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APPENDIX A

DATE FILED: October 6, 2022

21CA1410 Marriage of Hodyl 10-06-2022

COLORADO COURT OF APPEALS

Court of Appeals Nos. 21CA1410 & 21CA1417

Douglas County District Court No. 18DR30102

Honorable Andrew C. Baum, Judge

In re the Marriage of Christopher Hodyl,

Appellee,

and

Martine Bernard,

Appellant.

ORDERS AFFIRMED

Division III

Opinion by JUDGE YUN

Fox and Tow, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(e)

Announced October 6, 2022

No Appearance for Appellee

Martine Bernard, Pro Se

¶ 1 This post-dissolution proceeding involves another appeal initiated by Martine Bernard (mother) involving a daughter she shares with Christopher Hodyl (father). Mother appeals two district court orders: a January 8, 2021, order granting father his attorney fees and costs under section 14-10-129.5(4), C.R.S. 2021, and a July 28, 2021, order setting the amount of the

attorney fees and costs. We affirm.

I. Relevant Facts and Procedural Background

A. Permanent Orders

¶ 2 In 2019, the parties' eighteen-year marriage ended. In its permanent orders, the district court named mother the child's primary residential parent and established a graduated parenting time schedule for father, starting with supervised weekend visitation with the goal of equal time.

B. Father's Motion to Enforce Parenting Time

¶ 3 At a December 2019 status conference, father expressed concerns about his parenting time. He asserted that mother was refusing to sign a contract with a supervised visitation provider. The district court found that mother was "picking at the [contract's] language" and admonished her not to interfere with father's visitation. The district court eventually appointed Nancy Hass to

supervise father's visitation.

¶ 4 Soon after Ms. Hass's appointment, father, through his attorney, Ms. Denson, filed a motion to enforce his parenting time under section 14-10-129.5 (motion to enforce). In it, he alleged that mother's noncompliance with various court orders, including her refusal to sign Ms. Hass's supervision contract along with a release of information, resulted in his having only two four-hour visits since the permanent orders. He requested an evidentiary hearing and an award of attorney fees.

¶ 5 Mother responded, among other things, that (1) Ms. Hass's contract was "egregious"; (2) "C.R.S. 14-10-129.5 does not allow for noncompliance claims due to a party's refusal to sign a contract"; (3) her "decision not to sign a contract that she does not agree with is supported by public policy and freedom to contract"; (4) father's motion to enforce "failed to

prove noncompliance . . . , which is a required finding before sanctions can be imposed . . . and only after a hearing with the sole purpose of proving noncompliance"; and (5) father is the one at fault because he "unilaterally fired" two previous visitation supervisors.

¶ 6 On June 24, 2020, the district court set an evidentiary hearing on father's motion to enforce. Before the hearing, mother advised the district court that Ms. Hass had withdrawn from the case. She also stated that because Ms. Hass was never properly appointed, the court lacked jurisdiction or authority to "force" her to sign Ms. Hass's supervision contract. The evidentiary hearing spanned three nonconsecutive days over the next two months.

¶ 7 After finding that mother failed to comply with the parenting time orders, the district court granted

father's motion to enforce. Mother appealed this order, and a prior division of this court affirmed it in *In re Marriage of Hodyl*, (Colo. App. No. 20CA1468 June 24, 2021) (not published pursuant to C.A.R. 35(e)), as modified on denial of r eh' g (July 15, 2021).

C. Father's Motion to Amend

¶ 8 Father then moved to amend the order granting his motion to enforce under section 14-10-129.5(4), seeking an award of attorney fees and costs incurred in connection with his motion to enforce. Section 14-10-129.5(4) provides in relevant part: "the court shall order a parent who has failed to provide court-ordered parenting time or to exercise court-ordered parenting time to pay to the aggrieved party, attorney's fees, court costs, and expenses that are associated with an action brought pursuant to this section."

¶ 9 In January 2021, the district court determined that father was entitled to his attorney fees and costs under section 14-10-129.5(4). The court scheduled an evidentiary hearing on the reasonableness and necessity of those fees and costs. At the hearing, Ms. Denson, who no longer represented father, and mother testified.

¶ 10 In July 2021, the district court, after the hearing, ordered mother to pay $13,479 directly to father for his reasonable and necessary attorney fees and costs. Mother then moved for reconsideration under C.R.C.P. 59, which the court denied. The court, however, reduced the award to $13,104, removing a $375 charge that Ms. Denson agreed to abandon.

¶11 Against this backdrop, mother separately appealed the January and July 2021 orders awarding father his reasonable attorney fees and costs and

costs and setting the amount of those fees and costs. We consolidated her appeals and consider all her contentions in this opinion.

II. Standard of Review

¶ 12 We review awards of attorney fees and costs along with C.R.C.P. 59(a) rulings for an abuse of discretion. *US Fax L. Ctr., Inc. v. Henry Schein, Inc.*, 205 P.3d 512, 515 (Colo. App. 2009).

¶ 13 A district court abuses its discretion when its decision is manifestly arbitrary, unreasonable, or unfair, or is based on a misunderstanding or misapplication of the law. *In re Marriage of Sheehan*, 2022 COA 29, ¶ 23.

III. Discussion

A. Father's Motion to Enforce

¶ 14 Mother seeks review of the district

court's order setting father's motion to enforce for a hearing. She contends that, in this order, the court erroneously concluded that she did not have the "freedom to contract" with supervised visitation providers in violation of the "due process and equal protection clauses of both [the] Colorado and . . . United States Constitutions."

¶ 15 She also argues that the district court erred in setting the hearing because (1) section 14-10-129.5 is "designed to vindicate a party that was denied parenting time and not designed for contract issues"; (2) "the [parenting time] supervisor, whose contract was the reason for the . . . hearing [being] scheduled, was unlawfully appointed"; and (3) father never "claim [ed] any denial of [his] scheduled parenting time."

¶ 16 Regarding the hearing itself, mother asserts that the district court committed several errors. As we understand them, her assertions are that the court (1) violated her procedural due process rights by imposing sanctions before conducting a "noncompliance hearing," depriving her of an opportunity to be heard; (2) erred in not considering her evidence that father had been exercising his parenting time under the permanent orders and had "unilaterally fired" a visitation supervisor; (3) "ignor[ed] the fact that section 14-10-129.5 was for denial of parenting time issues and not for issues of not having one's preferred visitation supervisor"; (4) should have vacated or canceled the July 10, 2020, hearing when the visitation supervisor at the time withdrew from the case; and (5) should have granted her motion to dismiss the hearing.

¶ 17 But all these issues were either (1) already

addressed and rejected in the prior division's *Hodyl* opinion or (2) should have been raised in that appeal and were not. See *In re Estate of Beren*, 2013 COA 166, ¶¶ 16-17; see also *In re Marriage of Aragon*, 2019 COA 76, ¶ 23 ("Claim preclusion bars a party from relitigating a matter that has already been decided or that could have been raised in a previous proceeding."). This proceeding cannot serve as another opportunity for mother to raise the same issues, including her contention that the "freedom to contract" was a proper defense to father's allegations of noncompliance with the parenting time orders identified in his motion to enforce.

B. Father's Motion to Amend

1. January 2021 Order Awarding Father Attorney Fees and Costs

¶ 18 Next, mother asserts that father is not

entitled to an award of attorney fees and costs because his motion to amend incorrectly cited C.R.C.P. 50(a)(4) and not C.R.C.P. 59. We disagree.

¶ 19 True, father misstated the rule in his motion to amend the September 1 order. But mother pointed out that flaw in her response to his motion, and in his reply, father clarified that he meant C.R.C.P. 59(a)(4).

¶ 20 Mother does not explain, and we do not see, how she was prejudiced by father's misstatement, which he fixed before the district court ruled on the matter. C.A.R. 35(c) ("The appellate court may disregard any error or defect not affecting the substantial rights of the parties."); see also C.R.C.P. 61 (requiring the reviewing court to disregard any errors in court proceedings that do not affect the substantial rights of the parties); *People in Interest of J.A.S.*, 160 P.3d 257, 262 (Colo. App. 2007) (a

parent generally may not obtain relief on a due process claim absent a showing of harm or prejudice). We therefore cannot say that the district court abused its discretion in this regard. S*ee US Fax L. Ctr Inc.*, 205 P.3d at 515.

¶ 21 As it relates to the January 2021, order, mother also asserts that the district court misapplied section 14-10-129.5 when it found that she failed to comply with the parenting time orders identified in father's motion to enforce. We decline to address the issue because, once again, she attempts to raise an issue that was decided by the prior division's *Hodyl* opinion.

2. July 2021 Order Setting Amount of Attorney Fees and Costs

a. Procedural Due Process

¶ 22 Mother argues that the district court did not

allow her to fully present her case in violation of her procedural due process rights. We disagree.

¶ 23 A meaningful opportunity to be heard is an inherent element of due process. See *In re marriage of Hatton*, 160 P.3d 326, 329 (Colo. App. 2007). Parties are entitled to have sufficient time in which to orderly present their case. See *In re Marriage of Salby*, 126 P.3d 291, 302 (Colo. App. 2005).

¶ 24 A district court's interest in administrative efficiency may not take precedence over a party's right to due process. *In re Marriage of Goldin*, 923 P.2d 376, 382 (Colo. App. 1996). But the court may set a time limit on a hearing from the outset and monitor the parties' use of their time during the hearing. See *Maloney v. Brassfield*, 251 P.3d 1097, 1102-05 (Colo. App. 2010); CRE 611(a) ("The [district] court shall exercise reasonable control over the mode and order of interrogating witnesses and

presenting evidence so as to . . . avoid needless consumption of time.").

¶ 25 Because mother's argument implicates due process, we apply a heightened level of scrutiny to determine whether the district court's time limits constituted an abuse of discretion at two levels: (1) whether the limits inadequate for the nature of the proceeding at the outset and (2) if not, whether they became inadequate because of developments during the proceeding. *Maloney*, 251 P.3d at 1102.

¶ 26 First, the hearing was adequate from the outset as mother did not object to the time limitations, nor did she ask for additional time. See *id.*

¶ 27 Second, the time limitations did not become inadequate because of developments during the proceeding. See *id.*

¶ 28 The record indicates that the district court

issued an order indicating that each party would have twenty minutes to present their case and that any speaking objections would count against their time. See CRE 61 1(a); *see also Bryant v. State*, 282 S.W.3d 156, 172 n.10 (Tex. Crim. App. 2009) ("A 'speaking objection' is '[a]n objection that contains more information (often in the form of argument) than needed by the judge to sustain or overrule it. Many judges prohibit lawyers from using speaking objections . . . .'") (citation omitted).

¶ 29 At the hearing, the only issue was the amount of reasonable and necessary attorney fees and costs. The court reminded the parties at least twice that it would deduct time for any speaking objections. Yet, mother persisted in making extensive speaking objections during Ms. Denson's direct testimony. During Ms. Denson's testimony, the court denied mother's request for more time:

I have given you 20 minutes to use as you see fit .... I even issued an order yesterday . . . reminding everybody that these long speaking objections are counting against your time.

... I can't control your choices in this case. I'm not going to tell you how to run your own case. If you choose to spend your 20 minutes making long objections when I said your objection is noted, and trying to get me to change my mind, that's your choice.

But that's how you're using your 20 minutes. I am not preventing you from using your time to defend this case. You

yourself are using this time to make these long objections and try to get me to change my mind.

And I'm . . . telling you, that if I've made a[n] [evidentiary] ruling, I'm not likely to change my mind because I've used my best effort to make the correct ruling in the moment, because that's what I think the parties deserve in every hearing.

So ... I can't force you to use your time in a . . . certain way. You yourself are left that choice. I can only tell you how much time you have and let you know the ground rules, and that's perfectly fair, and that's due process.

Mother then cross-examined Ms. Denson and later

testified.

¶ 30 Our review of the record reveals that the district court's time management during the hearing did not appear inflexible or unduly restrictive. In fact, the court accommodated mother and made every effort to ensure that she had the opportunity to present her case. For example, the court periodically advised mother of her remaining time; gave her "a little bit of extra time"; paused the clock to address several issues; and took a brief recess for the parties to "figure out how [they] want[ed] to use the . . . remainder of their time."

¶ 31 In all, mother knew she was doing something that the district court had directed her not to do; that is, she continued to make speaking objections. Her inability to complete her presentation of the case was caused by her own conduct, rather than a deprivation of procedural due process. See *In re Marriage of*

Marriage of Yates, 148 P.3d 304, 310 (Colo. App. 2006) (a district court conducting a "clock" hearing does not abuse its discretion by denying an attorney additional time when the attorney knew the time limit in advance and did not object, and when an attorney's inability to complete his or her presentation of the case is attributable to the attorney's choices as to the use of the available time rather than to a lack of sufficient time).

¶ 32 Significantly, mother does not explain on appeal what evidence she was unable to present because of the time limitations or how her inability to present that evidence prejudiced her. *See Maloney*, 251 P.3d at 1105 (to prevail on appeal, a party must show prejudice from the district court's time limitations); see also C.A.R. 35(c); C.R.C.P. 61.

¶ 33 Under these circumstances, we perceive no abuse of discretion by the district court in conducting

the hearing. See *Maloney*, 251 P.3d at 1102; see also *Yates*, 148 P.3d at 310.

b. Attorney Fee Award

i. Lodestar Method

¶ 34 Mother argues that the district court failed to apply the lodestar method when evaluating the reasonableness and necessity of father's attorney fees. We disagree.

¶ 35 The district court must consider the reasonableness of the hourly rate and the necessity for the hours billed, which requires the court to calculate a lodestar amount that represents the number of hours reasonably expended on the case multiplied by a reasonable hourly rate. *Aragon*, ¶15. The lodestar amount is a starting point for the court's analysis, and it may adjust that amount based on various considerations as described in *Aragon*. See *id.* at ¶¶ 15, 22.

¶ 36 Contrary to mother's argument, the district court, in fashioning the award, expressly applied the lodestar method. *See Friends of Denver Parks, Inc. v. City & Cnty. of Denver*, 2013 COA 177, ¶¶ 34-37 (district court's oral findings supplement its written order). The court found that Ms. Denson's hourly rate was "fairly reasonable" given her extensive experience in the family law field; the three paralegals' hourly rates were reasonable; and the total hours billed to litigate the motion to enforce were necessary. And the record supports the district court's findings.

¶ 37 The district court qualified Ms. Denson as an expert in billing practices and billing rates for family law attorneys as well as paralegals. Ms. Denson testified that she had been practicing family law for thirty-two years and was a member of several specialty bar associations. Without objection, the

court admitted Ms. Denson's attorney fee affidavit and billing statement.

¶ 38 In her affidavit, Ms. Denson stated that she charged $250 per hour and that her three paralegals' rates ranged from $100 to $155 per hour. She testified that those rates were reasonable. In explaining why she believed that her paralegals' hourly rates were reasonable, Ms. Denson said the following:

> One is because I have participated in multiple cases where attorney's fees have been an issue, and I have reviewed both attorney's fees and paralegal fees in terms of the opposing side, and I have seen the rates.
>
> Secondly, I have interviewed and have had paralegals working for me, and I am familiar with the rates when . . .

you're talking about salary, and I have learned from other paralegals what their last rate might have been at a law firm.

So based upon those two things, I believe I am familiar with what the going rate is for paralegals in the Denver metro community.

Moreover, the affidavit broke down the hours Ms. Denson and her paralegals spent to litigate the motion to enforce.

¶ 39 The billing statement chronologically listed the hours incurred; in total, Ms. Denson billed approximately seventy-two hours. Ms. Denson, however, adjusted her original request downward to account for a few mistaken charges. In the end, Ms. Denson testified that the hours expended were necessary given that the motion to enforce required a

three -day hearing and that mother filed five motions during that period.

¶ 40 Because the record supports the district court's award of reasonable and necessary attorney fees, we will not disturb it. See *US Fax L. Ctr., Inc.*, 205 P.3d at 515.

¶ 41 Relatedly, mother argues that (1) Ms. Denson's paralegals were not qualified to charge between $125 and $155; and (2) the district court erred in approving approximately one hour of work by two paralegals for four subpoenas regarding two witness for the hearing on father's motion to enforce. But the district court accepted Ms. Denson's testimony that her paralegals were qualified, their rates were reasonable, and the hours they spent were necessary. See *In re Marriage of Farr*, 228 P.3d 267, 270 (Colo. App. 2010) (determining the credibility of the witnesses and resolving conflicting evidence are

within the province of the district court, and an appellate court will not disturb those findings on appeal); *see also In re Marriage of Amich*, 192 P.3d 422, 424 (Colo. App. 2007) (district court can believe all, part, or none of a witness's testimony, even if uncontroverted). As a result, we discern no error on those bases.

¶ 42 We reject mother's assertion that, because the billing statement was "heavily redacted," the claimed hours were "unreasonable on [their] face." Ms. Denson testified that she redacted certain entries on her billing statements because they had nothing to do with the specific fee request.

ii. Attorney Fee Award Paid Directly to Father

¶ 43 Mother asserts that the district court erred in requiring her to pay the attorney fee award directly to father because he failed to prove that he had already paid Ms. Denson. But mother does not

explain how this prejudiced her or how it affected the determination on the reasonable and necessary amount of fees. *See* C.A.R. 35(c); *see also* C.R.C.P. 61.

c. Costs

¶ 44 Last, mother maintains that the district court erred in determining that Ms. Denson had incurred $153 in costs. Specifically, she argues that her request involved "overhead" costs that are "not compensable unless proved otherwise." But she provides us with no specific authority, and we are aware of none that supports her argument. *See In re Marriage of Zander*, 2019 COA 149, ¶ 27 (an appellate court may decline to consider an argument not supported by legal authority or any meaningful legal analysis), *affd*, 2021 CO 12; *see also Vallagio at Inverness Residential Condo. Ass'n v. Metro. Homes, Inc.*, 2017 CO 69, ¶ 40 (an appellate court will "decline to assume the mantle" when parties

offer no supporting arguments for their claims).

IV. Conclusion

¶ 45 The orders are affirmed.

JUDGE FOX and JUDGE TOW concur.

APPENDIX B

DATE FILED: May 1, 2023

Colorado Court of Appeals

2 East 14th Avenue

Denver, CO 80203

Douglas County

2018DR30102

Court of Appeals Case Number:

2021CA1410 & 2021CA1417

In re the Marriage of

Appellee:

Christopher Hodyl,

And

Appellant:

Martine Bernard.

MANDATE

This proceeding was presented to this Court on the record on appeal. In accordance with its announced opinion, the Court of Appeals hereby ORDERS: ORDERS AFFIRMED

POLLY BROCK

CLERK OF THE COURT OF APPEALS

DATE: MAY 1, 2023

APPENDIX C

DATE FILED: APRIL 24, 2023

Colorado Supreme Court

2 East 14th Avenue

Denver, CO 80203

Certiorari to the Court of Appeals, 2021CA1410 &

2021CA1417

District Court, Douglas County, 2018DR30102

Supreme Court Case No: 2022SC883

In re the Marriage of

Petitioner:

Martine Bernard,

And

Respondent:

Christopher Hodyl.

ORDER OF COURT

Upon consideration of the Petition for Writ of Certiorari to the Colorado Court of Appeals and after review of the record, briefs, and the judgment of said Court of Appeals,

IT IS ORDERED that said Petition for Writ of Certiorari shall be, and the same hereby is,

DENIED.

BY THE COURT, EN BANC, APRIL 24, 2023.

JUSTICE HOOD does not participate.

APPENDIX D

DATE FILED: January 8, 2021
Case Number: 18DR30102

DISTRICT COURT, DOUGLAS COUNTY

STATE OF COLORADO

4000 Justice Way

Castle Rock, CO 80109

DouglasDR@judicial.state.co.us

((720) 437-6200

In re the Marriage of
Petitioner: Christopher Hodyl
and
Respondent: Martine Bernard

ORDER RE: PETITIONER'S MOTION FOR AMENDMENT OF JUDGMENT REGARDING PETITIONER'S REQUEST FOR ATTORNEY FEES

THE COURT having reviewed the file, the Petitioner's Motion for Amendment of Judgment Regarding Petitioner's Request for Attorney Fees and hereby grants same. The Court

Finds that C.R.S. 14-10-129.5(4) sets forth:

In addition to any other order

> *entered pursuant to subsection (2) of this section, the court shall order a parent who has failed to provide court-ordered parenting time to pay to the aggrieved party,*
>
> *attorney's fees, court costs, and expenses associated with an action brought pursuant to this section. In the event the parent responding to an action brought pursuant to this section is found not to be in violation of the parenting time order or schedule, the court may order the petitioning parent to pay the court costs, attorney fees, and expenses incurred by such responding parenting. Nothing in this section shall preclude a party's right to a separate and independent legal action in tort.*
> Id.

The Court in its Written Orders entered September 1, 2020 found under C.R.S. 14-10-129.5(2), that while Mother was not responsible for all of the delays in the progression of Father's parenting time plan, Mother did cause enough delay via the specific instances cited by the Court in its oral ruling such that there was substantial or continuing noncompliance by Mother. After hearing the Court found Mother did not comply with the parenting time in the parties' June 11, 2019 permanent orders. The Court determined that the

Respondent Mother failed to provide court-ordered parenting time supervised by someone other than herself of her sister.

The Legislature's use of the obligatory language "shall" makes the award of attorney's fees mandatory under the statute given the Court's findings.

The Court therefore Orders that the Petitioner Father shall be awarded his attorney fees and costs in the amount of $13,738.50. The Court has reviewed Petitioner's attorney fees affidavit and finds said amount requested by Petitioner to be reasonable and necessary. The Court orders Respondent Mother to pay $13,738.50 to Petitioner's attorney no later than December 31, 2021. Mother may either pay this via lump sum within 90 days of this order or via equal monthly payments starting in January and continuing December 31, 2021 with payment due by the last business day of every month. Mother has 30 days from the date of this order to notify Petitioner's counsel in writing which payment method she will utilize. Judgment enters against Mother and in favor of Petitioner's attorney for $13,738.50.

Dated January 8, 2021

BY THE COURT:
Andrew Baum

Andrew Baum
District Court Judge

APPENDIX E

DATE FILED: July 28, 2021
Case Number: 18DR30102
Division: 2 Courtroom:

DISTRICT COURT, DOUGLAS COUNTY

STATE OF COLORADO

4000 Justice Way

Castle Rock, CO 80109-7546

Petitioner (s) CHRISTOPHER HODYL
and
Respondent (s) MARTINE BERNARD

Order on Reasonableness and Necessity of Attorney's Fees Awarded in Court's January 8, 2021 Order

The Court held hearing today on the reasonableness and necessity of the attorney's fees it awarded to Petitioner in an order dated January 8, 2021. Both parties appeared pro se and the Court heard testimony from expert Lucy Hojo Denson and Respondent ("Mother"). The Court received Exhibits 2, 3, 7, J, K, L, and M. The Court also considered its original January 8, 2021 order. The Court entered oral findings and rulings, and incorporates those into this order. These findings can be found in a

transcript of the FTR recording. The Court reduces the substantive ruling to writing below.

Based on the evidence presented, the Court finds all of the fees Petitioner ("Father") incurred were reasonable and necessary. Ms. Denson testified to a lesser amount of fees after her review of her billing statements in Exhibit 3. Father has already paid these fees to Ms. Denson.

The Court enters judgment in favor of Father and against Mother in the amount of $13,479. Mother shall pay this amount in two ways, and she may choose her method of payment, but must notify Father in writing which she chooses. The first option is a lump sum payment due directly to Father within 90 days of today. Mother's second option is to pay the judgment amount in 12 months via equal monthly installments of $1,123.25 plus statutory interest. If Mother chooses this installment option, her first payment is due August 15, 2021 and she shall make all payments directly to Father by the 15th of every month. If Mother chooses the installment option, she shall also pay statutory interest.

Issue Date: 7/28/2021

Andrew Baum

ANDREW BAUM
District Court Judge

APPENDIX F

DATE FILED: July 27, 2021
Case Number: 18DR30102
Division: 2 Courtroom:

DISTRICT COURT, DOUGLAS COUNTY, COLORADO

Court address:

4000 Justice Way

Castle Rock, CO 80109-7546

Petitioner (s) CHRISTOPHER HODYL
and
Respondent (s) MARTINE BERNARD

Order: ADVISEMENT ON THE REASONABLENESS OF ATTORNEY FEES AND COSTS AFFIDAVIT SUBMITTED BY PETITIONER ON DECEMBER 31, 2019 AND JANUARY 21, 2020; REQUEST FOR A REDUCTION OF THE FEES AND COSTS; AND OBJECTION TO PETITIONER S FORMER COUNSEL AS AN EXPERT WITNESS AND TO THE CONTENT OF HER PLANNED TESTIMONY.

The motion/proposed order attached hereto:
REVIEWED.

Regarding Petitioner's expert endorsement, the Court will determine whether or not to receive Ms. Denson as an expert based on Colorado Rule for Evidence 702 and after Petitioner lays the foundation and formally asks the Court at hearing to endorse Ms. Denson as an expert.

As to the remaining issues raised, the Court appreciates Respondent notifying the Court of her positions and arguments ahead of time. The Court will determine these issues based upon the testimony and documentary evidence received at hearing.

The Court reminds the parties that the hearing is limited to the reasonableness of attorney's fees awarded to Petitioner in the Court's January 8, 2021 order. At tomorrow's hearing each side will have 20 minutes and speaking objections count against their respective time.

Issue Date: 7/27/2021

Andrew Baum
ANDREW BAUM
District Court Judge

APPENDIX G

DATE FILED: April 16, 2021

Court of Appeals
2 East 14 th Avenue
Denver, CO 80203

Douglas County District Court No. 18DR30102

Court of Appeals Case Number: 2021CA177

In re the Marriage of
Appellee: Christopher Hodyl,
And
Appellant: Martine Bernard,

ORDER OF THE COURT

To: Appellant

After review of the motion to stay and the district court record, the Court
DENIES the motion. Further, the January 8, 2021 attorney fees and costs order is not a final, appealable order. The district court is holding a hearing on May 14, 2021 on the issue of attorney fees and costs.

IT IS THEREFORE ORDERED, that the appeal of the January 8, 2021 Order is DISMISSED, without

prejudice, for lack of a final, appealable order. The April 6, 2021 Notice of Appeal is accepted. The appeal shall proceed as to the January 29, 2021 Order and the March 25, 2021 Order only.

BY THE
COURT
Terry, J.
Tow, J.
Yun, J.

APPENDIX H

DATE FILED: July 13, 2020
Case Number: 2018DR30102
Division: 2 Courtroom:

DISTRICT COURT, DOUGLAS COUNTY, COLORADO

Court address:

4000 Justice Way, Castle Rock, CO 80109-7546

Petitioner (s) CHRISTOPHER HODYL
and
Respondent (s) MARTINE BERNARD

Order: Joint Status Report Regarding Visitation Supervisor, Melinda Veith

The motion/proposed order attached hereto: ACTION TAKEN.

The Court orders that Father shall have 4 hours total weekday parenting time to be allocated in two two-hour blocks two days per week based on Ms. Veith's availability. Father's weekend parenting time shall be supervised by Respondent or Petitioner's brother or sister-in-law. Both parties shall take all action necessary to begin supervision by Ms. Veith immediately, i.e. during the current

week of this order. This order shall remain in effect unless and until modified by the Court at the continued hearing on July 21, 2020.

Issue Date: 7/13/2020

Andrew Baum

ANDREW BAUM
District Court Judge

APPENDIX I

DATE FILED: April 3, 2020
Case Number: 18DR30102
Division: 2 Courtroom:

DISTRICT COURT, DOUGLAS COUNTY, COLORADO
Court Address:
4000 Justice Way Castle Rock, CO 80109-7546

Petitioner (s) CHRISTOPHER HODYL
and
Respondent (s) MARTINE BERNARD

Order: Response to Petitioner's Advisement to the Court About the New Visitation Specialist Resigning and the Negative Effect of Numerous Experts in Daughter's Life and Request for Modifications Re Frequency of Interactions of Daughter with Therapists and Visitation Specialist

The motion/proposed order attached hereto: GRANTED WITH AMENDMENTS.

The Court appoints Nancy Perrington Haas as visitation supervisor. Parties shall contact Ms. Haas by close of business Tuesday April 7, 2020 to set up supervised visits.

Regarding therapy, the Court finds that continued individual and family therapy is essential to positive progress in the case and resumption of Petitioner's

parenting time based upon the recommendations of the PRE. Delaying or limiting therapy or letting anyone other than the therapist determine the frequency and duration of appointments is not in the best interests of the child. Therefore, Dr. Shelly Bresnick shall determine how often individual therapy sessions with the child should occur and Ms. Mary Morgan shall determine how often family therapy should occur. Both parties shall follow the recommendations of Dr. Bresnick and Ms. Morgan. Therapy shall be the priority activity for the child until further order of the Court.

Issue Date: 4/3/2020

Andrew Baum
ANDREW BAUM
District Court Judge

APPENDIX J

DATE FILED: June 4, 2021

Colorado Supreme Court
2 East 14th Avenue
Denver, CO 80203

Original Proceeding
Colorado Court of Appeals, 2021CA177
District Court, Douglas County, 2018DR30102

Supreme Court Case No: 2021SA174

In re the Marriage of
Appellant:
Martine Bernard,
And
Appelle:
Christopher Hodyl.

ORDER OF COURT

Upon consideration of the Petition for a Rule to Show Cause Pursuant to
C.A.R. 21 filed in the above cause, and now being sufficiently advised in the
premises,

IT IS ORDERED that said Petition for a Rule to Show Cause Pursuant to
C.A.R. 21 shall be, and the same hereby is, DENIED.

BY THE COURT, EN BANC, JUNE 4, 2021 .

APPENDIX K

DATE FILED: November 3, 2022

Colorado Court of Appeals
2 East 14th Avenue
Denver, CO 80203

Douglas County
2018DR30102

Colorado Court of Appeals Case Number:
2021CA1410
& 2021 CA1417

In re the Marriage of
Appellee:
Christopher Hodyl.
And
Appellant:
Martine Bernard,

ORDER DENYING PETITION FOR REHEARING

The **PETITION FOR REHEARING** filed in this appeal by:
Martine Bernard, Appellant,
is DENIED.

Issuance of the Mandate is stayed until: December 2, 2022

If a Petition for Certiorari is timely filed with the Supreme Court of Colorado, the
stay shall remain in effect until disposition of the cause by that Court.

DATE: November 3, 2022

BY THE COURT:
Fox, J.
Tow, J.
Yun, J.

APPENDIX L

Colo. Rev. Stat. § 14-10-129.5
Section 14-10-129.5 - Disputes concerning parenting time

(1) Within thirty-five days after the filing of a verified motion by either parent or upon the court's own motion alleging that a parent is not complying with a parenting time order or schedule and setting forth the possible sanctions that may be imposed by the court, the court shall determine from the verified motion, and response to the motion, if any, whether there has been or is likely to be substantial or continuing noncompliance with the parenting time order or schedule and either:

(a) Deny the motion, if there is an inadequate allegation; or

(b) Set the matter for hearing with notice to the parents of the time and place of the hearing as expeditiously as possible; or

(c) Require the parties to seek mediation and report back to the court on the results of the mediation within sixty-three days. Mediation services shall be provided in accordance with section 13-22-305, C.R.S. At the end of the mediation period, the court may approve an agreement reached by the parents or shall set the matter for hearing.

(2) After the hearing, if a court finds that a parent has not complied with the parenting time order or schedule and has violated the court order, the court, in the best interests of the child, shall issue an order

that may include but not be limited to one or more of the following orders:

(a) An order imposing additional terms and conditions that are consistent with the court's previous order; except that the court shall separate the issues of child support and parenting time and shall not condition child support upon parenting time;

(b) An order modifying the previous order to meet the best interests of the child;

(b.3) An order requiring either parent or both parents to attend a parental education program as described in section 14-10-123.7, at the expense of the noncomplying parent;

(b.7) An order requiring the parties to participate in family counseling pursuant to section 13-22-313, C.R.S., at the expense of the noncomplying parent;

(c) An order requiring the violator to post bond or security to insure future compliance;

(d) An order requiring that makeup parenting time be provided for the aggrieved parent or child under the following conditions:

(I) That such parenting time is of the same type and duration of parenting time as that which was denied, including but not limited to parenting time during weekends, on holidays, and on weekdays and during the summer;

(II) That such parenting time is made up within six months after the noncompliance occurs, unless the period of time or holiday can not be made up within six months in which case the parenting time shall be made up within one year after the noncompliance occurs;

(III) That such parenting time takes place at the

time and in the manner chosen by the aggrieved parent if it is in the best interests of the child;

(e) An order finding the parent who did not comply with the parenting time schedule in contempt of court and imposing a fine or jail sentence;

(e.5) An order imposing on the noncomplying parent a civil fine not to exceed one hundred dollars per incident of denied parenting time;

(f) An order scheduling a hearing for modification of the existing order concerning custody or the allocation of parental responsibilities with respect to a motion filed pursuant to section 14-10-131;

(g) (Deleted by amendment, L. 97, p. 970, § 1, effective August 6, 1997.)

(h) Any other order that may promote the best interests of the child or children involved.

(3) Any civil fines collected as a result of an order entered pursuant to paragraph (e.5) of subsection (2) of this section shall be transmitted to the state treasurer, who shall credit the same to the dispute resolution fund created in section 13-22-310, C.R.S.

(4) In addition to any other order entered pursuant to subsection (2) of this section, the court shall order a parent who has failed to provide court-ordered parenting time or to exercise court-ordered parenting time to pay to the aggrieved party, attorney's fees, court costs, and expenses that are associated with an action brought pursuant to this section. In the event the parent responding to an action brought pursuant to this section is found not to be in violation of the parenting time order or schedule, the court may order the petitioning parent to pay the court costs;

attorney fees, and expenses incurred by such responding parent. Nothing in this section shall preclude a party's right to a separate and independent legal action in tort.

C.R.S. § 14-10-129.5

L. 87: Entire section added, p. 578, § 1, effective July 1. L. 93: IP(1) and (2) amended, p. 579, § 12, effective July 1. L. 97: Entire section amended, p. 970, § 1, effective August 6. L. 98: IP(2) and (2)(f) amended, p. 1388, § 16, effective February 1, 1999. L. 2012: IP(1) and (1)(c) amended, (SB 12-175), ch. 208, p. 833, § 34, effective July 1.

For the legislative declaration contained in the 1993 act amending the introductory portion to subsection (1) and subsection (2), see section 1 of chapter 165, Session Laws of Colorado 1993.

APPENDIX M

Colo. R. Civ. P. 59

(a) Post-Trial Motions. Within 14 days of entry of judgment as provided in C.R.C.P. 58 or such greater time as the court may allow pursuant to a request for an extension of time made within that 14-day period, a party may move for post-trial relief including:
(1) A new trial of all or part of the issues;

(2) Judgment notwithstanding the verdict;

(3) Amendment of findings; or

(4) Amendment of judgment. Motions for post-trial relief may be combined or asserted in the alternative. The motion shall state the ground asserted and the relief sought.

(b) No Post-Trial Motion Required. Filing of a motion for post-trial relief shall not be a condition precedent to appeal or cross-appeal, nor shall filing of such motion limit the issues that may be raised on appeal.

(c) On Initiative of Court. Within the time allowed the parties and upon any ground available to a party, the court on its own initiative, may:
(1) Order a new trial of all or part of the issues;

(2) Order judgment notwithstanding the verdict;

(3) Order an amendment of its findings; or

(4) Order an amendment of its judgment.
The court's order shall specify the grounds for such action.

(d) Grounds for New Trial. Subject to provisions of Rule 61, a new trial may be granted for any of the following causes:
(1) Any irregularity in the proceedings by which any party was prevented from having a fair trial;

(2) Misconduct of the jury;

(3) Accident or surprise, which ordinary prudence could not have guarded against;

(4) Newly discovered evidence, material for the party making the application which that party could not, with reasonable diligence, have discovered and produced at the trial;

(5) Excessive or inadequate damages; or

(6) Error in law.
When application is made under grounds (1), (2), (3), or (4), it shall be supported by affidavit filed with the motion. The opposing party shall have 21 days after service of an affidavit within which to file opposing affidavits, which period may be extended by the court or by written stipulation between the parties. The court may permit reply affidavits.

(e) Grounds for Judgment Notwithstanding Verdict. A judgment notwithstanding verdict may be granted for either of the following grounds:
(1) Insufficiency of evidence as a matter of law; or

(2) No genuine issue as to any material fact and the moving party being entitled to judgment as a matter of law.
A motion for directed verdict shall not be a prerequisite to any form of post-trial relief, including judgment notwithstanding verdict.

(f) Scope of Relief in Trials to Court. On motion for post-trial relief in an action tried without a jury, the court may, if a ground exists, open the judgment if one has been entered, take additional testimony; amend findings of fact and conclusions of law or make new findings and conclusions, and direct entry of a new judgment.

(g) Scope of Relief in Trials to a Jury. On motion for post-trial relief in a jury trial, the court may, if a ground exists, order a new trial or direct entry of judgment. If no verdict was returned, the court may, if a ground exists, direct entry of judgment or order a new trial.

(h) Effect of Granting New Trial. The granting of a new trial shall not be an appealable order, but a party by participating in the new trial shall not be deemed to have waived any objection to the granting of the new trial, and the validity of the order granting new trial may be raised by appeal after final judgment has been entered in the case.

(i) Effect of Granting Judgment Notwithstanding Verdict, Amendment of Findings or Amendment of Judgment. Subject to C.R.C.P. 54(b), granting of judgment notwithstanding the verdict, amendment of findings or amendment of judgment shall be an appealable order.

(j) Time for Determination of Post-Trial Motions. The court shall determine any post-trial motion within 63 days (9 weeks) of the date of the filing of the motion. Where there are multiple motions for post-trial relief, the time for determination shall commence on the date of filing of the last of such motions. Any post-trial motion that has not been decided within the 63-day determination period shall, without further action by the court, be deemed denied for all purposes including Rule 4(a) of the Colorado Appellate Rules and time for appeal shall commence as of that date.

(k) When Judgment Becomes Final. For purposes of this Rule 59, judgment shall be final and time for filing of notice of appeal shall commence as set forth in Rule 4(a) of the Colorado Appellate Rules.
C.R.C.P. 59

Source: (a) amended March 17, 1994, effective July 1, 1994; entire rule amended and effective October 11, 2001; IP(a), (a) last paragraph, (d) last paragraph, and (j) amended and adopted December 14, 2011, effective January 1, 2012, for all cases pending on or filed on or after January 1, 2012, pursuant to

C.R.C.P. 1(b); amended and adopted January 10, 2019, effective 1/10/2019.

APPENDIX N

GIFT OF PARENTING
GROUND RULES & Condition of Services

DATE FILED: April 14, 2020

1 - Each parent is to participate in good faith. Attorneys, the courts and other professionals maybe notified in writing if either parent appears at any time to hinder regular visitation, or to be using the parenting time to manipulate.

NOTE: Visits abide by all Court orders (as are the parties to the case) in the structuring and administration of parenting time activities and exchanges.
Whatever is not specified in Court orders is at the discretion of the supervisor.

2- All parents are required to sign the ground rules & conditions of service contract. ALL PAPERWORK MUST BE SUBMITTED AND COMPLETED PRIOR TO FIRST VISITATION OR EXCHANGE.

3- The following procedures will be followed to avoid contact between parents if necessary.

FOR SUPERVISED VISITATION SERVICES:

A. The residential parent will drop off the child at predetermined location site 15 minutes before beginning of the scheduled visit. After dropping off

the child, the resident parent will immediately leave drop off site and stay five blocks away until time of pickup.

B. The child will remain with the supervisor until visiting parents arrives.

C. The visiting parent will arrive at the scheduled visitation location and on time. When visit is over the visiting parent will promptly leave and stay five blocks away until the residential parent picks up the child.
ALTERNATIVELY, OTHER ARRANGEMENTS CAN BE MADE WITH THE OK OF SUPERVISOR.

D. The child will remain with the supervisor until residential parent arrives.

E. The residential parent will pick up the child 5- 10 minutes after the visitation.

FOR SUPERVISED EXCHANGE SERVICES:

A. The residential parent/guardian will bring the child to the exchange site at the scheduled time. After dropping off the child, the parent will leave immediately. They may stay within five blocks until the other parent has picked up the child.

B. The child will remain with the supervisor up to 15 min. until visiting parent arrives.

C. The residential parent/guardian must arrive at

the exchange site at scheduled time to pick up the child.

D. The supervisor will remain with the child and residential/guardian parents until it is determined that the child is safe and willing to go with the residential parent/guardian.

E. Return exchanges follow the same format.

4- CANCELLATION POLICY; if child is sick, weather conditions are unsafe or there is an emergency the supervisor must be notified within 24 hours.

5- NO SHOW- Parent will be charged for services and must be paid before the next appointed visit.

6- If supervisor cancels due to emergency, weather conditions or illness NO CHARGE to the parent.

7- The supervisor can provide transportation for parties participating in exchanges or visits if the visit takes place in more than one location, the supervisor will travel with the child. CHARGES APPLY. Provider carries proof of auto insurance.

8- Both parents are required to provide updated contact information for themselves and emergency contacts. This is to include attorneys, CFI or GAL.

9- The child will never be a messenger for either parent.

10- The supervisor will not act as a mediator or go between for ANY issues other than the current update on child and scheduling parenting time.

11 - Neither parent shall talk negatively about the other parent in front of the child. Parents in any context should not discuss legal or court matters in front of the child.

12- NO TEXTING, NO EMAILING during visit with your child. After all it is parenting time and your child is looking forward to having a lot your attention.

13- PAYMENT- ALWAYS IN CASH OR ZELLE DEPOSIT..... NO CHECKS. Payment is made before the visitation. NO EXCEPTIONS.

THE VISTING PARENT IS RESPONSIBLE FOR PAYMENTUNLESS THE COURT STIPULATES OTHERWISE OR PARTIES ARE IN AGREEMENT.

14- IF A PARENT(EITHER ONE) APPEARS TO BE INTOXICATED VISITS WILL BE TERMINATED AND REPORTED TO HUMAN SERVICES IMMEDIATELY.

IF NEEDED MUNICIPALITY POLICE WILL BE NOTIFIED TO TRANSPORT CHILD TO SAFE PLACE OR WITH OTHER PARENT OTHER THAN RELEASE TO DRIVE WITH INTOXICATED PARENT.

15- No parent shall threaten abuse or harass the supervisor. Any such behavior will result in termination of visit or any other services.

16- The supervisor shall be able to hear all conversations with no whispering. No obstruction of interactions at any time.

17- If child cannot go to bathroom unsupervised, supervisor will accompany the child.

18 –If either parent requests copies of visitation notes charges apply. All intake information is considered confidential and will not be released.

19-- All observation notes made by supervisor are legal documents.

20- Additional visitors- appropriate family members can visit with expressed approval of supervisor. Arrangements must be made within 24 hours of visit.

21 - If child's safety is comprised in anyway, termination of services will be terminated immediately IF parent does not leave immediately.

22- The supervisor cannot guarantee anyone's physical or psychological safety. In addition, supervisor is not responsible for any physical or psychological harm that may occur at any time.

23- Non- residential parent will follow guidelines of current court parenting plan/minute order. Mention

of future plans outside of current parenting plan is forbidden. This includes any promises to the child(ren) about future living arrangements, time sharing or visitation modifications. It can cause undue stress, blocking enjoyment during the visit.

24- PERMISSION TO VIDEO TAPE IN THE HOME OR COMMUNITY SETTING MUST FIRST BE APPROVED OF BY PARENT SUPERVISOR.

25- The child/ren may not wear ELECTRONICS OF ANY KIND during the visit.

26-If there is concern about the well-being of the child, the supervisor may report transgressions to the Court and Department of Human Services.

I have read the contractual agreement listed above, agreement for services has been explained to me and understand the terms/conditions listed.
I also understand that if I do not follow these ground rules, the supervisor may terminate services at any time at his/her discretion.

_____

Parent's signature Date

_____

Supervisor's signature Date