OPPS

(Your Name) _____

(Address)_____

_____

(Telephone) _____

(Email Address)_____

In Proper Person

DISTRICT COURT

CLARK COUNTY, NEVADA

_____ Plaintiff, vs. _____ Defendant.	CASE NO.: _____ DEPT NO.: _____ DATE OF HEARING: _____ TIME OF HEARING: _____ Oral Argument Requested: ☐ Yes/ ☐No

OPPOSITION TO MOTION FOR TEMPORARY CUSTODY, VISITATION, CHILD SUPPORT, SPOUSAL SUPPORT, AND/OR EXCLUSIVE POSSESSION

COMES NOW *(☑ check one)* ☐Plaintiff/☐Defendant *(your name)* _____ _____, in Proper Person, and files this Opposition to Motion for Temporary Custody, Visitation, Child Support, Spousal Support, and/or Exclusive Possession. This pleading is based upon the papers and pleadings on file and any evidence or argument heard at the time of hearing on this matter.

POINTS AND AUTHORITIES

I. LEGAL ARGUMENT

Regarding the temporary custody of the parties' minor child(ren), NRS 125.480 states in pertinent part:

> 1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is in the best interest

of the child. If it appears to the court that joint custody would be in the best interest of the child, the court may grant custody to the parties jointly.

2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly pursuant to NRS 125.490 or to either parent...When awarding custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.

. . .

4. In determining the best interest of the child, the court shall consider, 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 custody;

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

(c) 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.

. . .

Additionally, NRS 125.510 states 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 of NRS:

(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of 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

. . .

4. A party may proceed pursuant to this section without counsel.

Regarding child support for the parties' minor child(ren), NRS 125.040 states, in pertinent part:

1. In any suit for divorce the court may, in its discretion, upon application by either party and notice to the other party, require either party to pay moneys necessary to assist the other party in accomplishing one or more of the following:

. . .

(b) To provide temporary support for children of the parties;

. . .

2. The court may make any order affecting property of the parties, or either of them, which it may deem necessary or desirable to accomplish the purposes of this section. Such orders shall be made by the court only after taking into consideration the financial situation of each of the parties.

. . .

NRS 125C.010 states, in pertinent part:

1. Any order awarding a party a right of visitation of a minor child must:

(a) Define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved; and

(b) Specify that the State of Nevada or the state where the child resides within the United States of America is the habitual residence of the child.

The order must include all specific times and other terms of the right of visitation.

2. As used in this section, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.

The statutory guidelines for child support are set forth in NRS 125B.070 and NRS 125B.080. Child support should by set at the following levels of the non-custodial parent's gross monthly income: 1) For one minor child – 18%; 2) For two minor children – 25%; 3) For three minor children – 29%; 4) For four minor children – 31%; and 5) For each additional minor child – an additional 2%. The non-custodial parent is obligated to pay a minimum of $100.00 per month per child. The maximum amount per month per child varies according to that parent's gross monthly income. However, the court can deviate from these sums based upon the factors listed in NRS 125B.080.

Regarding temporary spousal support, NRS 125.040 states, in pertinent part:

1. In any suit for divorce the court may, in its discretion, upon application by either party and notice to the other party, require either party to pay moneys necessary to assist the other party in accomplishing one or more of the following:

(a) To provide temporary maintenance for the other party.

…

Additionally, regarding temporary exclusive possession of the marital residence, NRS 125.040 states, in pertinent part:

2. The court may make any order affecting property of the parties, or either of them, which it may deem necessary or desirable to accomplish the purposes of this section. Such orders shall be made by the court only after taking into consideration the financial situation of each of the parties.

…

Lastly, Eighth Judicial District Court Rule 5.21 states as follows:

(a) Except as provided in paragraph (c), if both parties to a domestic relations matter are living in the community residence at the time the order is requested, or if the other party is in sole possession of the community residence at such time, a motion by a party for immediate temporary exclusive possession of the community residence or for a preliminary injunction requesting the same relief will only be considered after notice to

the other party. The motion must be supported by an affidavit upon personal knowledge setting forth in detail the facts in justification of such motion.

(b) If the other party is not living in the community residence at the time a party makes a request for exclusive possession of that residence, an appropriate ex parte restraining order will be considered by the court, subject to modification upon motion noticed as required in paragraph (a) of this rule. Such application must be supported by an affidavit upon personal knowledge setting forth in detail the facts in justification of such motion.

(c) Ex parte motions for restraining orders granting temporary exclusive possession of the community residence where both parties are residing therein will be considered only in cases of extreme emergency, supported by an affidavit setting forth in detail facts establishing the existence of an emergency to the satisfaction of the judge or referee. In applying for an ex parte restraining order, no party or attorney shall request another party to be removed from his or her usual residence if the property or interest therein is the separate property of the other party, nor may any person be required to leave any premises where he or she is residing unless given sufficient time (at least 12 hours) from the service of said order to remove his or her wearing apparel and personal effects therefrom.

II. FACTS AND ARGUMENT

1. **Number of Minor Children.** That Plaintiff and Defendant have *(number)* _____ minor children in common who are either biological or adopted. *(If no children, write the number zero "0")*

2. **Child(ren)'s Residency.** The minor children's names, dates of birth, states and lengths of residence are as follows: *(If no children, write "N/A")*

Child's Name:	Child's Date of Birth:	State of Residence:	Length of Time Child has Lived in the State:

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3. **Jurisdiction.** ***(☑ check one)***

☐ That Plaintiff and Defendant do not have minor children in common.

☐ The children are residents of Nevada and have lived in this State for at least the past six (6) months and, as such, this Court has the necessary UCCJEA jurisdiction to enter orders regarding custody.

☐ The children are NOT residents of Nevada and have not lived in this State for at least the past six (6) months and, as such, this Court does NOT have the necessary UCCJEA jurisdiction to enter orders regarding custody.

4. **Legal Custody.** Legal Custody involves having basic legal responsibility for a child and making major decisions about the child like the child's health, education and religious upbringing. ***(☑ check one)***

☐ That Plaintiff and Defendant do not have minor children in common or the children are not residents of Nevada.

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

☐ The Plaintiff and Defendant should be granted joint legal custody of the minor children.

☐ The Plaintiff should be granted sole legal custody of the minor children.

☐ The Defendant should be granted sole legal custody of the minor children.

5. **Holiday Visitation.** ***(☑ check one)***

☐ That Plaintiff and Defendant do not have minor children in common or the children are not residents of Nevada.

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

☐ I do not agree to the other party's request for holiday visitation and instead, ask that the court adopt my proposed holiday visitation schedule which is attached as Exhibit 2. I also ask that the holiday visitation schedule *take precedence* when in conflict with the regular visitation schedule.

☐ I do not agree to the other party's request for holiday visitation and instead, ask that the court adopt my proposed holiday visitation schedule which is attached as Exhibit 2. I also ask that the holiday visitation schedule *NOT take precedence* when in conflict with the regular visitation schedule.

ALL RIGHTS RESERVED

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 child(ren) 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 child(ren) more than 60% (219 days) of the time calculated over a one year period.

☐ That Plaintiff and Defendant do not have minor children in common or the children are not residents of Nevada.

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

☐ The Plaintiff and Defendant should be granted joint physical custody of the minor children with a timeshare as proposed in Exhibit 1.

☐ The Plaintiff should be awarded primary physical custody of the minor children with Defendant having visitation as proposed in Exhibit 1.

☐ The Defendant should be awarded primary physical custody of the minor children with Plaintiff having visitation as proposed in Exhibit 1.

7. **Best Interest of the Child(ren).** ***(☑ check one)***

☐ The Plaintiff and Defendant do not have minor children in common or the children are not residents of Nevada.

☐ I agree to the other party's temporary requests for legal custody, physical custody, and visitation and agree that the requests are in the children's best interest.

☐ I do not agree to the other party's temporary requests for legal custody, physical custody, and visitation and instead, ask that the court adopt my requests which I believe are in the children's best interest because *(explain)* _____

_____

_____

_____

_____

_____

_____

_____

8. **Amount of Child Support.** *Fill out the Child Support Worksheet that applies to your custody arrangement (Worksheet A or Worksheet B) BEFORE you answer this question.* ***(☑ check one)***

☐ That Plaintiff and Defendant do not have minor children in common.

☐ I agree to the other party's request for child support.

☐ I do not agree to the other party's request for child support and instead ask that the court order the *(☑ check one)* ☐ Plaintiff/☐ Defendant to pay $_____ dollars per month for the support of the parties' minor child(ren).

9. **Calculation of Child Support.** The amount of child support requested is based upon the following: ***(☑ check one)***

☐ That Plaintiff and Defendant do not have minor children in common.

☐ I agree to the other party's request for child support.

☐ The statutory minimum of $100 per month, per child;

☐ The calculation for a primary physical custody arrangement as shown on the attached Worksheet A ;

☐ The calculation for a joint physical custody arrangement as shown on the attached Worksheet B; or

☐ Other: _____

10. **Spousal Support. *(☑ check one*)**

☐ The Plaintiff and Defendant were never married.

☐ The other party did not request temporary spousal support.

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

☐ I do not agree to the other party's request for spousal support because *(explain)* _____

_____

_____

_____

_____

_____

_____

ALL RIGHTS RESERVED

11. **Exclusive Possession of the Marital Residence *(☑check one)***

☐ The Plaintiff and Defendant were never married.

☐ The other party did not request temporary exclusive possession of the marital residence.

☐ I agree to the other party's request for temporary exclusive possession of the marital residence located at: _____

☐ I do not agree to the other party's request for exclusive possession of the marital residence because *(explain)* _____

_____

_____

_____

_____

_____

III. CONCLUSION

WHEREFORE, based upon the law set forth and the pleadings on file herein, Movant respectfully requests that the opposing party's motion be denied and that the Court grant the relief requested in this Opposition and for such other relief as the Court finds just and proper.

DATED this _____ day of *(month)* _____, *(year)* _____.

Submitted By: *(Print your name)* _____

(Your signature) ▸ _____

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

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

COMES NOW, *(your name)* _____, being first duly sworn under oath and deposes and says:

1. That Affiant has personal knowledge of the facts contained in the attached Opposition and in this Affidavit and is competent to testify to same.
2. That the statements in this Opposition and Affidavit are true and correct to the best of Affiant's knowledge.
3. Additional facts to support my requests include: _____
_____
_____
_____
_____
_____
4. That Affiant has attached the following exhibit to the Opposition which supports the requests made therein: *(Describe exhibit or write N/A on any blank lines.)*
   a. _____

FURTHER YOUR AFFIANT SAYETH NOT.

▸ _____

(Your Signature)

SUBSCRIBED AND SWORN

Before me this_____ Day of _____, 20____.

_____

NOTARY PUBLIC

Exhibit 1

Week	Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
Sample	Mom Pick up at 11 a.m.	Mom	Dad Pick up after school at 3 p.m.	Dad	Dad	Mom Pick up after school at 3 p.m.	Mom
Week #1							
Week #2							
Week #3							
Week #4							

ALL RIGHTS RESERVED

Exhibit 2

Check box if this holiday applies:	Holiday:	Time (Circle a.m. or p.m.):	Every Year	Even Years	Odd Years
☐	New Year's Eve	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	New Year's Day	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Martin Luther King, Jr. Day	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Presidents' Day	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Passover	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Easter	From: _____a.m./p.m. To: _____a.m./p.m	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Memorial Day	From: _____a.m./p.m. To: _____a.m./p.m	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Mother's Day	From: _____a.m./p.m. To: _____a.m./p.m	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Father's Day	From: _____a.m./p.m. To: _____a.m./p.m	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	4th of July	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Labor Day	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Rosh Hashanah	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Yom Kippur	From: _____a.m./p.m. To: _____a.m./p.m	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Nevada Day	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Halloween	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Veterans Day	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Thanksgiving Day	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad

ALL RIGHTS RESERVED

Exhibit 2 – Continued…

☐	Chanukkah (Days): _____	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Chanukkah (Days): _____	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Christmas Eve	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Christmas	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Father's Birthday	From: _____a.m./p.m. To: _____a.m./p.m	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Mother's Birthday	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐	Child's Birthday	From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐		From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad
☐		From: _____a.m./p.m. To: _____a.m./p.m.	☐ Mom ☐ Dad	☐ Mom ☐ Dad	☐ Mom ☐ Dad

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