

1 Case No.

2 Dept. No. I

3 The undersigned hereby affirms this document
4 Does not contain a social security number.

5
6 IN THE TENTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF CHURCHILL
8

9
10 _____
11 Plaintiff,

12 Vs.

13 _____
14 Defendant.
15

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

16 (*Your name*) _____, in Proper Person, files this
17 Opposition and Countermotion to the motion for an order granting temporary custody, visitation,
18 child support, spousal support, and/or exclusive possession of the marital residence.
19

20 **POINTS AND AUTHORITIES**
21 **LEGAL ARGUMENT**

22 (*you must check and comply with the box below*)

23 I understand that I must file my Financial Disclosure Form to support my
24 Opposition / Countermotion and that failure to file my Financial Disclosure Form
25 may result in my request being denied.

26 When determining physical custody of a child, the sole consideration of the Court is the
27 best interest of the child. NRS 125C.0035(1). In accordance with NRS 125C.0035(4), in
28 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.

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 determines child support under NRS 125B.070 and NRS 125B.080.

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.

1 **FACTS AND ARGUMENT**

2
3 1. **Number of Minor Children.** The parties have (*number*) _____ minor children in
4 common.

5
6 2. **Paternity.** (*check one*).

7 Paternity is not disputed.

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

9
10 3. **Children’s Residency.** The minor children’s names, dates of birth, states and lengths
of residence are as follows:

11

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

12
13
14
15
16
17

18 4. **Jurisdiction.** (*check one*)

19 The children are residents of Nevada and have lived in Nevada for at least the past
20 6 months. This Court has the necessary UCCJEA jurisdiction to enter custody orders.

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

24 _____
25 _____
26 _____

1 **OPPOSITION & COUNTERMOTION**

2 **A. Opposition & Countermotion for Temporary Custody & Visitation**

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

5 I agree to the other party’s request for temporary legal custody.

6 I do not agree with the other party’s request for temporary legal custody. (☒ check
7 one)

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

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

11 _____
12 _____
13 _____
14 _____

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

17 Joint physical custody exists when each parent has physical custody of the children at least 40%
18 (146 days) of the time calculated over a one year period.
19 Primary physical custody exists when one parent has physical custody of the children more than
20 60% (219 days) of the time calculated over a one-year period.

21 I agree to the other party’s request for temporary physical custody.

22 I do not agree with the other party’s request for temporary physical custody.

23 (☒ check one)

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

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

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

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

2 I agree to the other party’s request for holiday visitation.

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

6
7 **8. Best Interest of the Children.** (*check one*)

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

10 I do not agree to the other party’s requests for legal custody, physical custody,
11 and/or visitation. My proposed custody and visitation arrangements are in the
12 children’s best interest because (*explain why your proposed custody and visitation*
13 *order is in the children’s best interest, referencing any applicable NRS 125C.0035(4)*
14 *best interest factors listed in the Legal Argument section above*): _____

15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____
25 _____
26 _____
27 _____

28 (Attach a supplement if more space is needed).

1 **B. Opposition & Countermotion for Temporary Spousal Support**

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

3
4 **9. The Other Party’s Request for Spousal Support.** (*check one*)

5 I agree to the other party’s request for temporary spousal support.

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

8 _____
9 _____
10 _____
11 _____

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

13 I am not requesting temporary spousal support. (*STOP. Go to Section D.*)

14 I am requesting temporary spousal support of (*amount*) \$_____ per month.

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

16

My gross monthly income	\$
Spouse’s gross monthly income	\$
My age	
Spouse’s age	
Years married	

17
18
19
20

21
22 a. Describe your work history, level of education, and any additional
23 training/education you believe is necessary to obtain your employment goals
24 (*explain*): _____

25 _____
26 _____
27 _____

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

3 _____
4 _____
5 _____

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

7 _____
8 _____
9 _____

10 d. (*check all that apply*)

- 11 I live with my spouse.
12 My spouse and I are both paying the community debts (car payments,
13 mortgage/rent, insurance, etc.).
14 My spouse is paying the community debts.
15 I am paying the community debts.
16

17 **C. Opposition & Countermotion for Exclusive Possession of the Marital Residence**

18 Neither party is asking for exclusive possession of the marital residence.
19 (***STOP. Go to Section D.***)

20 **11. The Other Party's Request for Exclusive Possession of the Marital Residence.**

21 (*check one*)

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

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

27 _____
28 _____

12. 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 D.)

I am requesting exclusive possession of the marital residence located at (address):

The residence is	<input type="checkbox"/> owned / <input type="checkbox"/> rented / <input type="checkbox"/> leased / <input type="checkbox"/> in foreclosure
My gross monthly income	\$
My spouse's gross monthly income	\$

a. (check one)

We are both living in the residence.

I am living in the residence.

My spouse is living in the residence.

b. (check one)

There are no domestic violence issues.

There are domestic violence issues between the parties. A TPO was issued on (date) _____ in case (TPO case number) _____

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):

D. Other Relief

13. 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*) _____

Mailing Address: _____

City State Zip Code: _____

1 **DECLARATION IN SUPPORT OF OPPOSITION TO MOTION FOR TEMPORARY**
2 **CUSTODY, VISITATION, CHILD SUPPORT, SPOUSAL SUPPORT, AND/OR**
3 **EXCLUSIVE POSSESSION & COUNTERMOTION**
4

5 I declare, under penalty of perjury:

- 6 1. That I have personal knowledge of the facts contained in this Opposition & Countermotion
7 and in this Declaration and I am competent to testify to the same.
8 2. That the statements in this Opposition, Countermotion, and Declaration are true and correct
9 to the best of my knowledge.
10 3. Additional facts to support my requests include: _____
11 _____
12 _____
13 _____
14 _____
15 _____

- 16 4. I have attached the following Exhibit(s) to the Opposition to support my requests.
17 *(Describe exhibit or write N/A on any blank lines.)*
18 a. _____
19 b. _____
20 c. _____
21 d. _____

22 **I declare under penalty of perjury under the law of the State of Nevada that the foregoing is**
23 **true and correct.**
24

25 DATED _____, 20____.

26 Submitted By: *(your signature)* _____
27 *(print your name)* _____
28