Docket No. _____

In the
Supreme Court of the United States

ALI SHAHROKHI
Petitioner

vs.

KIZZY BURROW
Respondent

APPLICATION *for a* STAY *of the* FINAL JUDGMENT ENTERED *by the* SUPREME COURT *of* NEVADA

APPLICANT'S APPENDIX

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TABLE *of* CONTENTS

APPENDIX H	State trial judge denying Shahrokhi's pre-trial and federal questions of law before trial, citing federal questions of law and constitution are appellate matters; Case No. D-18-581208-P, Clark County, Nev.; (sealed case), (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 No.s 81978,82245; (May. 10, 2022), (1 page)].
APPENDIX J	Trial judge's fraudulent Chapter 7 Bankruptcy 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 through out Shahrokhi's state proceedings; (October. 12, 2020), (1 page)

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AFFIDAVIT *of* ALI SHAHROKHI

My name is ALI SHAHROKHI. I am applying for a STAY of the final judgement entered by Supreme Court of Nevada. All the attached documents are authentic and genuine. 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a true and correct copy of Nevada Supreme Court denial of motion for STAY, [(June. 17,2022); Case No's. 81978,82245; (unpublished); (one page)].

B. Attached as Appendix B is a true and correct copy of Nevada Supreme Court Order of Affirmance, [(May. 12, 2022); Case No's. 81978,82245; (unpublished); (11 pages)].

C. Attached as Appendix C is a true and correct copy of Kizzy Burrow's initial state custody petition, asking for sole legal, primary physical custody, yet no cause of action, no mention of domestic violence at all; [(December. 10, 2018),(Case No. D-18-581208-P), Clark County, Nev.; sealed case); (4 pages)]

D. Attached as Appendix D is a true and correct copy of Shahrokhi's pre-trial objections, raising federal questions of law, substantive & procedural due process. THIS WAS NEVER ADJUDICTAED and still CONTESTED. [(September. 10, 2021), (42 pages, partial document submitted for this stay), (10 pages)]

E. Attached as Appendix F is a true and copy of Shahrokhi's State "DV FINDINGS" ORDER, crimes against the state, his criminal proceedings that the state labels civil proceedings, no alleged crimes or

specification of criminal statutes being violated, [(Sep. 22, 2021), (9 page)]

F. Attached as Appendix F is a true and correct copy of the state court's final custody order, [(October. 12, 2020); Case No. D-18-581208-P, Clark County, Nev.;(sealed case), (23 pages)].

G. Attached as Appendix G is a true and correct copy of the state's trial first day partial transcripts, criminal statutes finding for DV; Case No. D-18-581208-P, Clark County, Nev.; (sealed case), (first 20 pages of the 236 pages)].

H. Attached as Appendix H is a true and correct copy of the trial judge denying Shahrokhi's pre-trial and federal questions of law before trial, citing federal questions of law and constitution are appellate matters; Case No. D-18-581208-P, Clark County, Nev.; (sealed case),(2 pages)].

I. Attached as Appendix I is a true and correct copy of Nevada Supreme Court's 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, and 82245; (May. 10, 2022),(1 page)].

J. Attached as Appendix J is a true and correct copy of trial judge's fraudulent Ch. 7 Bankruptcy application/documents that Nevada Supreme Court has turned a blind eye to, District Court 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)

I declare under penalty of perjury under the laws of the United States of America, the foregoing is both true and correct.

Dated: **Oct. 3, 2022**

/s/ Ali Shahrokhi,
Affiant

APPENDIX A

Nevada Supreme Court denial of motion for STAY, [(June. 17,2022); Case No's. 81978,82245; (unpublished); (one page)]

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
ALI SHAHROKHI, Appellant, vs. KIZZY BURROW, Respondent.	No. 82245

FILED

APR 28 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DENYING STAY

Concerning these consolidated pro se appeals from, in relevant part, a district court order determining child custody and child support, appellant's sixth motion for stay of the order pending appeal, which was filed on April 15, 2022, and asserts that the order is void for exceeding the district court's family law jurisdiction, is denied. NRAP 8(c) & (d).

It is so ORDERED.

Silver, J.
Silver

Cadish, J.
Cadish

Pickering, J.
Pickering

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

22-13468

APPENDIX B

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

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
ALI SHAHROKHI, Appellant, vs. KIZZY BURROW, Respondent.	No. 82245
ALI SHAHROKHI, Appellant, vs. KIZZY BURROW, Respondent.	No. 83726

FILED

MAY 12 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

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

[1]We 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

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[2]We 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

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[3]We 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.

[4]Ali'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]

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[5]Because 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

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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.

[6]This 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.

[7]The 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

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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))).

[8]NRS 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.

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

[10]We 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

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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.

[11]Indeed, 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

[12]We 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

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[13]This 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

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[14]This 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]

_____, C.J.
Parraguirre

_____, J.
Herndon

_____, Sr.J.
Gibbons

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

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

APPENDIX C

Kizzy Burrow's initial state custody petition, asking for sole legal, primary physical custody, yet no cause of action, no mention of domestic violence at all; [(December. 10, 2018), (Case No. D-18-581208-P), Clark County, Nev.; sealed case); (4 pages)]

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THIS IS BURROWS INITIAL CUSTODY COMPLAINT, ASKING FOR SOLE LEGAL, PRIMARY CUSTOYD, NO MENTION OF DOMESTIC VIOLATION AT ALL AND NO CAUSE OF ACTION WHAT SO EVER WHY SHE SHOULD BE GRANTED SOLE LEGAL OR PRIMARY CUSTODY OF THE MINOR! BURROW AND HER ATTORNEYS AND STATE JUDGI HAVE FABRICATED CRIMINAL ALLEGATIONS SO BURROW COULD RELOCATE WITH MINOR!

DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

KIZZY BURROW, Plaintiff, vs. ALI SHAHROKHI, Defendant.	CASE NO: D-18-581208-P DEPT. NO.: N

COMPLAINT TO ESTABLISH PATERNITY, CHILD CUSTODY, VISITATION, AND CHILD SUPPORT

COMES NOW Plaintiff, KIZZY BURROW (hereinafter "Mother"), by and through her counsel of record, THOMAS J. STANDISH, ESQ., of the STANDISH LAW GROUP, as and for her Complaint to Establish Paternity, Child Custody, Visitation, and Child Support against Defendant, ALI SHAHROKHI (hereinafter "Father"), alleges as follows:

1. That Mother, for a period of more than six (6) weeks immediately preceding the commencement of this action has been, and now is, an actual, bona fide and actual resident and domiciliary of the State of Nevada, County of Clark, and has been actually physically and corporeally present and domiciled in Nevada for more than six (6) weeks immediately prior to the commencement of this action, and has had

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and still has the intent to make the State of Nevada her home, residence and domicile for an indefinite period of time.

2. That the parties were never married.

3. That there is one (1) minor child issue of the parties' former relationship, to wit: BENNETT ETHAN SHAHROKHI, born May 1, 2009, age 9. No children were adopted by Mother and/or Father and Mother is not currently pregnant.

4. That the State of Nevada is the home state of the subject minor child.

5. That this Court has the necessary UCCJEA jurisdiction to enter orders regarding custody, visitation and child support.

6. That Father has acknowledged and confirmed that he is the biological father of the subject minor child, BENNETT ETHAN SHAHROKHI, and is identified as the biological father on the child's birth certificate.

7. That no court has entered an order regarding paternity, custody, visitation or child support for the subject minor child.

8. That Mother is a fit and proper person to be awarded sole legal custody of the minor child.

9. That Mother is a fit and proper person to be designated as the primary physical custodian of the minor child, subject to Father's reasonable supervised visitation.

10. That child support for the minor child of this relationship should be set in accordance with the provisions of NRS 125B.070 and NRS 125B.080 until said child reaches the age of majority, marries, or becomes otherwise emancipated.

11. That the parties should continue to maintain medical, optical, and dental insurance for the minor child, until said child reaches the age of majority, marries, or becomes otherwise emancipated, with any premium being paid equally by both parties.

12. That the parties should equally share all unreimbursed medical expenses of the minor child, including but not limited to medical, dental, optical, orthodontic,

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and psychological expenses. Reimbursement should be made pursuant to the 30/30 rule for such unreimbursed expenses, to wit: the party incurring such unreimbursed medical expenses submits, in writing and accompanied by a copy of any receipt for same, a request for reimbursement to the other party within thirty (30) days of incurring such an expense, and the party receiving the request for reimbursement has thirty (30) days from the day he/she receives the written request for reimbursement to tender the same to the requesting party.

13. That Mother has been required to retain the services of the Standish Law Group to prosecute this action and should be awarded her reasonable costs, expenses and attorney's fees incurred herein.

WHEREFORE, Mother prays for Judgment as follows:

1. That the Court enter an order for paternity, child custody, visitation and child support as stated in this Complaint;

2. That Mother be awarded sole legal custody of the minor child;

3. That Mother be awarded primary physical custody of the minor child;

4. That child support be set in accordance with the provisions of NRS 125B.070 and NRS 125B.080;

5. That Mother be awarded her reasonable attorney's fees and costs incurred herein; and

6. For such other relief as the Court finds to be just and proper.

DATED this 10th day of December, 2018.

By:

THOMAS J. STANDISH, ESQ.
Nevada State Bar No. 1424
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VERIFICATION

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

KIZZY BURROW, under penalties of perjury, being first duly sworn, deposes and says:

That she is the Plaintiff in the above-entitled action; that she has read the foregoing Complaint and knows the contents thereof; that the same is true of her own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, she believes them to be true.

DATED this 7 day of December, 2018.

Kizzy Burrow
KIZZY BURROW

SUBSCRIBED and SWORN to before me this 7 day of December, 2018.

NOTARY PUBLIC in and for said County and State

RICK L. INMAN
Notary Public State of Nevada
No. 03-82623-1
My Appt. Exp. July 11, 2019

APPENDIX D

Shahrokhi's pre-trial objections, raising federal questions of law, substantive & procedural due process. THIS WAS NEVER ADJUDICTAED and still CONTESTED. [(September. 10, 2021), (42 pages, partial document submitted for this stay), (10 pages)]

Ali Shahrokhi
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Las Vegas, NV 89141
(702) 835-3558
Alibe76@gmail.com
In Proper Person

DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

KIZZY BURROW, Plaintiff, vs. ALI SHAHROKHI, Defendant.	Case No.: D-18-581208-P Dept No.: N Date of Hearing: Time of Hearing: **Oral Argument Requested: YES**

DEFENDANT'S MOTION REQUESTING RESOLUTION OF ESSENTIAL PRE- TRIAL, QUESTIONS OF LAW, MOTIOON RAISING OBJECTIONS AND PLEA TO THE JURISDICTION

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

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

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

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

ARGUMENT

Child Custody Litigation Burdens Fundamental Rights

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

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

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

OBJECTIONS

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

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

Palmore Standard

The United States Supreme Court has held in a child custody modification case between fit parents incident to divorce that the trial court is a state actor acting under color of state law and consequently limited by the federal constitution, that a trial court's viewpoint regarding the 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: Shahrokhi 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]

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[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

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

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

OBJECTIONS

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

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

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

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

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

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

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

Domestic Relations

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

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

JN-7: Shahrokhi asks this Court to take judicial notice of the well-settled precedent that individual decisions regarding marriage—to marry, not to marry, and to divorce—are privacy rights protected at strict scrutiny—choices which may not be punished by the state, and choices which may not establish standing or jurisdiction for a trial court to invade other protected family associations such as the parent-child association,—see Zablocki v. Redhail, 434 US 374, 399 (Supreme Court 1978), (State power over domestic relations is not without constitutional limits.

The Due Process Clause requires a showing of justification "when the government intrudes on choices concerning family living arrangements").[3]

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[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.

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

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[4] *Rotary International* comes to the Court on appeal from a California state appellate court and presents a First Amendment question regarding the association right. The court distinguished between private and personal exclusive relationships such as family relationships which are protected by the First Amendment from inclusive public relationships, such as the association that Rotary International created, which are not protected by the First Amendment. This stands in direct contrast to the common family law belief that intimate family associations are protected only by the Fourteenth Amendment and not the First. Because the First Amendment does apply to parent-child associations, the full body of First Amendment substantive rulings on associational rights must be applied to the parent-child association where they have not been applied in the past. The Court held, in rotary International, that "[i]mpediments to the exercise of one's right to choose one's associates"—such as a family court limiting the times, places, and manner of association— "can violate the right of association protected by the First Amendment." The Court, in coming to its holding in this case, analyzed whether the relationship being examined was one of stated opinions 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

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

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

[5] *Meyer* was the first case where the Court established the right to family autonomy. The Court invalidated as unconstitutional a state law that prohibited teaching children in any language other than English. The Court held that the right to establish a home and to bring up children is a liberty right protected by the term liberty. Meyer clearly presents a First Amendment speech restriction but was decided as a liberty issue and not a First Amendment right partly because the First Amendment had not yet been incorporated into the Fourteenth Amendment and applied to the states, see Gitlow v. New York, 268 U.S. 652 (1925). The Court stated in Meyer, "the legislature has attempted materially to interfere with the calling of modern language teachers, with the opportunities of pupils to acquire knowledge, and 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.

APPENDIX E

Shahrokhi's State "DV FINDINGS" ORDER, crimes against the state, his criminal proceedings that the state labels civil proceedings, no alleged crimes or specification of criminal statutes being violated, [(Sep. 22, 2021), (9 page)]

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CLERK OF THE COURT

Eighth Judicial District Court

Clark County, Nevada

KIZZY BURROW, Plaintiff, vs. 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

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

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

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

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

II. DOMESTIC VIOLENCE ISSUE

A) Legal Basis:

"The legislature intended that ***courts presume that any domestic violence negatively impacts the best interests of the children***." *Castle v. Simmons*, 120 Nev. 98, 86 P.3d 1042 (2004). 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).

NRS 33.018(1) states:

> ***Domestic violence*** **occurs when a person commits one of the following acts against or upon** his spouse, former spouse, any other person to whom he is related by blood or 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:
> . . .
> (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***.

NRS 200.571(1) states:

> **A person is guilty of *harassment* if**:
> (a) Without lawful authority, **the person *knowingly threatens***:
> (1) **To cause bodily injury in the future to the person threatened** or to any other 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 restraint; or
> (4) To do any act which is intended to substantially harm the person threatened or any 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.**

NRS 200.575(1)[1] states:

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

NRS 125C.0035(5)[2]

> Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding ***by clear and convincing evidence*** that either parent or any other person seeking physical custody has engaged in one or more acts of ***domestic violence*** against the child, a parent of the child or any other person residing with the child creates ***a rebuttable presumption*** **that sole or joint physical custody of the child by the perpetrator of the domestic violence is not in the best interest of the child.** Upon making such a determination, the court shall set forth:
> (a) ***Findings of fact that support the determination that one or more acts of domestic violence occurred***; and
> (b) ***Findings that*** the custody 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.***"

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

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

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

B) ANALYSIS

Plaintiff's Application for a Temporary Protective Order (TPO) was filed on 12/05/2020. Plaintiff's typewritten "statement" included specific allegations of physical abuse. It was signed in affidavit form. Plaintiff testified at 09:48 in the video record of the evidentiary hearing held today that everything contained in the TPO Application was correct. The TPO Application

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

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

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

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

P.6, L. 22-23: "MR. FRIEDMAN: **They're his texts, no question about that.**"
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."
L11: [reiterates] "THE DEFENDANT: I do."
P.9, L9-10: "MR. STANDISH: No, I don't think it exists, your Honor."
L16: "THE DEFENDANT: I do have them."
L20: "MR. FRIEDMAN: **There's no dispute they're his text messages.**"
P.11, L12-13 "MR. FRIEDMAN: **[W]hat my client did was 100 percent wrong, it's despicable, there's not question about it."**
L22-24: "THE COURT: I'm leaning towards this should be an evaluation, especially if she wants to relocate out of state."
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."
P. 14, L2-4: "MR. FRIEDMAN: **So all the horrific ones–and, again, they're terrible and there's no excuse for them. But they weren't sent when these parties separated.**"
L10: "MR. FRIEDMAN: . . . **these despicable messages.**"
P 28, L7-9: "THE COURT: they're going to update me with some very shocking stuff like you just filed for me to see. We'll we'll see what he has."

The return hearing was on 04/10/2019. No proofs of Plaintiff's alleged similar texts were filed before the return date. On 05/03/2019, this Court granted Plaintiff's first attorney his request to withdraw. That same day (05/03/2019), Defendant did file Exhibits containing the text 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."

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

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

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

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

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

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

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

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

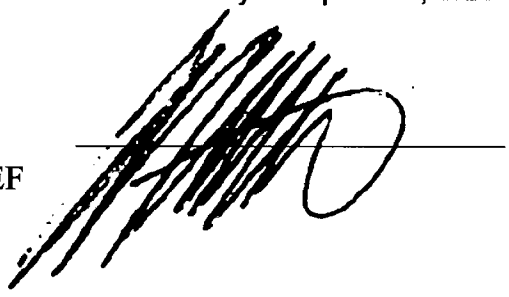
other victim of domestic violence who resided with the child. NRS 125C.0035(5)(a).

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

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 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
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

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 No.s 81978,82245; (May. 10, 2022), (1 page)]

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
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.

Pickering, C.J.

cc: Ali Shahrokhi
Standish Law

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

20-46314

APPENDIX J

Trial judge's fraudulent Chapter 7 Bankruptcy 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)

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. -

FILED
Jan 8 2015
BARBARA K. CEGAVSKE
SECRETARY OF STATE
Date Filed

TITLE OF PUBLIC OFFICE AND NAME OF GOVERNMENT (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')	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. -

FILED
Jan 6 2014
ROSS MILLER
SECRETARY OF STATE
Date Filed

TITLE OF PUBLIC OFFICE AND NAME OF GOVERNMENT (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')	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

	Column A Debtor 1	Column B Debtor 2 or non-filing spouse
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		
Debtor 1 $ 0.00 -$ 0.00 ion, or farm $ 0.00 Copy here -> perty	$ 0.00	$ 0.00
Debtor 1 $ 0.00 -$ 0.00 Ordinary and c operating expenses Net monthly rental or other real property $ 0.00 Copy here ->	$ 0.00	$ 0.00
7. Interest, dividen and royalties	$ 0.00	$ 0.00

"under Penalty of perjury"

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

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

X Brandi P Harter
Brandio P. Harter
Signature of Debtor 2
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.

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..."

APPENDIX K

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

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

October 30, 2020

CONFIDENTIAL

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

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

Dear Mr. Shahrokhi:

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,

Paul C. Deyhle
General Counsel & Executive Director