Filing Code: _____
Your Name: _____
Address: _____
City, State, Zip _____
Telephone: _____
Email Address: _____
Self-Represented

DISTRICT COURT
_____ COUNTY, NEVADA

_____ Plaintiff, vs. _____ Defendant.	CASE NO.: _____ DEPT: _____

OPPOSITION TO MOTION FOR ORDERS TO MODIFY CHILD CUSTODY, VISITATION, AND/OR CHILD SUPPORT AND COUNTERMOTION

(*Your name*) _____, files this Opposition and Countermotion to the motion for an order modifying child custody, visitation, and/or child support.

POINTS AND AUTHORITIES
LEGAL ARGUMENT
(☒ *you must check and comply with the box below*)

☐ I understand that I must file my Financial Disclosure Form to oppose / support any request to modify child support, and that failure to file my Financial Disclosure Form may result in my request being denied.

© 2023 Nevada Supreme Court

The court may modify or vacate its child custody order at any time. NRS 125C.0045.

Child custody may be modified only when "(1) there has been a substantial change in circumstances affecting the welfare of the child, and (2) the modification would serve the child's best interest." Romano v Romano, 138 Nev. Adv. Op. 1 (2022). Pursuant to NRS 125C.0035(4), in determining the best interest of the child, the court must consider and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody.

(b) Any nomination of a guardian for the child by a parent.

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(d) The level of conflict between the parents.

(e) The ability of the parents to cooperate to meet the needs of the child.

(f) The mental and physical health of the parents.

(g) The physical, developmental and emotional needs of the child.

(h) The nature of the relationship of the child with each parent.

(i) The ability of the child to maintain a relationship with any sibling.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

(k) Whether either parent or any other person seeking physical custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

(l) Whether either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child.

A child support order must be reviewed by the court every three years upon request of a parent or guardian. A child support order may be reviewed at any time on the basis of changed circumstances. A change in 20% or more in the gross monthly income of a person subject to a child support order shall be deemed changed circumstances. NRS 125B.145.

FACTS AND ARGUMENT

A. Opposition & Countermotion to Modify Child Custody and/or Visitation

1. **Current Custody Order.** The current custody order was filed on (*date*) _____.

2. **Legal Custody** (☒ *check one*)**.**

☐ The other parent did not ask to change legal custody. Legal custody should stay the same. (*STOP. Go to Section 3*).

☐ I agree to the other parent's request to change legal custody. (*STOP. Go to Section 3*).

☐ I do not agree with the other parent's request to change legal custody. I want legal custody to stay the same because (*explain*): _____

_____

_____

_____

☐ I would like legal custody changed. Listed below are the current legal custody order and the legal custody order I would like the Court to order:

Child's Name:	**Date of Birth**	**I Have Now:** ☒ *check one*	**I Would Like:** ☒ *check one*
		❑ No legal custody ❑ Joint legal custody ❑ Sole legal custody	❑ Joint legal custody ❑ Sole legal custody
		❑ No legal custody ❑ Joint legal custody ❑ Sole legal custody	❑ Joint legal custody ❑ Sole legal custody
		❑ No legal custody ❑ Joint legal custody ❑ Sole legal custody	❑ Joint legal custody ❑ Sole legal custody
		❑ No legal custody ❑ Joint legal custody ❑ Sole legal custody	❑ Joint legal custody ❑ Sole legal custody

It is in the best interest of the child(ren) to order the above legal custody because (*explain*): _____

_____

_____

_____

_____

3. **Physical Custody** (☒ *check one*)**.**

☐ The other parent did not ask to change physical custody. Physical custody should stay the same. (*STOP. Go to Section 4*).

☐ I agree to the other parent's request to change physical custody. (*STOP. Go to Section 4*).

☐ I do not agree with the other parent's request to change physical custody. I want physical custody to stay the same because (*explain*): _____

_____

_____

_____

☐ I would like physical custody changed. Listed below are the current physical custody order and the physical custody order I would like the Court to order:

Child's Name:	**Date of Birth**	**I Have Now:** ☒ *check one*	**I Would Like:** ☒ *check one*
		❑ No visitation ❑ Visitation only ❑ Joint physical custody ❑ Primary physical custody ❑ Sole physical custody	❑ Visitation only ❑ Joint physical custody ❑ Primary physical custody ❑ Sole physical custody
		❑ No visitation ❑ Visitation only ❑ Joint physical custody ❑ Primary physical custody ❑ Sole physical custody	❑ Visitation only ❑ Joint physical custody ❑ Primary physical custody ❑ Sole physical custody
		❑ No visitation ❑ Visitation only ❑ Joint physical custody ❑ Primary physical custody ❑ Sole physical custody	❑ Visitation only ❑ Joint physical custody ❑ Primary physical custody ❑ Sole physical custody
		❑ No visitation ❑ Visitation only ❑ Joint physical custody ❑ Primary physical custody ❑ Sole physical custody	❑ Visitation only ❑ Joint physical custody ❑ Primary physical custody ❑ Sole physical custody

a. **Substantial Change in Circumstances Affecting the Child(ren).** Since the last custody order, there has been a substantial change in circumstances affecting the welfare of the child(ren). (explain major changes since the last order and how they affect the kids):

b. **Best interest**. It is in the best interest of the child(ren) to change physical custody because: (*explain, referencing any applicable NRS 125C.0035(4) best interest factors listed in the Legal Argument section above*)

(Attach a supplement if more space is needed for either section above)

4. **Visitation** (☒ *check all that apply*)**.**

☐ The other parent did not ask to change visitation. Visitation should not be changed. (*STOP. Go to Section B*).

☐ I agree to the other parent's request to change visitation.

☐ I do not agree to the other parent's request to change visitation. I would like to:

☐ Keep visitation the same.

☐ Change the regular visitation/timeshare. My proposed new schedule is attached as Exhibit 1.

☐ Change the holiday schedule. My proposed new schedule is attached as Exhibit 1.

It is in the best interest of the children to change visitation because (*explain, referencing any applicable NRS 125C.0035(4) best interest factors listed in the Legal Argument section above*): _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

B. Opposition & Countermotion to Modify Child Support

❑ Not Applicable (☒ *check if not applicable, and go to Section C*)

5. **Current Child Support Order.**

(*Name of parent ordered to pay child support*) _____

is currently ordered to pay (*amount*) $_____ per month in child support for (*number*) ____ minor children.

6. **Modification** (☒ *check one*)**.**

☐ I agree to the other parent's request to change child support. (*STOP. Go to Section C*).

☐ I disagree with the other parent's requested changes. Child support should not be changed because (*explain*): _____

_____

_____

☐ I would like child support changed. My reasons are listed below.

7. **Public Assistance** (☒ *check one*)**.**

☐ I have never received Temporary Assistance for Needy Families (TANF).

☐ I am now or have received Temporary Assistance for Needy Families (TANF) in the past.

8. **Parties' Income.**

My gross monthly income is (*insert amount*): $_____ / OR ❑ unknown.

The other parent's gross monthly income is (*insert amount*): $_____ / OR ❑ unknown.

9. **Reason for Modification.** I want child support modified because (☒*check all that apply*):

☐ Not applicable.

☐ Child support should be reset based on the change in custody I am requesting.

☐ The gross monthly income of the person paying child support has changed by more than 20% since the last child support order was entered.

☐ It has been more than three years since child support was last reviewed.

☐ The following child(ren) has/have emancipated (*write name(s)*): _____

_____

☐ The parties are not following the custodial schedule on which child support was based: (*explain the custodial schedule you have been following*): _____

_____

_____

It is in the children's best interest to modify child support because (*tell the judge why it is in the children's best interest to change child support*): _____

_____

_____

_____

10. **Amount Requested.** Child support should be changed so that (*name of parent who should pay child support*) _____ pays (☒ *check one*):

☐ $_____ per month in child support.

☐ I'm not sure how much child support should be paid. The judge should set child support.

☐ Other (*explain how much child support should be ordered and how you came up with the amount of child support*): _____

_____

_____

C. Other Relief

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

_____

_____

_____

_____

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

DATED _____, 20____.

Submitted By: (*your signature*) /s/ _____

(*print your name*) _____

DECLARATION IN SUPPORT OF OPPOSITION TO MOTION TO MODIFY CHILD CUSTODY, VISITATION, AND/OR CHILD SUPPORT

I declare, under penalty of perjury:

1. That I have personal knowledge of the facts contained in this Opposition & Countermotion and in this Declaration and I am competent to testify to the same.
2. That the statements in this Opposition, Countermotion, and Declaration are true and correct to the best of my knowledge.
3. Additional facts to support my requests include: _____

_____

_____

_____

_____

_____

_____

4. I have attached the following Exhibit(s) to the Opposition & Countermotion to support my requests (*describe exhibit or write N/A on any blank lines*):
   a. _____
   b _____
   c. _____
   d. _____

Pursuant to NRS 239B.030, this document does not contain the personal information of any person as defined by NRS 603A.040.

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

DATED _____, 20____.

Submitted By: (*your signature*) /s/_____

(*print your name*) _____

EXHIBIT 1: Parenting Timeshare and Holiday Schedule

☐ No Visitation Requested Because: (*explain in detail on separate sheet*)

Regular Weekly Schedule During School Year: ***<u>Be very specific</u>. Include the times and days of the week for each parent's timeshare.*** *(ex.: <u>Mom</u>: Saturday 7pm – Wednesday 3pm, <u>Dad</u>: Wednesday 3pm – Saturday 7pm)*	
Summer Schedule:	☐ Same as the regular schedule. ☐ Other: _____
Mother's Day:	☐ Mother every year from 9am – 7pm. ☐ Other: _____
Father's Day:	☐ Father every year from 9am – 7pm. ☐ Other: _____
Children's Birthday:	☐ *<u>Even years</u>* with (*parent*) _____ *<u>Odd years</u>* with (*parent*) _____ *Time shall be from 9am – 7pm.* ☐ Other: _____
3 Day Weekends:	☐ Each December before December 31, the parties must confer regarding their respective schedules for the upcoming year and agree in writing on an allocation of the Martin Luther King Day; President's Day; Labor Day; Memorial Day; and Nevada Day three day weekends between themselves. If the parties do not agree, the parties' normal weekly schedule will control with the parent otherwise entitled to have the children over the weekend being entitled to have the children in his or her care for the holiday as well. ☐ Other: _____
Fourth of July:	☐ Even years with (*parent*) _____ Odd years with the other parent. *Time shall begin July 4, at 10 a.m. and end on July 5, at 10 a.m.* ☐ Other:_____

Easter / Spring Break:	☐ Even years with (*parent*) _____ Odd years with the other parent. *Time shall begin the day school lets out until noon the day before school resumes.* ☐ Other: _____
Thanksgiving:	☐ Odd years with (*parent*) _____. Even years with the other parent. *Time shall begin the day school lets out until noon the day before school resumes.* ☐ Other: _____
Winter Break / Christmas:	☐ Segment 1 consists of the first one-half of the Winter break and includes Christmas Eve and Christmas Day. Segment 1 begins the day the children are released from school for the break at the time the children are released from school. Segment 2 consists of the second one-half of the Winter break and includes New Year's Eve and New Year's Day. Segment 2 begins at noon on the first day of the second half of the Winter break and ends at noon the day before school resumes. In the event that the date marking the halfway point in the Winter break falls on December 25, Segment 2 will not begin until December 26. *Even years*: Segment 1 with (*parent*) _____, Segment 2 with the other parent. *Odd years*: segment 1 with (*parent*) _____, segment 2 with the other parent. ☐ Other: _____
Other Holidays:	
Vacation:	☐ The parents will not establish a formal vacation plan, and will instead mutually agree on vacation days and times with the children. ☐ Each parent may have up to (*number*) _____ vacation days per year with the children. The parent shall notify the other parent of the vacation and provide a general vacation itinerary at least (*number*) _____ days before the planned vacation. **Vacation time supersedes the normal weekly or summer schedule and is not allowed during a holiday or school break allotted to the other parent**.