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 TEMPORARY CUSTODY, VISITATION, CHILD SUPPORT, SPOUSAL SUPPORT, AND/OR EXCLUSIVE POSSESSION AND COUNTERMOTION

(*Your name*) _____, files this Opposition and Countermotion to the motion for temporary custody, visitation, child support, spousal support, and/or exclusive possession of the marital residence.

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 support my Opposition / Countermotion and that failure to file my Financial Disclosure Form may result in my request being denied.

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When determining physical custody of a child, the sole consideration of the court is the best interest of the minor child. In determining the best interest of the child, the court shall consider: 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 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 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; and l) Whether either parent or any other person seeking custody has committed any act of abduction against the child or any other child. NRS 125C.0035.

There is a preference that joint physical custody would be in the best interest of the child if: 1) the parents have so agreed; or 2) a parent has demonstrated, or attempted to demonstrate but had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the child. A court may award one parent primary physical custody if it determines that joint physical custody is not in the best interest of the child. NRS 125C.0025.

The court shall also determine child support under NRS 125B.080 and/or in accordance with the guidelines established by the Administrator of the Division of Welfare and Supportive Services pursuant to NRS 425.620.

In a pending divorce case, the court may order one spouse to pay temporary spousal support to the other spouse. NRS 125.040. The court may also make orders affecting the property of the parties, including awarding one spouse temporary exclusive possession of the community residence. NRS 125.040.

FACTS AND ARGUMENT

1. **Number of Minor Children.** The parties have (*number*) _____ minor children in common.

2. **Paternity** (☒ *check one*)**.**

   ❑ Paternity is not disputed.

   ❑ Paternity needs to be determined. ❑ A DNA test is requested.

3. **Children's Residency.** The minor children's names, dates of birth, states and lengths of residence are as follows:

Child's Name:	Date of Birth	State of Residence:	How long child has lived in the state:	Disability

4. **Jurisdiction.** (☒ *check one*)

   ❑ The children are residents of Nevada and have lived in Nevada for at least the past 6 months. This Court has the necessary UCCJEA jurisdiction to enter custody orders.

   ❑ The children have not lived in Nevada for the past 6 months, however, Nevada should take jurisdiction over custody because (*explain why Nevada is the proper state to issue custody orders*): _____

   _____

   _____

   _____

OPPOSITION & COUNTERMOTION

A. Opposition & Countermotion for Temporary Custody & Visitation

5. **Legal Custody.** *Legal custody refers to the ability to make major decisions about the child, such as medical care, education, and religious upbringing* (☒ *check one*):

❑ I agree to the other party's request for temporary legal custody.

❑ I do not agree with the other party's request for temporary legal custody. (☒ *check one*)

❑ The parties should have joint legal custody of the minor children.

❑ The court should grant (*name of parent*) _____ sole legal custody of the children because (*explain*): _____

_____

_____

_____

_____

6. **Physical Custody.** *Physical custody refers to the amount of time the child spends in the care of each parent* (☒ *check one*):

> Joint physical custody exists when each parent has physical custody of the children at least 40% (146 days) of the time calculated over a one year period.
>
> Primary physical custody exists when one parent has physical custody of the children more than 60% (219 days) of the time calculated over a one year period.

❑ I agree to the other party's request for temporary physical custody.

❑ I do not agree to the other party's request for temporary physical custody. (☒ *check one*)

❑ The parties should have joint physical custody with a timeshare as proposed in Exhibit 1.

❑ Primary physical custody of the minor children should be granted to (*name of parent*) _____ with the other parent having visitation as proposed in Exhibit 1.

❑ Sole physical custody of the minor children should be granted to (*name of parent*) _____.

7. **Holiday Visitation** (☒ *check one*)**.**

   ❑ I agree to the other party's request for holiday visitation.

   ❑ I do not agree to the other party's request for holiday visitation. My proposed holiday visitation schedule is attached as Exhibit 1. The holiday visitation schedule should control when in conflict with the regular visitation schedule.

8. **Best Interest of the Children** (☒ *check one*)**.**

   ❑ I agree that the other party's requests for temporary legal custody, physical custody, and visitation are in the best interests of the child(ren).

   ❑ I do not agree to the other party's requests for legal custody, physical custody, and/or visitation. My proposed custody and visitation arrangements are in the children's best interest because (*explain why your proposed custody and visitation order is in the children's best interest, 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)

B. Opposition & Countermotion for Temporary Child Support

9. **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.

10. **Child Support.** (☒ *check one*)

❑ I agree to the other party's request for child support. (*STOP. Go to Section C*).

❑ I do not agree to the other party's request for child support. (☒ *check one*)

❑ Child support is being handled through the District Attorney / Child Support Enforcement Office case (*insert case number*) _____ and should continue as ordered in that case.

❑ Based on my proposed physical custody arrangement, (*name of parent who should pay child support*) _____ should pay (*amount*) $_____ 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. Opposition & Countermotion for Temporary Spousal Support

❑ Neither party is requesting spousal support. (*STOP. Go to Section C*).

11. **The Other Party's Request for Spousal Support** (☒ *check one*)**.**

❑ I agree to the other party's request for temporary spousal support.

❑ I do not agree with the other party's request for temporary spousal support because: (*explain why you are opposed to paying the amount of spousal support requested*)

_____

_____

_____

_____

12. **My Request for Spousal Support** (☒ *check one*)**.**

- ❑ I am not requesting temporary spousal support. (*STOP. Go to Section D*).
- ❑ I am requesting temporary spousal support of (*amount*) $_____ per month.

(*Complete the box below and all remaining subsections*)

My gross monthly income	$
Spouse's gross monthly income	$
My age	
Spouse's age	
Years married	

a. Describe your work history, level of education, and any additional training/education you believe is necessary to obtain your employment goals (*explain*):_____

_____

_____

_____

_____

b. I should be granted temporary spousal support because (*explain why you need spousal support; be specific*): _____

_____

_____

_____

c. I believe my spouse is able to pay the requested support because (*explain*): _____

_____

_____

_____

d. (☒ *check all that apply*)

- ❑ I live with my spouse.
- ❑ My spouse and I are both paying the community debts (car payments, mortgage/rent, insurance, etc.).
- ❑ My spouse is paying the community debts.
- ❑ I am paying the community debts.

D. Opposition & Countermotion for Exclusive Possession of the Marital Residence

❑ Neither party is asking for exclusive possession of the marital residence.
(*STOP. Go to Section E*).

13. **The Other Party's Request for Exclusive Possession of the Marital Residence**
(☒ *check one*)**.**

❑ I agree to the other party's request for exclusive possession of the marital residence.

❑ I do not agree with the other party's request for exclusive possession of the marital residence because (*explain why you are opposed to the request for exclusive possession of the residence*): _____

_____

_____

14. **My Request for Exclusive Possession of the Marital Residence** (☒ *check one*)**.**

❑ I am not requesting exclusive possession of the marital residence. (*STOP. Go to Section E*).

❑ I am requesting exclusive possession of the marital residence located at (*property address*): _____

The residence is	❑owned / ❑rented / ❑leased / ❑in foreclosure.
My gross monthly income	$
My spouse's gross monthly income	$

a. Who lives in the residence? (☒ *check one*)

- ❑ We are both living in the residence.
- ❑ I am living in the residence.
- ❑ My spouse is living in the residence.

b. Are there domestic violence issues between the parties? (☒ *check one*)

- ❑ No, there are no domestic violence issues.
- ❑ Yes, there are domestic violence issues between the parties. (*explain any domestic violence issues, including any protection orders that have been issued*)

_____

_____

_____

c. I believe it is easier for my spouse to find alternative housing because (*explain*):

_____

_____

_____

d. Other issues that affect my request for exclusive possession (*list anything else the judge should consider in deciding who should stay in the residence*): _____

_____

_____

_____

E. Other Relief

15. 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*) _____

(*print your name*) _____

DECLARATION IN SUPPPORT OF OPPOSITION TO MOTION FOR TEMPORARY CUSTODY, VISITATION, CHILD SUPPORT, SPOUSAL SUPPORT, AND/OR EXCLUSIVE POSSESSION & COUNTERMOTION

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 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*) _____

(*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**.