

FILING CODE: MOT

Your Name: _____

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Self-Represented

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Plaintiff,
vs.

CASE NO.: _____

DEPT: _____

Defendant.

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

NOTICE OF MOTION

The judge can make a decision based only on the written filings, or the judge can talk to both parties and ask questions at a court hearing first. You can choose which you prefer below.

Would you like to have a hearing with the judge? (check one)

Yes. Hearing Date: _____ Hearing Time: _____

The hearing may be available online; if it is the court will send login information separately.

No. The judge will write a decision after reviewing the request in chambers on: _____

TO: (write opposing party's name): _____

NOTICE: You may file a written response to this motion with the Clerk of the Court and provide the undersigned with a copy of your response within 14 days of receiving this motion. Failure to file a written response with the Clerk of Court within 14 days of your receipt may result in the requested relief being granted by the Court without a hearing prior to the scheduled hearing date.

Submitted By: _____

Plaintiff / Defendant

MOTION

(Your name) _____ moves this Court for an Order granting temporary custody, visitation, child support, spousal support, and/or exclusive possession of the marital residence. (*check one*)

- I tried to resolve this issue with the other party before filing this motion.
 - I did not try to resolve this issue with the other party before filing this motion. Any attempt to resolve the issue would have been useless or impractical because (*explain why you did not try to resolve this issue directly with the other party before filing this motion*)
-
-

Financial Disclosure Form (“FDF”) Certification

(*check one*)

- I filed a FDF in the last 6 months and have no material changes to report.
- I understand that I must file my FDF within 3 days of filing this motion to support my request for temporary child support and any other financial requests. Failure to file a timely, complete, and accurate FDF may result in the court ruling against me and/or imposing sanctions.

POINTS AND AUTHORITIES LEGAL ARGUMENT

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 presumption that joint physical custody and joint legal 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. NRS 125C.0025. 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.003.

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)*: _____

A. Request for Temporary Custody and 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)

Joint legal custody of the minor children should be awarded to both parties.

Sole legal custody of the children should be granted to *(name of parent)*

_____ 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 generally exists when each parent has physical custody of the children roughly 40% (146 days) of the time calculated over a one year period.

Primary physical custody generally exists when one parent has physical custody of the children more than 60% (219 days) of the time calculated over a one year period.

- The parties should have joint physical custody of the minor children 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.**

- The 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.** The proposed temporary physical custody and visitation arrangements are in the children's best interest because *(explain why your proposed custody and visitation order is in the child(ren)'s best interest)*: _____

12. **Child Care.** Are there child care expenses? (*check one*)

No, there are no child care costs for either parent.

Yes, the monthly child care costs for the child(ren) are: \$_____. This amount should be paid by me only the other parent only both parents equally.

13. **Medical Coverage.** Medical support (medical, vision, and/or dental) must be provided for the child(ren). How should the children get medical support/insurance? (*check one*)

Medicaid.

Private / Employer Insurance. The monthly premium should be paid by me only the other parent only both parents equally.

Other: _____

C. Request for Temporary Spousal Support

Not Applicable (*check if not applicable and go to Section D*)

14. **Spousal Support.**

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. Request for Exclusive Possession of the Marital Residence

Not Applicable (*check if not applicable and sign and go to Section E*)

15. **Exclusive Possession.** (*check one*)

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

(*address of the property*)_____

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) T_____.

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

16. 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 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 SUPPORT OF MOTION FOR TEMPORARY CUSTODY,
VISITATION, CHILD SUPPORT, SPOUSAL SUPPORT,
AND/OR EXCLUSIVE POSSESSION**

I declare, under penalty of perjury:

- a. I have read the foregoing motion, and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the referenced filing are incorporated here as if set forth in full.
- b. Any Exhibit(s) in support of this Motion will be filed separately in an Exhibit Appendix.

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*) _____

<p>Regular Schedule: <i>Be very specific. Include the times and days of the week for each parent's timeshare.</i> <i>(ex.: Mom: Saturday 7pm – Wednesday 3pm, Dad: Wednesday 3pm – Saturday 7pm)</i></p>	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
<p>Summer Schedule:</p>	<p><input type="checkbox"/> Same as the regular schedule. <input type="checkbox"/> Other: _____</p>
<p>Mother's Day and Mother's Birthday:</p>	<p><input type="checkbox"/> Mother every year from 9am – 7pm. <input type="checkbox"/> Other: _____</p>
<p>Father's Day and Father's Birthday:</p>	<p><input type="checkbox"/> Father every year from 9am – 7pm. <input type="checkbox"/> Other: _____</p>
<p>Child's Birthday:</p>	<p><input type="checkbox"/> <i>Even years</i> with (<i>parent</i>) _____. <i>Odd years</i> with (<i>parent</i>) _____. *Time shall be from 9am – 7pm.* <input type="checkbox"/> Other: _____</p>
<p>3 Day Weekends:</p>	<p><input type="checkbox"/> <i>Even Years</i>: MLK Jr. Day, Memorial Day, Labor Day with (<i>parent</i>) _____, President's Day, Independence Day, Nevada Admissions Day with the other parent. <i>Odd Years</i>: MLK Jr. Day, Memorial Day, Labor Day with (<i>parent</i>) _____, President's Day, Independence Day, Nevada Admissions Day with the other parent. *Time begins when school lets out the day before the holiday weekend (or 3pm if no school), and ends the day following the holiday weekend when school resumes (or 9am).* **If Independence Day falls on a Tuesday, Wednesday, or Thursday, the time shall be from July 3 at 9am until July 5 at 9am.** <input type="checkbox"/> Other: _____</p>

Easter / Spring Break:	<input type="checkbox"/> Even years with <i>(parent)</i> _____. Odd years with the other parent. *Time shall begin the day school lets out until noon the day before school resumes.* <input type="checkbox"/> Other: _____
Thanksgiving:	<input type="checkbox"/> Odd years with <i>(parent)</i> _____. Even years with the other parent. *Time shall begin the day school lets out until noon the day before school resumes.* <input type="checkbox"/> Other: _____
Winter Break / Christmas:	<input type="checkbox"/> Segment 1 (Christmas) consists of the day school lets out until December 26 at noon. Segment 2 (New Year's) consists of December 26 at noon until noon the day before school resumes. <u>Even years:</u> segment 1 with <i>(parent)</i> _____, segment 2 with the other parent. <u>Odd years:</u> segment 1 with <i>(parent)</i> _____, segment 2 with the other parent. <input type="checkbox"/> Other: _____ _____
Other Holidays:	_____ _____ _____ _____
Vacation:	<input type="checkbox"/> The parents will not establish a formal vacation plan, and will instead mutually agree on vacation days and times with the child(ren). <input type="checkbox"/> Each parent may have up to <i>(number)</i> _____ vacation days per year with the child(ren). The parent shall notify the other parent of the vacation and provide a general vacation itinerary at least <i>(number)</i> _____ days before the planned vacation. Vacation time is not allowed during a holiday allotted to the other parent.