.205(g), exhibits
21 attached to prior motions are **not** deemed as satisfying the NRCP 16.2/NRCP 16.205
22 requirements and the parties should review EDCR 5.205(f) to note which documents do not
23 need to be made exhibits. The parties **must** follow EDCR 5.524(b)(8)-(9) and EDCR 5.601
24 regarding exhibit and witness disclosures. The pretrial memorandum may simply incorporate
25 the above-referenced, filed NRCP 16.2/NRCP 16.205 lists of documents and witnesses.

26 **THE PARTIES ARE HEREBY PUT ON NOTICE** that pursuant to NRCP
27 16.2(j)(1), NRCP 16.205(j)(1), and EDCR 5.602(a), all discovery disputes **must** first be heard
28 by the discovery hearing master. The actual proposed documents **must** be delivered to
chambers at least two (2) judicial days before trial. See EDCR 5.102(h).

29 **IT IS FURTHER ORDERED** that pursuant to EDCR 5.506, an updated Financial
30 Disclosure Form must be filed at least ten (10) days prior to the aforementioned trial date.

The Financial Disclosure Form must include current paystubs or an affidavit in compliance with EDCR 5.506(f) which affirms that the Financial Disclosure Form filed within the last six (6) months is still accurate.

IT IS FURTHER ORDERED that any requests for attorney's fees and/or costs are not to be included in the pretrial memorandum per EDCR 5.524(b)(6). Any request for costs (as defined in NRS 18.005) must be filed and served in a timely manner which complies with NRS 18.110 and related case law. In accordance with NRCP 54(d)(2), any request for attorney's fees must be requested by a filed motion and served upon the opposing party in a timely manner after the entry of judgment. The request must address all of the factors outlined in *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005), including a detailed billing statement. Pursuant to EDCR 5.506(a) and *Miller*, a current Financial Disclosure Form must accompany the motion for attorney's fees unless one was already recently filed for the trial.

IT IS FURTHER ORDERED that pursuant to EDCR 7.80(a), “counsel must notify the court interpreter’s office of a request for interpreter not less than 48 hours before the hearing or trial is scheduled.” Additionally, counsel or a *pro per* litigant must contact chambers at least 48 hours prior to the trial to have technical equipment set up if he or she intends on displaying video exhibits during the time of trial.

IT IS FURTHER ORDERED that pursuant to EDCR 7.30(f), the above trial setting will not be vacated by stipulation unless approved beforehand by the department. Any motions to continue a trial date must be in compliance with EDCR 7.30. Finally, pursuant to EDCR 7.30(g), any costs and/or attorney fees may be imposed as a condition of granting the postponement.

1 **IT IS FINALLY NOTED THAT** pursuant to EDCR 5.209(c)-(d), "except by
2 specific order of court, no counsel shall be permitted to withdraw within 21 days prior
3 to a scheduled trial or evidentiary hearing. Any notice of withdrawal that is filed
4 without compliance with this rule shall be ineffective for any purpose."

5 **DATED:** This 30th day of July, 2020.



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7 Honorable Mathew Harter
8 District Court Judge
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CERTIFICATE OF SERVICE

I hereby certify that on the above file stamp date:

I emailed the foregoing Order Setting Non-Jury Trial to:

Philip Spradling
Fred Page

I provided a copy of the foregoing Order Setting Non-Jury Trial to each party in open court.

Hilary Moffett
Department N

EXHIBIT “F”

Eighth Judicial District Court

Clark County, Nevada

3 KIZZY BURROW,)
4 Plaintiff,)
5 vs.) Case: D-18-581208-P
6 ALI SHAHROKHI,) Dept: N
7 Defendant.)

**DECISION AND ORDER RE: PENDING MOTIONS AND NOTICE REGARDING
ORDER OF ISSUES TO BE ADDRESSED AT TRIAL**

10 This Court struck Defendant's motions that he had filed *pro se* as *fugitive documents* on
07/30/2020 and vacated the hearing dates. Later that same day, Defendant filed 3 more *pro se*
11 motions. On 08/03/2020, Defendant yet again filed another *pro se* motion. On 07/31/2020,
Defendant's counsel filed a Motion to Withdraw.

12 Therefore, again Defendant's motions filed to date *pro se* are considered a *fugitive*
13 *documents*. EDCR 3.70; EDCR 7.40(a); *See Mazzeo v. Gibbons*, No. 2:08-CV-01387-RLH-PA,
14 2010 WL 3910072, at *3 (D. Nev. Sept. 30, 2010) ("[T]he Court had inherent authority to strike
15 the fugitive document. Any other result would render the Court's orders completely ineffective
16 and cripple the Court's ability to manage its docket."); *See also* EDCR 1.10 ("[The EDCRs] must
17 be liberally construed to secure the proper and efficient administration of the business and affairs
of the court."). The one exception is his motion to remove his counsel. *See* EDCR
7.40(b)(2)(ii). Accordingly, both Defendant and his counsel's request is GRANTED and Mr.
Page will be taken off as Defendant's counsel of record. IT IS ORDERED the balance of
Defendant's motions filed *pro se* to date will be stricken again as *fugitive documents* and the
hearing dates VACATED.

21 Further, the issue of whether an act of domestic violence was committed by Defendant is
22 a separate, but interrelated issue. *See* presumptions set forth in NRS 125C.0035(5) and in *Hayes*
23 *v. Gallacher*, 115 Nev. 1, 972 P.2d 1138 (1999). Accordingly, the first issue to be determined
24 at the 3 day evidentiary hearing will be if an act of domestic violence occurred, specifically
 under NRS 33.018(1)(e) (“A knowing, purposeful or reckless course of conduct intended to
 harass the other.”). The balance of the issues (relocation, custody, etc.) will follow that specific
 determination.

25 DATED this 5th day of August, 2020.

HONORABLE MATHEW P. HARTER

~~DISTRICT COURT JUDGE~~

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Petition by:
Kizzy Burrow, Petitioner.

Case No.: D-18-581208-P
Department N



NOTICE OF ENTRY OF DECISION AND ORDER

TO: ALL PARTIES AND/OR THEIR ATTORNEYS

Please take notice that the Court prepared a Decision and Order and that a copy is attached hereto.

I hereby certify that I electronically served, faxed, emailed, or placed in the appropriate attorney folder located in the Clerk of the Court's Office, a copy of the Decision and Order to:

Philip Spradling
Fred Page

I hereby certify that I mailed the Decision and Order via first-class mail with postage fully prepaid to:

DATED: 5th day of August, 2020

By: /s/ Mark Fernandez
Mark Fernandez
Judicial Executive Assistant
Department N

Eighth Judicial District Court

Clark County, Nevada

KIZZY BURROW,)
vs.)
Plaintiff,)
Case: D-18-581208-P
ALI SHAHROKHI,)
Respondent.)
Dept: N

DECISION AND ORDER RE: DISCOVERY OBJECTION

EDCR 5.602(g) states:

Following the hearing of any discovery motion, or other contested matter heard by or submitted to a discovery commissioner, the discovery commissioner must prepare a report with the discovery commissioner's recommendations for a resolution of each unresolved dispute. The discovery commissioner may direct counsel to prepare the report. The discovery commissioner must file the report with the court and serve a copy of it on each party. If the discovery commissioner determines that the exigencies of the case do not permit application of the time frames set out in NRCP 16.3, the following time frames will apply instead. **Within 7 days after being served with the report, any party may file and serve written objections to the recommendations.** Written authorities may be filed with an objection but are not mandatory. If written authorities are filed, any other party may file and serve responding authorities within 7 days after being served with the objections. Upon receipt of a discovery commissioner's report, any objections, and any response, the court may [i.e., discretionary] (A) affirm, reverse, or modify the discovery commissioner's ruling without a hearing; (B) set the matter for a hearing; (C) remand the matter to the discovery commissioner for reconsideration for further action.

On 07/30/2020, Plaintiff for counsel indicated at the hearing that one of the only procedural issues outstanding is a determination of the Objection filed in this matter on 06/30/2020. First, the Discovery Commissioner's Report and Recommendation at issue was filed and electronically served on 06/16/2020. Therefore, the Objection at issue is UNTIMELY as it was filed after more than 7 days thereafter. Second, this Court is going to strike the Objection as it was filed *pro se* by Defendant when he had an attorney of record. Therefore, the Objection itself is considered a *fugitive document*. EDCR 3.70; EDCR 7.40(a); *See Mazzeo v. Gibbons*, No. 2:08-CV-01387-RLH-PA, 2010 WL 3910072, at *3 (D. Nev. Sept. 30, 2010) (“[T]he Court had inherent authority to strike the fugitive document. Any other result would render the Court's orders completely ineffective and cripple the Court's ability to manage its docket.”); *See also* EDCR 1.10 (“[The EDCRs] must be liberally construed to secure the proper and efficient administration of the business and affairs of the court.”). Accordingly, the OBJECTION is DENIED.

DATED this 31st day of July, 2020.

HONORABLE MATHEW P. HARTER

~~DISTRICT COURT JUDGE~~

EXHIBIT “G”

08/26/2020 4:21 PM

CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * *

In the Matter of the Petition by: D-18-581208-P
Kizzy Burrow, Petitioner.

NOTICE OF HEARING
AND ORDER REGARDING PROCEDURES

You are hereby put on NOTICE that a hearing has been set before the **Honorable MATHEW HARTER**. **Motion and Evidentiary hearings** have been scheduled to commence on September 21, 2020 at 9:00 AM.

Pursuant to Administrative Order 20-13 and Administrative Order 20-17, all lawyers and self-represented litigants are REQUIRED to register for electronic service, and to update any change of email address with the Court. This Court intends on maintaining this instruction pursuant to EDCR 8.02(a). You are hereby ORDERED to register to receive electronic service for your case within the next ten (10) days at

<http://www.clarkcountycourts.us/departments/clerk/electronic-filing>

You may electronically file documents via that website, and view the instructions on how to do so there as well. If you experience technical difficulties, please contact Tyler Technologies for assistance. Their number can be found on the e-filing website.

Additionally, you are hereby ORDERED to ensure your current email address and telephone number-of-record are up-to-date. Information may be updated by filing a "Notice of Change of Address" into your case. You may find this template, as well as other templates, at www.FamilyLawSelfHelpCenter.org.

This Court is currently conducting hearings telephonically. You are expected to be available for at least one (1) hour after your scheduled court hearing time. This Court will contact you within that hour to address the hearing. The court number will begin with (702) 455-xxxx. Failure to answer the phone call will be deemed as a non-appearance.

1 Pursuant EDCR 5.517, you are REQUIRED TO APPEAR at the time and date set for
2 hearing, including hearings held by telephonic or audiovisual means. You are hereby PUT
3 ON NOTICE that pursuant to EDCR 7.60(a): "If without just excuse or because of failure
4 to give reasonable attention to the matter, no appearance is made on behalf of a party . . .
the court may order any one or more of the following:

5 (1) Payment by the delinquent attorney or party of costs, in such amount as the court may
6 fix, to the clerk or to the adverse party.

7 (2) Payment by the delinquent attorney or party of the reasonable expenses, including
8 attorney's fees, to any aggrieved party.

9 (3) Dismissal of the complaint, cross-claim, counter-claim or motion, or the striking of the
10 answer and entry of judgment by default, or the granting of the motion.

11 (4) Any other action it deems appropriate, including, without limitation, imposition of
12 fines."

13 Alternatively, this Court may conduct the hearing via the BlueJeans audio-visual program
14 for a video appearance. You will receive an emailed hyperlink from BlueJeans with the
15 meeting information several days prior to the hearing if the Court decides that this option
16 will be best for your hearing. You are ORDERED to have the application downloaded
17 and prepared to proceed via video conference at least one day prior to your scheduled
18 hearing date. You may find information regarding the application and instructions at:
19 www.ClarkCountyCourts.us/Virtual. Failure to be present and available when the Court
20 initiates the hearing will be deemed as a non-appearance and you may be subjected to the
aforementioned penalties.

21 Finally, in accordance with Administrative Order 20-01, you are hereby ORDERED to
22 electronically submit any documents requiring Judge Harter's signature. Documents
23 requiring Judge Harter's signature must be emailed to
24

DeptNInbox@ClarkCountyCourts.us. You will be emailed back either the signed and
25 filed Order or a rejection memorandum once the Court has made a determination on the
26 Order. You may view case status at www.ClarkCountyCourts.us.

SUMMARY

1. Ensure you are registered to receive electronic service.
2. Ensure email and telephonic information are current.
3. Ensure you are available for your telephonic or audio-visual hearing.
 4. Email Orders requiring Judge Harter's signature.

**IT IS YOUR RESPONSIBILITY TO ENSURE YOUR INFORMATION IS
CONSISTENTLY UPDATED DURING THE PENDENCY OF YOUR CASE.**

HONORABLE MATHEW P. HARTER
Dated this 28th day of August, 2020

Dated this 28th day of August, 2020

7B9 CBD 3FE6 6BEF
Mathew Harter
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the above file stamped date I submitted this Notice of Hearing and Order of Procedures so that each party will be either electronically served, emailed, faxed, or mailed a copy of this Notice of Hearing and Order Regarding Procedures.

/s/ Mark Fernandez

Mark Fernandez
Judicial Executive Assistant
Department N

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CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Petition by: CASE NO: D-18-581208-P
Kizzy Burrow, Petitioner. DEPT. NO. Department N

AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 8/28/2020

Thomas Standish	tom@standishlaw.com
Fred Page	fpage@pagelawoffices.com
Holly Thielke	hollyt@standishlaw.com
Admin Admin	Admin@pagelawoffices.com
Ali Shahrokhi	alibe76@gmail.com
Philip Spradling	philip@standishlaw.com
Kizzy Burrow	kizzyb13@gmail.com

EXHIBIT “H”

Paternity Complaint

COURT MINUTES

September 21, 2020

D-18-581208-P In the Matter of the Petition by:
Kizzy Burrow, Petitioner.

September 21, 2020 09:00 AM All Pending Motions

HEARD BY: Harter, Mathew **COURTROOM:** Courtroom 24

COURT CLERK: Christensen, Karen

PARTIES PRESENT:

Kizzy J.S. Burrow, Counter Defendant, Plaintiff, Philip Spradling, Attorney, Present
Present

Ali Shahrokh, Counter Claimant, Defendant, Pro Se
Present

**Bennett Ethan Shahrokh, Subject Minor, Not
Present**

JOURNAL ENTRIES

MOTION: DEFENDANT'S MOTION TO VACATE VOID ORDERS THAT LACK DUE PROCESS, MOTION TO IMMEDIATELY ORDER THE MINOR TO BE RETURNED TO STATE OF NEVADA FOR LACK OF SUBJECT MATTER JURISDICTION AND TO MAINTAIN STATUS QUO...MOTION: DEFENDANT'S MOTION FOR MATHEW HARTER, DISTRICT COURT JUDGE TO DECLARE ON RECORD SUBJECT MATTER JURISDICTION ON TEMPORARY RELOCATION SUA PONTE ORDER, DECLARE ON RECORD DIRECTIVE REGARDING PROCEDURES FOR COVID 19 BENCH TRIAL ISSUED BY CHIEF JUDGE LINDA BELL...MOTION: DEFENDANT MOTION FOR MATHEW HARTER, DISTRICT COURT JUDGE TO DECLARE SHAHROKH'S RIGHTS REGARDING PHYSICAL CUSTODY, LEGAL CUSTODY CARE, CONTROL, UPBRINGING OF THE MINOR B.E.S., DECLARE RIGHTS OF SHAHROKH'S FUNDAMENTAL LIBERTY RIGHTS, DECLATORY RIGHTS FACTUAL FINDINGS TO WHY CUSTODY CHANGED ON 7/11/2019, DECLATORY RIGHTS FACT FINDING WHY TEMPORARY RELOCATION WAS GRANTED WHERE THERE WAS NO MOTION BEFORE THE COURT, DECLARE ON RECORD HOW CHANGE OF CUSTODY ON 7/11/2019 WAS FACTUALLY JUSTIFIED AND NARROWLY TAILORED, DECLARE ON RECORD WHY HE CONTINUES TO AVOID TO FACILITATE POST-DEPRIVATION ON TEMPORARY RELOCATION AND TEMPORARY CUSTODY...OBJECTION: DEFENDANT'S OBJECTION TO MINUTE ENTRY ORDER DECLARING MOTIONS FILED ON 8/27/2020 MOOT; MOTION TO VACATE TRIAL DATE DUE TO LACK OF SUBJECT MATTER JURISDICTION (VOID) MOTION FOR DEPT "N" TO ADJUDICATE ON SHAHROKH'S DECLATORY RELIEF BEFORE TRIAL MOTION TO ASK TRIAL TO BE SET IMMEDIATELY WITH PROPER NOTICE FOR DUE PROCESS RIGHTS; MOTION TO ASK THIS COURT TO STOP VIOLATING SHAHROKH'S FEDERALLY PROTECTED RIGHTS SUCH AS 1ST, 4TH, AND 14TH FUNDAMENTAL RIGHTS AND SHAHROKH'S FUNDAMENTAL LIBERTY RIGHTS; MOTION TO OBJECTION TO ANY PSYCHOLOGICAL EVALUATION IN VIOLATIONS OF SHAHROKH'S 4TH AMENDMENT RIGHT...MOTION: DEFENDANT'S MOTION REQUESTING RESOLUTION OF ESSENTIAL PRE-TRIAL, QUESTIONS OF LAW MOTION RAISING OBJECTIONS AND PLEA TO THE JURISDICTION...MOTION: DEFENDANT MOTION FOR DECLARATORY RELIEF AND EQUAL PROTECTION OF THE LAWS, MOTION FOR SHAHROKH TO LITIGATE HIS FEDERALLY PROTECTED RIGHTS, AS JUDGE HARTER, DEPARTMENT "N" NEVADA STATE FAMILY COURT CONTINUES TO VIOLATE SHAHROKH'S FEDERALLY PROTECTED RIGHTS...MOTION: DEFENDANT'S MOTION FOR DECLARATORY RELIEF ASSERTING AFFIRMATIVE APPLICATION OF STRICT SCRUTINY PROCEDURAL PROTECTIONS, MOTION

FOR SHAHROKHI TO LITIGATE HIS FEDERALLY PROTECTED RIGHTS, AS JUDGE HARTER, DEPARTMENT "N" NEVADA STATE FAMILY COURT CONTINUES TO VIOLATE SHAHROKHI'S FEDERALLY PROTECTED RIGHTS...MOTION: DEFENDANT'S MOTION FOR DECLARATORY RELIEF ASSERTING SUBSTANTIVE RIGHTS, MOTION FOR SHAHROKHI TO LITIGATE HIS FEDERALLY PROTECTED RIGHTS, AS JUDGE HARTER DEPT N, NEVADA STATE FAMILY COURT CONTINUES TO VIOLATE SHAHROKHI'S FEDERALLY PROTECTED RIGHTS...MOTION: DEFENDANT'S MOTION FOR DECLARATORY RELIEF ASSERTING SUBSTANTIVE RIGHTS, MOTION FOR SHAHROKHI TO LITIGATE HIS FEDERALLY PROTECTED RIGHTS, AS JUDGE HARTER, DEPARTMENT "N" NEVADA STATE FAMILY COURT CONTINUES TO VIOLATE SHAHROKHI'S FEDERALLY PROTECTED RIGHTS...OBJECTION: DEFENDANT'S OBJECTION TO VOID ORDER ON TRIAL SETTING FILED ON 8/28/2020, WITHOUT PROPER NOTICE, WITHOUT REASONABLE TIME TO PREPARE, VIOLATION OF NRCP 16(C)(E), VIOLATION OF DEFENDANT'S PROCEDURAL DUE PROCESS BY DEPARTMENT N AGAIN, MOTION FOR SHAHROKHI TO PRESERVE RECORD.

All parties appeared via BlueJeans video conference.

Defendant made several statements in support of his Motions and objections. Court noted it reviewed all of the pleadings on file, and stated custody matters would be addressed in the three-day evidentiary hearing, beginning today. Court further noted the majority of Motions filed were appellate matters.

Court and Court's Marshal ADMONISHED Defendant regarding his continued interruptions and behavior toward the Court.

COURT ORDERED:

Defendant's MOTIONS and OBJECTIONS shall be DENIED.

INTERIM CONDITIONS:

FUTURE HEARINGS:

Sep 22, 2020 8:15AM Evidentiary Hearing
Courtroom 24 Harter, Mathew

Sep 23, 2020 8:15AM Evidentiary Hearing
Courtroom 24 Harter, Mathew

State judge says Shahrokh's pre-trial substantive-rights, constitutional rights are APPELLATE MATTERS! Does this judge know what US Constitution is about?

EXHIBIT “I”

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALI SHAHROKHI,
Appellant,
vs.
KIZZY J. S. BURROW A/K/A KIZZY
BURROW,
Respondent.

No. 81978

FILED

DEC 23 2020

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]* DEPUTY CLERK

ORDER DENYING MOTIONS

Appellant has filed pro se motions asking that this court (1) take judicial notice that his relationships are protected by the First Amendment and (2) resolve a pretrial motion filed in the district court. The motions are denied.¹ However, appellant may include citations to relevant authority and argument relating to the merits of this appeal, including the district court's handling of any pretrial motions, in his opening brief.

It is so ORDERED.

Pickeriup, C.J.

cc: Ali Shahrokhi
Standish Law

¹As appellant may not file an appendix in this matter, this court will not consider any attachments to the motions when resolving this appeal.

EXHIBIT “J”

**Promulgations Under Penalties of
Perjury and Perceived Judicial
Corruption: Chronicles of Court Tyrant,
Judge Mathew Harter**

**Show Me the Money
(A Federal Case: Chapter 1)**

“A corrupt judge is, thus, a great vermin, the greatest curse ever to afflict any nation.” Justice Oputa

**JUDGE MATHEW HARTER FILES FOR
CHAPTER 7 BANKRUPTCY**

**PUBLIC CASE NUMBER: 15-17012-LEB
12/22/2015 - 11/29/2016**

Anyone with a PACER account has access to this case.

LIVE ECF

15-17012-leb MATHEW P. HARTER and BRANDIE P. HARTER
Case type: bk Chapter: 7 Asset: Yes Vol: v Judge: LAUREL E. BABERO

VERACITY?

WE DECIDED TO COMPARE JUDGE HARTER'S FDFs WITH HIS BANKRUPTCY FILINGS

Judge Harter is required to file an annual Financial Disclosure Form as a Nevada Judge

"The "Judicial Statement of Financial Disclosure" is to be filed as a public document with the State Court Administrator at the Administrative Office of the Courts. Additional information regarding the filing of the disclosure form may be found in the Revised Nevada Code of Judicial Conduct and NRS 281.561 and 281.571."

We, the public, would expect the information in Harter's Bankruptcy filings to match his Judicial Financial Disclosure Forms, RIGHT?

THEY DON'T MATCH.

"Houston, we have a problem"

THE FINANCIAL DISCLOSURE FORMS

On 1/8/2015 Mathew Harter self reports \$179k in annual income.

Self reported income is \$179k on both statements filed with the Nevada Secretary of State.

NEVADA FINANCIAL DISCLOSURE STATEMENT (FDS)				
- Please read instructions carefully before completing. -				
TITLE OF PUBLIC OFFICE AND NAME OF GOVERNMENT <small>(Include the title of the office you hold or are seeking, and the name of the entity that employs this position e.g. 'City Manager', 'City of XYZ')</small>		Elected (E), appointed (A) or appointed to an elected (AE) office.	Is this position entitled to annual compensation of \$6,000 or more?	Amount of compensation received annually
Date elected or appointed				
District Court Judge		E	Yes	\$179,200.00
				1/1/2015

NEVADA FINANCIAL DISCLOSURE STATEMENT (FDS)				
- Please read instructions carefully before completing. -				
TITLE OF PUBLIC OFFICE AND NAME OF GOVERNMENT <small>(Include the title of the office you hold or are seeking, and the name of the entity that employs this position e.g. 'City Manager', 'City of XYZ')</small>		Elected (E), appointed (A) or appointed to an elected (AE) office.	Is this position entitled to annual compensation of \$6,000 or more?	Amount of compensation received annually
Date elected or appointed				
District Court Judge		E	Yes	\$176,000.00
				1/1/2009

Source: www.nvsos.gov

THE BANKRUPTCY FILINGS

On 12/21/2015 Judge Mathew Harter reports \$0 in monthly income.

Mathew Harter filed his official 122A-1 form into his Bankruptcy case on 12/22/2015, stating NO INCOME. This form was signed under penalties of perjury.

Official Form 122A - 1

Chapter 7 Statement of Your Current Monthly Income

12/15

2. Your gross wages, salary, tips, bonuses, overtime, and commissions (before all payroll deductions). \$ 0.00 \$ 0.00
3. Alimony and maintenance payments. Do not include payments from a spouse if Column B is filled in. \$ 0.00 \$ 0.00
4. All amounts from any source which are regularly paid for household expenses of you or your dependents, including child support. Include regular contributions from an unmarried partner, members of your household, your dependents, parents, and roommates. Include regular contributions from a spouse only if Column B is not filled in. Do not include payments you listed on line 3. \$ 0.00 \$ 0.00
5. Net income from operating a business, profession, or farm \$ 0.00 \$ 0.00

"under Penalty of perjury"

Ordinary and necessary operating expenses	\$ <u>0.00</u>	Copy here -> \$ <u>0.00</u>	\$ <u>0.00</u>
Net monthly income available to pay expenses and repay debts to creditors	\$ <u>0.00</u>	Copy here -> \$ <u>0.00</u>	\$ <u>0.00</u>

7. Interest, dividends, and royalties

By signing here, I declare under penalty of perjury that the information on this statement and in any attachments is true and correct.

Mathew P. Harter
Signature of Debtor 1
Date 12/21/15
MM / DD / YYYY

If you checked line 14a, do NOT fill out or file Form 122A-2.

If you checked line 14b, fill out Form 122A-2 and file it with this form.

Brandie P. Harter
Signature of Debtor 2
Date 12/21/15
MM / DD / YYYY

Source: case number: 15-17012-leb; Official Form 106A/B Page 5; filed 12/22/2015

YOU BE THE JUDGE

Why would Mathew Harter claim \$0 monthly income on his 122a-1 Federal Bankruptcy form?

Was it necessary that Judge Harter fiddle with the finances to qualify for a chapter 7 bankruptcy?

The U.S. Bankruptcy Court explains the 122A-1 form:
"[considers] your current monthly income and compare[s] whether your income is more than the median income for households of the same size in your state. If your income is not above the median, there is no presumption of abuse and you will not have to fill out the second form."

"the presumption simply means that you are presumed to have enough income that you should not be granted relief under chapter 7."

Source: https://www.uscourts.gov/sites/default/files/instructions_individuals.pdf, Page 33.

“Remember that it is not by a
tyrant's words, but only by his
deeds that we can know him.”
Dwight D. Eisenhower

WHY DID JUDGE HARTER SUBMIT A
FINANCIAL DISCLOSURE FORM TO THE
PEOPLE OF NEVADA, STATING AN
ANNUAL INCOME OF \$179,200; YET,
WITHIN THE SAME YEAR, CLAIM \$0 IN
MONTHLY INCOME UNDER PENALTIES
OF PERJURY IN HIS FEDERAL
BANKRUPTCY FILINGS?

NEVADA CODE OF JUDICIAL CONDUCT

PREAMBLE

“The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. ”

“Judges should maintain the dignity of judicial office at all times...”

EXHIBIT “K”



GARY VAUSE

Chairman

STEFANIE HUMPHREY

Vice-Chair

State of Nevada
COMMISSION ON JUDICIAL DISCIPLINE
P.O. Box 48
Carson City, Nevada 89702
Telephone (775) 687-4017 • Fax (775) 687-3607
Website: <http://judicial.nv.gov>

PAUL C. DEYHLE

*General Counsel and
Executive Director*

October 30, 2020

CONFIDENTIAL

Ali Shahrokh
10695 Dean Martin Drive #1214
Las Vegas, NV 89141

Re: Case Nos. 2019-099, 2019-176 and 2020-033

Dear Mr. Shahrokh:

As you are aware, your complaints filed with the Nevada Judicial Discipline Commission (the “Commission”) were considered by the Commission at its meetings on October 18, 2019, March 6, 2020, and June 19, 2020, where it authorized extensive investigations regarding the merits of your complaints. Commission investigators conducted interviews and gathered numerous documents. The Commission met again on October 23, 2020, and based on the results of the investigations and the issuance of the Nevada Supreme Court’s Opinion in *Hughes v. Nev. Comm’n on Judicial Discipline*, 136 Nev. Adv. Op. No. 46, filed on July 16, 2020, the Commission has dismissed your complaints.

Please note that the Nevada Supreme Court rebuked the Commission for filing public charges against Judge Hughes and reversed its imposition of discipline, directing that the Commission should not initiate disciplinary proceedings over legal decisions or factual findings where relief may ordinarily lie in the appeals process. The Nevada Supreme Court further proposed that in such cases, the Commission should “dismiss the complaint without holding a hearing and issue a non-disciplinary letter of caution.”

Although the Commission has dismissed your complaints, it has taken what it considers to be appropriate action under the circumstances. Thank you for bringing the facts set forth in your complaints to the Commission’s attention.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul C. Deyhle".

Paul C. Deyhle
General Counsel & Executive Director

EXHIBIT “L”

RE: Exhibits

Fernandez, Mark <fernandezm@clarkcountycourts.us>
To: "alibe76@gmail.com" <alibe76@gmail.com>

Mon, Sep 21, 2020 at 10:16 AM

From: Fernandez, Mark
Sent: Monday, September 21, 2020 10:16 AM
To: 'alibe76@gmail.com'
Subject: Exhibits

Good afternoon,

You will be receiving the exhibits in multiple emails. Attached is the first.

Mark Fernandez | Judicial Executive Assistant

Honorable Mathew P. Harter

EIGHTH JUDICIAL DISTRICT COURT – FAMILY DIVISION

DEPARTMENT N

PHONE: (702) 455-1330

FAX: (702) 455-1888

FERNANDEZM@CLARKCOUNTYCOURTS.US



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9 attachments

-  **Plaintiff's Exhibit 10.pdf**
259K
-  **Plaintiff's Exhibit 2.pdf**
2325K
-  **Plaintiff's Exhibit 3.pdf**
911K
-  **Plaintiff's Exhibit 4.pdf**
3554K
-  **Plaintiff's Exhibit 5.pdf**
1679K
- Plaintiff's Exhibit 6.pdf**

 620K

 **Plaintiff's Exhibit 7.pdf**
96K

 **Plaintiff's Exhibit 8.pdf**
203K

 **Plaintiff's Exhibit 9.pdf**
1167K

EXHIBIT “M”

1 TRANS

FILED

FEB 02 2021

Alma A. Johnson
CLERK OF COURT

3 COPY

5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

9 IN THE MATTER OF THE)
10 PETITION BY:) CASE NO. D-18-581208-P
11)
12 KIZZY BURROW) DEPT. N
13)
14 Petitioner.) APPEAL NO. 81978
15)
16) (SEALED)
17)

18 BEFORE THE HONORABLE MATHEW HARTER
19 DISTRICT COURT JUDGE

20 TRANSCRIPT RE: ALL PENDING MOTIONS

21 MONDAY, SEPTEMBER 21, 2020

22 APPEARANCES:

23 The Plaintiff: KIZZY BURROW
24 For the Plaintiff: PHILIP SPRADLING, ESQ.
1635 Village Center Cir., #180
Las Vegas, Nevada 89134
(702) 998-9344

25 The Defendant: ALI SHAHROKHI
26 For the Defendant: PRO SE

INDEX OF WITNESSES

2 PLAINTIFF'S DIRECT CROSS REDIRECT RECROSS
WITNESSES:

KIZZY BURROW 36 79 208

DEFENDANT'S
WITNESSES:

3 (None presented)

D-18-581208-P BURROW 09/21/20 TRANSCRIPT (SEALED)
ERBATIM REPORTING & TRANSCRIPTION, LLC (520) 303-7356

1 LAS VEGAS, NEVADA

MONDAY, SEPTEMBER 21, 2020

2 PROCEEDINGS

3 (The following transcript contains multiple
4 indiscernibles due to poor audio quality)

5 (THE PROCEEDINGS BEGAN AT 9:06:58)

6

7 THE CLERK: We are on the record.

8 THE COURT: All right. This would be case D-581208,
9 Burrow versus Shahrokhi. Is the claim set for the evidentiary
10 hearing in this matter? It is set for the next three days.
11 Though we will start that with some of the preliminary stuff.
12 I guess for right now -- first of all, I had sent out -- that
13 would have been August 5th of 2020 on that -- in that decision
14 and order that was where we struck Mr. Shahrokhi's fugitive
15 documents. We put him on notice that he was still to abide by
16 the trial setting order that was entered on July 30th of 2020.

17 MR. SHAHROKHI: I object to that.

18 THE COURT: Mr. Shahrokhi?

19 MR. SHAHROKHI: And my objection -- yes, sir. Go
20 ahead.

21 THE COURT: Right -- right now there's -- there's
22 not an objection. It's not an objection.

23 MR. SHAHROKHI: Well, there's -- there's a lot of
24 objection that I have to the whole process because you're

1 still violating my due process. You're violating the
2 supremacy plus you're violating the First Amendment. There's
3 not a proper notice that you've given me. I have actually
4 filed a motion with this Court, I'm going to put it on the
5 record, as the Defendant's motion requesting resolution of
6 essential pretrials, questions of law, motions raising
7 objections to such situation and asking this Court to please
8 jurisdiction. You have not responded to that. Before we can
9 proceed, such motion has to be responded to because those are
10 my federally constitutionally rights. My First Amendment
11 allows me to a rights speech, have association with my son.
12 And you have been violating this. You have been violating my
13 son's First Amendment rights, my First Amendment rights, and
14 you have been violating my constitutional rights including the
15 supremacy clause. And you do not let me talk.

16 Such things is part of my due process. Due process
17 is just not notice. Due process means my substantial rights
18 under First Amendment must be protected. You're acting as an
19 actor as of state. If -- you're acting as an actor under the
20 state law. That means you have to abide by the constitutions
21 and you're not.

22 I do not know what's the proceeding of these trials
23 are as there hasn't been a proper notification. Again, you
24 have not told me. You have not responded to my pretrial

1 objection motion what laws are going to be proceeding, what's
2 going to be applying to this. You haven't done any of that
3 stuff. I have not had -- I have not been able to appear
4 properly and this Court continues to violate my First
5 Amendment including my child's First Amendment and you do not
6 stop us. This is very frustrating.

7 THE COURT: Okay, Mr. Shahrokhi. Again, first of
8 all, I did continue most of your motions today.

9 MR. SHAHROKHI: No. No.

10 THE COURT: Second --

11 MR. SHAHROKHI: Today is not good enough. Judge
12 Harter --

13 THE COURT: Mr. Shahrokhi --

14 MR. SHAHROKHI: -- these are things --

15 THE COURT: -- you --

16 MR. SHAHROKHI: -- before we --

17 THE COURT: -- you --

18 MR. SPRADLING: -- proceed to the trial, these
19 matters --

20 THE COURT: You will not --

21 MR. SHAHROKHI: -- have to be discussed. Today is
22 the trial then. How could I be prepared for such if you have
23 not mentioned such things? I have objected what we --

24 THE COURT: And --

1 MR. SHAHROKHI: -- are going to do and you
2 haven't --

3 THE MARSHAL: Mr. Shahrokhi -- Mr. Shahrokhi, this
4 is the Marshal in the courtroom. I want to remind you that
5 you have a duty to conduct --

6 MR. SHAHROKHI: Sir, I have --

7 THE MARSHAL: -- yourself --

8 MR. SHAHROKHI: -- a right to be heard.

9 THE MARSHAL: Sir.

10 MR. SHAHROKHI: I have a --

11 THE MARSHAL: Okay.

12 MR. SHAHROKHI: -- right to be heard --

13 THE MARSHAL: The -- okay.

14 MR. SHAHROKHI: -- and I'm --

15 THE MARSHAL: Well, I'm --

16 MR. SHAHROKHI: -- objecting to that.

17 THE MARSHAL: Well, I'm going to be heard right now
18 and you -- you really need to listen to this because your
19 conduct right now, interrupting the Court and speaking out of
20 term, is disorderly and unlawful. I want to remind you --

21 MR. SHAHROKHI: It is not because --

22 THE MARSHAL: I want to --

23 MR. SHAHROKHI: -- I'm objecting to --

24 THE MARSHAL: -- remind you --

1 MR. SHAHROKHI: -- such thing.

2 THE MARSHAL: -- sir that you need to conduct
3 yourself as though I'm standing right behind you with a set of
4 handcuffs.

5 MR. SHAHROKHI: Sir, I am --

6 THE MARSHAL: So --

7 MR. SHAHROKHI: -- conducting myself --

8 THE MARSHAL: So --

9 MR. SHAHROKHI: -- very properly.

10 THE MARSHAL: So -- so I want to -- I want to -- I
11 just want to remind you of that and -- and admonish you of
12 that, because --

13 MR. SHAHROKHI: I have a right to --

14 THE MARSHAL: -- if -- if you --

15 MR. SHAHROKHI: -- be heard.

16 THE MARSHAL: -- if you --

17 MR. SHAHROKHI: That is my federally --

18 THE MARSHAL: -- bring yourself into a
19 contemptuous --

20 MR. SHAHROKHI: -- constitutional right to be heard.

21 THE MARSHAL: -- position, we can come and pick you
22 up. So conduct yourself --

23 MR. SHAHROKHI: Sir --

24 THE MARSHAL: -- like I'm standing right behind you.

1 MR. SHAHROKHI: Okay.

2 THE MARSHAL: Don't -- don't disrespect this court.

3 Do not disrespect Your Honor. I hope we -- I hope I don't
4 have to repeat that because it's probably come -- going to
5 come with some iron.

6 THE COURT: Mr. Shahrokhi, I -- here's the thing. I
7 have the ability, means, and we will -- if you continue to
8 speak out of line mute you just as if we were in court and you
9 were acting in such a manner. And you know what, it happens
10 every day as Mr. Spradling will tell you in court. Even in
11 criminal trials --

12 MR. SHAHROKHI: I have a right --

13 THE COURT: -- where in fact --

14 MR. SHAHROKHI: -- to be heard.

15 THE COURT: I'm asking --

16 MR. SHAHROKHI: So go ahead.

17 THE COURT: And if in fact you continue to interrupt
18 and speak over the Court, we will mute you until it's your
19 time to speak.

20 MR. SHAHROKHI: Go ahead.

21 THE COURT: Do you understand that?

22 MR. SHAHROKHI: I do. And I also want to put on the
23 record I have a right to be heard and you're not going to
24 violate that.

1 THE COURT: You absolutely --

2 MR. SHAHROKHI: You have been --

3

4 THE COURT: -- do.

5 MR. SHAHROKHI: -- doing it for a long time.

6 THE COURT: Okay. But there -- there is a -- there
7 is a process wherein --

8 MR. SHAHROKHI: Okay.

9 THE COURT: -- that -- when that occurs.

10 MR. SHAHROKHI: No problem.

11 THE COURT: And second -- second of all, I think it
12 speaks volumes to you and the basis of your case where you
13 file a writ just last week alleging the same stuff to our
14 Court of Appeals and within a day they deny your writ. One
15 day they deny your writ and say the matter's going to go
16 forward for an evidentiary hearing next week. So that being
17 said, most of what is contained in your current pleadings are
18 things that you argue on appeal, not argue --

19 MR. SHAHROKHI: No, sir.

20 THE COURT: -- to the -- not --

21 MR. SHAHROKHI: No, sir.

22 THE COURT: -- argue to the trial court. You are
23 welcome to argue it on appeal.

24 MR. SHAHROKHI: You are violating my due process.

1 Due process maintains you have to tell me what am I actually
2 being infringed upon. What process is going to be used. What
3 am I here at the court for? You haven't done any of that
4 stuff, sir.

5 THE COURT: You know what, Mr. Shahrokhi, I disagree
6 with you. The underlying --

7 MR. SHAHROKHI: No. No. No.

8 THE COURT: -- record is clear --

9 MR. SHAHROKHI: It's -- it's on the record.

10 THE COURT: -- on what I'm looking for. And we will
11 be going forward. As I indicated in our notice that was sent
12 out to you, not only have you been served with -- again, the
13 dates have changed. The notices --

14 MR. SHAHROKHI: I object --

15 THE COURT: -- haven't.

16 MR. SHAHROKHI: -- to that, sir. I object to that.

17 THE COURT: If you keep interrupting on the record,
18 Mr. Shahrokhi, the muting will begin. I thought it would
19 actually wait until later in the day, but it seems like it's
20 probably going to occur within the first 15 minutes of today's
21 hearing. You are put on notice of the issues, things -- the
22 requirements that you were supposed to satisfy three different
23 times. The dates have changed. The format has not changed.
24 You have not -- and I'll -- I'll note for the record.

1 Technically as put on notice in those trial setting orders, I
2 can simply grant a default. I'm not going to do that. I'm
3 going to proceed and hear this on the merit.

4 MR. SHAHROKHI: I --

5 THE COURT: Stop talking out of line or I will mute
6 you. Do you understand?

7 MR. SHAHROKHI: Go ahead.

8 THE COURT: None of which you followed any of those
9 procedures. I do not have a pretrial memorandum from you. I
10 don't have an updated financial disclosure form from you. I
11 don't have anything that was required under that trial setting
12 order as filed. All we have is the chronic filings over and
13 over and over about how your alleged federal rights have been
14 violated and you are quite welcome, and I'm sure you're going
15 to, file an appeal after we're doing with this evidentiary
16 hearing, tell the Court of Appeals or Supreme Court of Nevada
17 how your federal rights have been violated and/or you can feel
18 free to file yet another lawsuit over in Federal Court, so --

19 MR. SHAHROKHI: Sir, that lawsuit is not before this
20 Court. It's not here to be discussed you don't --

21 THE COURT: I --

22 MR. SHAHROKHI: -- have authority to discuss that
23 matter. That -- that federal lawsuit is not before this court
24 so we're not --

1 THE COURT: Mr. Shahrokhi --

2 MR. SHAHROKHI: -- going to discuss that.

3 THE COURT: -- all I said is you have the right to
4 file a lawsuit regarding your federal rights in Federal Court.

5 MR. SHAHROKHI: Okay. And what does that mean, sir?
6 Are you trying to taunt me?

7 THE COURT: I'm not trying -- listen. I'm not --

8 MR. SHAHROKHI: Because there's a --

9 THE COURT: I'm not -- I'm not going --

10 MR. SHAHROKHI: -- pending federal suit, sir.

11 You're bringing something up that has nothing to do with this
12 Court --

13 THE COURT: What you're --

14 MS. SHER: -- and not what I understand that.

15 THE COURT: What you're not going to do is bait me
16 here today, Mr. Shahrokhi.

17 MR. SHAHROKHI: I'm not baiting you. You're baiting
18 me.

19 THE COURT: Okay. Yeah. Okay. So we are going to
20 proceed forward. As I indicated in my notice and decision and
21 order where I struck Mr. Shahrokhi's pleadings, again, that
22 was entered on August 5th. And, again, I'm fully aware that
23 Mr. Shahrokhi must have received that because I believe it was
24 the next day he re-filed the motions yet again. So as far as

1 the current pending motions, and unless I'm missing something,
2 Mr. Shahrokhi, and, again, I disagree with you and -- and if
3 nothing else, you know what, that'll be a basis of your
4 appeal.

5 MS. SHER: Well, sir --

6 THE COURT: And a judge --

7 MR. SHAHROKHI: Yeah, we are -- can I say something?

8 THE COURT: -- can consider -- the judge --

9 MR. SHAHROKHI: You asked me a question.

10 THE COURT: -- also can consider my federally
11 protected rights and so that a whole trial should not have
12 occurred. I --

13 MR. SHAHROKHI: No, sir.

14 THE COURT: -- disagree with you.

15 MR. SHAHROKHI: Okay. You asked me what we're
16 missing as far as the motion so I'm going to put it on the
17 record. I have filed a Defendant's motion requesting
18 resolution of essential pretrial, questions of law, motions
19 raising objections and plead from this Court to the
20 jurisdiction and we have not issued that. That's part of my
21 due process. Before we can proceed any further on any matter,
22 those things need to be actually discussed and you need to
23 make a ruling on that. Failing to make such ruling on that is
24 a direct violation of my due process and you continue to

1 violate that.

2 THE COURT: We do have jurisdiction, Mr. Shahrokhi.

3 And don't you --

4 MR. SHAHROKHI: Judge, what is your jurisdiction? I
5 -- I'd like for you to put on the record -- again, I -- I have
6 a series of questions that I have objected to. I need to have
7 this resolved before --

8 THE COURT: I will --

9 MR. SHAHROKHI: -- we proceed any further?

10 THE COURT: Again, all those objections are
11 appellate type of issues.

12 MR. SHAHROKHI: They are not, sir. They're --
13 they're before this Court. They're before this Court.

14 THE COURT: I -- you filed them before --

15 MR. SHAHROKHI: They must be resolved.

16 THE COURT: Oh, my gosh. You filed them before this
17 Court. Those issues are not issues that the Court is going to
18 litigate here today. There are appellate type of issues where
19 you claim that your rights have been violated. And don't you
20 think that the Court of Appeals even as late as last week if
21 in fact they thought that I did not have jurisdiction, if in
22 fact they thought that your rights had been violated they
23 would not have issued an order that this -- knowing that this
24 trial was going to start today?

1 MR. SHAHROKHI: Sir, again, I put on the record
2 you're violating the supremacy clause. You're violating my
3 First Amendment rights. You're violating my child's First
4 Amendment rights. And I object to this proceeding before we
5 resolve this. So go ahead. I object to all of it because we
6 have not resolved our motion pending before this Court that
7 must be cleared before we proceed. Due process again says not
8 only that I have to be adequate, I'm going to go ahead and
9 notate Matthew vs. Elkridge (ph). It says what is a notice
10 that is required by this court. And you have failed to meet
11 those standards. And I'm going to put it on the record.

12 THE COURT: Okay. It's so noted for the record, Mr.
13 Shahrokhi.

14 MR. SHAHROKHI: Thank you, sir.

15 THE COURT: Again, your -- your motions as -- as --
16 again, it was only continued today for judicial economy so we
17 did not have to have 18 more hearings and incur unnecessarily
18 costs for the Plaintiff. Your objections are noted. Your
19 pleadings are in the file. In fact, I have no doubt whatever
20 order ends up coming out of this Court as a result of this
21 trial this -- these next couple days that you will appeal.
22 And for the record, the record that goes up on appeal is all
23 the papers and exhibits that you filed, a transcript of the
24 proceedings, all the court minutes, all the docket entries,

1 everything will be back up in front of the Court of Appeals
2 and you can tell them how you believe that your rights again
3 were violated at that time.

4 But, again, the things that you filed before this
5 Court are nothing more than the allegations of alleged
6 violations of your constitutional rights. That's not going to
7 be determined by this Court. You are welcomed to take that up
8 with the Court of Appeals.

9 I have received the -- the Plaintiff's pretrial
10 memorandum and --

11 MR. SHAHROKHI: So I have a quick question before we
12 go on, sir. I want to put it on the record again, if you're
13 taunting me or you're just going to tell me that you have
14 already made up your mind and this is going to be a bad
15 outcome because you're violating again, I'm going to say it
16 again on the record and I'm going to continue to say it now
17 throughout the process. You are violating my First Amendment
18 rights which is my family association with my son. It's
19 protected by the constitution. There is a process that you
20 have to follow. Supremacy clause says if there's statutes
21 that are going to be used today that they're in conflict of my
22 protection rights because they're highly protected, they are
23 void. They're not lawful. And based on your comments, you're
24 telling me that you're not going to go ahead and follow the

1 federal law as I had requested. You're telling me that you're
2 going to violate my rights again. You're telling me that
3 you're going to violate the supremacy clause which you too can
4 go to the office stating that he would follow the constitution
5 and you stating on the record again that this is not something
6 that you are going to actually discuss or tell me what process
7 we're going to go ahead to protect my substantive rights on
8 the First Amendment, on the Fourteenth Amendment, on the
9 Fourth Amendment, and also under Fifth Amendment. Is that
10 what you're saying?

11 THE COURT: You know what, Mr. Shahrokhi, I'm not
12 going to answer that question. It does not even warrant a
13 reply. I will state again, your pleadings, your current
14 pleadings, are -- are your basis to indicate that you'll have
15 every right to respond to the evidence and testimony here
16 today. That I will absolutely make sure of. If in fact this
17 was an issue where this Court, quote, didn't have
18 jurisdiction, this case would have been done in early 2019.
19 That is simply not the case.

20 MR. SHAHROKHI: Sir, this Court doesn't have subject
21 matter --

22 THE COURT: Mr. Shahrokhi, I will ask you again not
23 to speak over me or else --

24 MR. SHAHROKHI: Please don't yell at me, Your Honor.

1 THE COURT: -- you will be muted for the rest --

2 MR. SHAHROKHI: Please --

3 THE COURT: -- of the hearing.

4

5 MR. SHAHROKHI: -- do not yell at me. Do not yell
6 at me, please. You have to have proper manner speaking to
7 litigants and you do not.

8 THE COURT: You do not speak over the Court.

9 MR. SHAHROKHI: I'm not speaking --

10 THE MARSHAL: Mr. -- Mr. Shahrokhi, this is again
11 the Marshal in the courtroom. Your conduct is disorderly and
12 unlawful. You need to follow this due process as though you
13 are a lawyer in court. You need to change the way you're
14 addressing the court. You need to change.

15 MR. SHAHROKHI: That's fine.

16 THE COURT: All right. We -- we are -- we're --
17 we're going to proceed with it. As I indicated in the -- the
18 order, the first issue that we are going to proceed with is
19 the issue of whether there was an act of domestic violence
20 which we'll set forward. I believe -- again, because it may
21 impact how the case proceeds forward, but the -- the Court of
22 Appeals when they sent down that was one of the issues they
23 indicated that I needed to have the evidentiary hearing on.
24 And so again we will kind of in essence Mr. Spradling kind of

1 bifurcate that one issue. It will possibly come back in and
2 your arguments regarding custody and relocation because
3 obviously the domestic violence is a factor in that particular
4 consideration.

5 MR. SHAHROKHI: Can I make a statement?

6 THE COURT: Mr. Shahrokhi?

7 MR. SHAHROKHI: Yes?

8 THE COURT: You -- when it's your turn, you will
9 have --

10 MR. SHAHROKHI: Okay.

11 THE COURT: -- if you want to make --

12 MR. SHAHROKHI: Sure. Sure. Go ahead.

13 THE COURT: In fact, I got to start with Mr.
14 Spradling.

15 MR. SHAHROKHI: Okay.

16 THE COURT: I've read your pretrial memorandum, Mr.
17 Spradling. I know what your client's positions are. I don't
18 know if you want to make any further opening statement.

19 MR. SPRADLING: Your Honor, did you want to do like
20 a separate trial just for the domestic violence where I
21 present the domestic violence evidence and he gets to go --

22 THE COURT: Right.

23 MR. SPRADLING: -- or just do the --

24 THE COURT: Right.

1 MR. SPRADLING: -- whole thing?

2 THE COURT: No, we're going --

3 MR. SPRADLING: Okay.

4 THE COURT: As I indicated before, because that is
5 sort of a separate issue as noted by the Court of Appeals,
6 we're going to --

7 MR. SPRADLING: I did not --

8 THE COURT: -- we're going to do --

9 MR. SPRADLING: -- have a separate opening statement
10 just for the domestic violence, Your Honor.

11 THE COURT: Okay. But we --

12 MR. SPRADLING: But we're ready to go ahead and
13 present evidence.

14 THE COURT: We will be dealing with that one
15 particular issue first and then we will proceed after that
16 particular issue and then we'll proceed onto the custody
17 and/or relocation.

18 MR. SPRADLING: Okay.

19 THE COURT: Mr. Shahrokhi, I have to first of all
20 ask for the re -- you seem to be looking over and talking to
21 someone. Is someone actually there with you?

22 MR. SHAHROKHI: No, I have a friend of mine sir
23 that's sitting over here. That's part of my -- it's going to
24 be -- he's part of my witness thing and it's -- I may or may

1 not use him, but however I do want to state on the record.
2 Before we start on our proceeding I would like to have an
3 opening statement.

4 THE COURT: You'll have -- you'll have the right to
5 an opening statement. Mr. --

6 MR. SHAHROKHI: Okay.

7 THE COURT: -- Spradling --

8 MR. SHAHROKHI: I just want to make sure I
9 understand now because I wasn't sure if he was just --

10 THE COURT: Well, first off --

11 MR. SHAHROKHI: -- proceeding forward.

12 THE COURT: My statement is this is a sealed case.
13 That person should not be hearing -- in fact, if they were at
14 the courthouse in the courtroom, they would be excluded by my
15 Marshal.

16 MR. SHAHROKHI: I will ask him to leave. Not a
17 problem.

18 THE COURT: Okay. They're not to be there.

19 MR. SHAHROKHI: Okay. That's fine.

20 THE COURT: I don't know how we're ever going to
21 ensure that, Mr. Spradling.

22 MR. SHAHROKHI: I don't know either.

23 MR. SPRADLING: I (indiscernible).

24 MR. SHAHROKHI: I mean, this -- I'm here by myself

1 right now. They just left.

2 THE COURT: Okay.

3 MR. SPRADLING: All right.

4 THE COURT: On the -- on the issue of domestic
5 violence, Mr. Shahrokhi, again, only on the issue of domestic
6 violence. What if any opening statement would you like to
7 make?

8 MR. SHAHROKHI: I object to the domestic violence
9 finding because that's a view point discrimination by the
10 Court. Again, it is in violation of my First Amendment right.
11 She has not brought any criminal charges against me. This
12 Court does not have the authority subject matter jurisdiction
13 to actually find on the Lawrence (ph) stands or perhaps there
14 hasn't been any standard to discuss what's going to be used
15 against me. The Court has not informed me properly what's
16 going to be taking place in regard to domestic violence. The
17 Court has refused to again make a decision on my pretrial
18 objections to such matters.

19 And I'm going to go ahead and say the mother has
20 failed to bring anything that has been unlawful. She has
21 failed to bring anything that's been harmful to the kid. By
22 -- by statute, again, by federal statute, there has to be a
23 definition of a harm that I can actually defend properly. You
24 have failed to do that. I'm going to put back on the record

1 again I object to the domestic violence finding by this Court
2 because there's never been any criminal charges against me.
3 This Court's now going to use the lowest standards to find
4 anything. Domestic violence is defined by statute which I'll
5 be more than happy to pull it up and go over exactly what that
6 means. And the statute that you had previously referred that
7 you got to use harassment, that is an unconstitutional statute
8 because it is again in direction violation of my First
9 Amendment right, privacy of protection, familiar association
10 with my son, and basically just going to be a (indiscernible).
11 It's going to be something that I object to and I don't agree
12 with it.

13 I also want to go ahead again put on the record this
14 Court's violating my due process rights. This Court's
15 violating my First Amendment rights. And this Court's
16 actually trying to use things with the lowest standards which
17 is prohibited by First -- constitutional rights because they
18 require the highest due process possible and I'm not getting
19 that from this Court, so --

20 THE COURT: Okay. With that, Mr. Spradling, we will
21 go ahead and proceed (indiscernible).

22 MR. SHAHROKHI: And one last thing Judge I want to
23 put on the record, if I may.

24 THE COURT: Go ahead, Mr. Shahrokhi.

1 MR. SHAHROKHI: There is the no notice of allegation
2 in a domestic violence. There has never been anything in the
3 pleadings that's been responded to properly. And, again, I
4 object to finding out the facts for domestic violence in this
5 setting because there's the no harm and there's been nothing
6 that has been brought up before this Court. Again, there's
7 been no proper allegations. There hasn't been any criminal
8 charges and this Court does not have subject matter
9 jurisdiction that violates my first constitution to make such
10 orders on that. Thank you.

11 THE COURT: Okay. All right. Mr. Spradling.

12 MR. SPRADLING: Judge, first of all, I had asked
13 that we each be limited to a day-and-a-half, like nine hours
14 total. And I'm just concerned that Mr. Shahrokhi is going to,
15 you know, whittle away all our -- of our time with his
16 repeated objections. Are we being timed --

17 THE COURT: I --

18 MR. SPRADLING: -- on this?

19 THE COURT: I can promise you he has made the record
20 clear. And let me -- let me --

21 MR. SPRADLING: All right.

22 THE COURT: -- tell you this again, Mr. Shahrokhi.
23 You put it on the record. Your pleadings are in the record.
24 Your chronic restatements, I -- I want to put on the record