**MOT**

**ATTORNEY INFORMATION**

Nevada Bar No.: #

**FIRM/LEGAL AID/OTHER**

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

EMAIL

Attorney(s) for Plaintiff/Defendant

*In Conjunction with Legal Aid Center of Southern Nevada Pro Bono Project*

**DISTRICT COURT**

**FAMILY DIVISON**

**CLARK COUNTY, NEVADA**

|  |  |  |
| --- | --- | --- |
| PLAINTIFF NAME,  Plaintiff,  vs.  DEFENDANT NAME,  Defendant. | )  )  )  )  )  )  )  )  ) | Case No.:  Dept. No.:  Date of Hearing:  Time of Hearing:  Oral Argument Request: Yes/No |

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN FOURTEEN (14) DAYS OF THE RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF COURT WITHIN FOURTEEN (14) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUEST FOR RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

**PLAINTIFF’S/DEFENDANT’S MOTION FOR TEMPORARY CHILD CUSTODY, VISITATION AND CHILD SUPPORT, TEMPORARY SPOUSAL SUPPORT, PERMISSION TO RELOCATE, AND/OR EXCLUSIVE POSSESSION**

[*Only include applicable motions*]

COMES NOW, Plaintiff/Defendant, (*name*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, by and through counsel, (*attorney name*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Esq., of (*law firm)* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and hereby files this Motion for Temporary Child Custody, Visitation and Child Support, Temporary Spousal Support, Permission to Relocate, and/or Exclusive Possession of the Marital Residence. This Motion is made in good faith, is supported by law and fact, and is brought before the Court based upon the pleadings on file herein, Points and Authorities in Support of the Motion, the Affidavit of (*plaintiff/defendant*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, attached hereto and any oral arguments allowed at the time of the hearing.

DATED this \_\_\_\_\_ day of (*month*) \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

Respectfully Submitted,

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTORNEY INFORMATION**

Nevada State Bar No.: #

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

Attorneys for Plaintiff/Defendant

**NOTICE OF MOTION**

TO: (*name*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Plaintiff/Defendant

**PLEASE TAKE NOTICE** that the undersigned will bring the foregoing PLAINTIFF’S/DEFENDANT’S MOTION FOR TEMPORARY CUSTODY, VISITATION AND CHILD SUPPORT, TEMPORARY SPOUSAL SUPPORT, PERMISSION TO RELOCATE, AND EXCLUSIVE POSSESSION for hearing before the above entitled court, on the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 202\_\_\_\_, at \_\_\_\_\_:\_\_\_\_\_ a.m./p.m. of said day.

DATED this \_\_\_\_\_ day of (*month*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

Respectfully Submitted:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTORNEY INFORMATION**

Nevada Bar No.: #

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

EMAIL

Attorneys for Plaintiff/Defendant

**MEMORANDUM OF POINTS AND AUTHORITIES**

**PROCEDURAL HISTORY**

*Here, please write a brief procedural history of the case. Include any motions, complaints, answers, counterclaims, amendments, injunctions, case management conferences, hearings, and any other pleadings. Include the date of each filing/hearing.* *Include a statement as to whether you tried to resolve the current issue with the other party before filing this motion, or a statement that you did not try to resolve it with the other party because it would have been useless or impractical and why (EDCR 5.501).* This motion follows.

**II.**

**STATEMENT OF FACTS**

*Here, please write a statement of all relevant facts of the case. Make sure to include the children’s names, birthdates, and any relevant facts pursuant to childcare and caretaking of the children. Include any relevant history between the parties including any issues regarding paternity, residency, and/or domestic violence.*

**III.**

**LEGAL ARGUMENT**

1. ***Temporary Custody and Visitation. \_\_\_\_\_\_\_\_\_\_\_\_\_ (plaintiff/defendant name) is a fit and proper person to be awarded \_\_\_\_\_\_\_\_ legal and \_\_\_\_\_\_\_\_ physical custody of the minor child(ren).***

*Here, write a brief explanation for awarding the desired legal and physical custody requested above.*

Pursuant to NRS 125C.0025, there is a presumption that joint physical custody is in the best interest of the child if: (1) the parents have so agreed; or (2) a parent has demonstrated, or has attempted to demonstrate but had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the child. Pursuant to NRS 125C.003, a court may award primary physical custody of the child if the court determines that joint physical custody is not in the best interest of the child. Pursuant to NRS 125C.0035, when determining physical custody of a child, the sole consideration of the court is the best interest of the minor child.

Pursuant to NRS 125C.0035(4), in determining the best interest of the child, the court shall consider and set forth is specific findings concerning, among other things, the following factors:

1. 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;
2. Any nomination of a guardian for the child by a parent;
3. Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent;
4. The level of conflict between the parents;
5. The ability of the parents to cooperate to meet the needs of the child;
6. The mental and physical health of the parents;
7. The physical, developmental and emotional needs of the child;
8. The nature of the relationship of the child with each parent;
9. The ability of the child to maintain a relationship with any sibling;
10. Any history of parental abuse or neglect of the child or a sibling of the child
11. 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
12. Whether either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child.

**[OR]**

[*If the client is a DV victim and is requesting primary or sole custody*]

Except as otherwise provided in subsection 6 of 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 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 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

1. Findings of fact that support the determination that one or more acts of domestic violence occurred; and
2. 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.

In addition, NRS 125.510 provides in pertinent part:

1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section and chapter 130 or NRS:
2. During the pendency of the action, at the final hearing or at any time thereafter during the minority or any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest; and
3. At any time modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.

(*Plaintiff/Defendant Name*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ should be awarded (*sole/primary/joint*) \_\_\_\_\_\_\_\_\_ physical custody of the minor child(ren) for several reasons. *For the next section, articulate the reasons why the desired custody provisions should be awarded. Reference the factors listed above and include relevant facts to support the assertions.*

First,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Second,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Third,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fourth,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Fifth,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Sixth,\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

[*Add more if necessary*]

For the above-mentioned reasons, it is not in the best interest of the child(ren) that (*plaintiff/defendant name*) \_\_\_\_\_\_\_\_\_\_ have primary or joint physical custody of the parties’ minor child(ren). (*Plaintiff/Defendant name*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ respectfully requests that he/she be awarded (*sole/primary*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ physical custody of their minor child(ren).

[*Here, include any proposed visitation schedule for the non-custodial parent*]

1. ***(Party who should pay child support) \_\_\_\_\_\_\_\_\_\_\_\_\_ should be ordered to pay temporary child support pursuant to NAC 425.140.***

Both parents have a responsibility to provide for the necessities of their children. (*Party requesting*) \_\_\_\_\_\_\_\_\_\_\_\_ has been the sole provider for the minor child.

(*Adverse Party*)\_\_\_\_\_\_\_\_\_\_\_ should have to contribute to the minor child’s necessities and care. (*Party Requesting*) \_\_\_\_\_\_\_\_\_\_\_\_ respectfully requests that he/she be awarded child support in the amount of (*percentage*) \_\_\_\_\_\_\_\_\_\_\_ of (*Adverse Party’s*) $\_\_\_\_\_\_\_\_\_\_\_\_\_ gross monthly income. A Financial Disclosure form will be filed with this motion **OR** has already been filed within the last 6 months and there are no material changes to report.

[*Child support can be calculated here*: <https://nvchildsupportguidelinescalculator.azurewebsites.net/getobligation.aspx>]

*Make sure to include the proposed custody arrangement and the amount your client thinks should be paid per month.. If your client is unsure about how must child support should be paid, request that the judge set the amount of child support based on your client’s income and the custody arrangement. Make sure to include any childcare costs incurred by your client or medical coverage provided by your client, if applicable*

1. ***(Requesting Party)\_\_\_\_\_\_\_\_\_\_\_\_ should be awarded temporary spousal support of $\_\_\_\_\_\_\_\_\_\_ per month.*** [*If applicable*].

Pursuant to NRS 125.040, the court may, in its discretion, order one spouse to pay temporary spousal support to the other spouse in any suit for divorce to assist the other party in accomplishing one of more of the following:

1. To provide temporary maintenance for the other party;
2. To provide temporary support for children of the parties; or
3. To enable the other party to carry on or defend such suit.

To make such a determination, the court considers the following factors: the gross monthly income of both parties, the age of both parties, the amount of years the parties were married, and the history, education, and employment goals of the requesting party. 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.

[*Describe the above-mentioned information here and explain why the requesting party should be granted the spousal support requested.*] A Financial Disclosure form will be filed with this motion OR has already been filed within the last 6 months and there are no material changes to report.

1. ***(Requesting Party) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ should be awarded exclusive possession of the marital residence located at (address) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.*** [*If applicable*]

[*Here, describe the current living situation of the parties. Include the gross monthly incomes of both parties and describe any domestic violence issues. Include an explanation of why the requesting party feels it is easier for the spouse to find alternative housing and describe any other issues that might affect the requesting parties’ exclusive possession of the marital residence*.] A Financial Disclosure form will be filed with this motion OR has already been filed within the last 6 months and there are no material changes to report.

1. ***(Requesting Party) \_\_\_\_\_\_\_\_\_\_\_\_ should be permitted to relocate with their child to \_\_\_\_\_\_\_\_\_\_\_\_\_\_.*** [*If applicable*]

Pursuant to NRS 125C.006, a parent must obtain court permission or the other parent’s written consent before relocating with a child outside of Nevada or to a place within Nevada that would substantially impair the other parent’s ability to maintain a meaningful relationship with the child.

[*Here, briefly describe the current situation about why the party is requesting to relocate and whether or not the non-custodial parent will/will not consent to the move; and why. Include a request for permission from the court to relocate, if applicable*]

Pursuant to NRS 125C.001(1), the relocating parent must prove to the court that the parent has a sensible, good-faith reason for the move that is not intended to deprive the other parent of his or her parenting time. The relocating parent must also prove that the move would be in the best interest of the child and that the child and that the child and parent would both benefit from an actual advantage if allowed to move.

[*Here, describe the current situation and explain why exactly the party is requesting to relocate*. *Include specifics about what the requesting party is hoping to achieve by moving (i.e. opportunities, career paths, and other financial incentives. Include how the child would benefit from the move and whether the requesting party has family in the city/state.*]

Pursuant to NRS 125C.007(2), in considering the parent’s request to relocate, the Court must weigh various factors, including: (1) the motives of the relocating parent; (2) the motives of the non-requesting parent; (3) the extent to which the relocation would improve the quality of life for the child and parent; (4) whether the relocating parent will comply with the substitute visitation order; (5) whether there is a realistic alternative visitation schedule that will adequately foster and preserve the relationship between the child and the non-relocating parent; and (6) any other factor.

[*Here, go through the above-mentioned factors using relevant facts*]

(*Requesting Party*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ believes that in light of the law and facts of this case, he/she should be granted leave to relocate.

**IV.**

**CONCLUSION**

WHEREFORE, based on the foregoing, Plaintiff/Defendant, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, respectfully requests that this Court issue an Order as follows:

1. That \_\_\_\_\_\_\_\_\_ be awarded sole legal and sole physical custody of the minor child;
2. That \_\_\_\_\_\_\_\_\_\_ pay child support in the amount of \_\_\_\_\_\_ of his gross monthly income;
3. That \_\_\_\_\_\_\_\_\_\_\_be awarded spousal support; and
4. That (requesting party’s) \_\_\_\_\_\_\_\_\_\_\_\_ request to relocate to \_\_\_\_\_\_\_\_\_\_ be granted;
5. For such other relief as the Court deems just and equitable.

Dated this \_\_\_\_\_ day of (*month*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

Respectfully Submitted,

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTORNEY INFORMATION**

Nevada Bar No.: #

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

Attorney for Plaintiff/Defendant

**CERTIFICATE OF MAILING**

**I DO HEREBY CERTIFY** that I am an Employee of (*law firm, legal aid, other*) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and that on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_, I placed a true and correct copy of the foregoing MOTION FOR TEMPORARY CUSTODY, VISITATION, CHILD SUPPORT, SPOUSAL SUPPORT, AND RELOCATION, in the United States Mail, in Las Vegas, Nevada, with first class postage pre-paid thereon, and addressed to the following:

ADVERSE PARTY NAME

ADDRESS

CITY, STATE, ZIP CODE

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

An Employee of (*law firm, legal aid, other*)