appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.
(b)Grounds for Relief From a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:
(1) mistake, inadvertence, surprise, or excusable neglect;

Rule 7.22. Nunc pro tunc orders.

(a) If, through any inadvertence, an order or decree fails to state the order actually made by the court, and such inadvertence is brought to the attention of the court by petition, or on its own motion, the court may make a nunc pro tunc order correcting the mistake.
(b) The nunc pro tunc order must be in the form of an amended order, and must bear the caption "Amended Order of . . . ." The body of the amended order must be identical to the order being changed, except for the change itself, and conclude with the language substantially as follows: "This is a nunc pro tunc order correcting the prior order of . . . dated . . . ."
The form of the amended order must be accompanied by a verified petition, or affidavit of counsel, specifying the change and the reasons therefor. If the order sought to be amended is of many pages in length, the court may consider a document captioned "Amendment to Order of . . . ." which addresses the change alone, together with a sufficient recitation to identify that change, and conclude with language substantially as follows: "This is a nunc pro tunc order correcting the prior order of . . . dated . . . ." The form of amendment to the order must be accompanied by a verified petition, or an affidavit of counsel, specifying the reasons therefor.
(c) The original order is not to be physically changed, but is to be used in connection with the nunc pro tunc order correcting it. To prevent further errors, a complete clause or sentence should be stricken, even if the amendment is intended to correct only one word or a single figure.

DISCUSSION

Clearly there was a mistake in the Order. On Page 7, Line 25 the Order incorrectly states "if the parties stipulate". The parties did stipulate and it was acknowledged by the Court on the record. In compliance with the court's ruling on December 7, 2021, Luba proposed and eventually selected a therapist, and

has been doing the therapy with [redacted] Enrique refused to participate in the selection of the therapist, or to participate in the therapy. Luba was literally begging him to participate, but Enrique says on January 19, 2022 at the end of the exchange on Talking Parents "no thank you". [Exhibit 2]

CONCLUSION

Luba seeks to alter or amend the Order as set forth above. Enrique should be admonished to participate in the family therapy for the benefit of [redacted]

To conform with EDCR 7.22, a Nunc Pro Tunc Order should issue with the caption Amended Order After Hearing and begin with the sentence "This is a nunc pro tunc order correcting the prior ORDER AFTER HEARING filed February 8, 2022." A proposed Nunc Pro Tunc Order is attached as Exhibit 3.

/s/ Benjamin B. Childs, Sr.
BENJAMIN B. CHILDS, Sr. ESQ.
NEVADA BAR # 3946
Attorney for LUBA SNOW

Exhibits

1 ORDER AFTER HEARING filed February 8, 2022
2 Talking Parents exchange January 6 through January 19, 2022
3 Proposed Nunc Pro Tunc ORDER AFTER HEARING

DECLARATION OF LUBA SNOW

I, LUBA SNOW , being first duly sworn, deposes and states the following:

1. I am the Plaintiff in the aforementioned matter.

2. I have read the foregoing MOTION TO AMEND OR MAKE ADDITIONAL FINDINGS OF FACTS [NRCP 52(b) ] AND/OR TO ALTER OR AMEND JUDGMENT [NRCP 59(e)] AND/OR CORRECT CLERICAL ERROR [NRCP 60(a) AND (b)] 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.

3. Pursuant to NRS 53.045, I declare under penalties of perjury that the foregoing is true and correct.

Executed on February 9, 2022 /s/ LUBA SNOW

(date) (signature)

DECLARATION OF COUNSEL

I am the attorney for Plaintiff LUBA SNOW in Clark County case # D-18-575860-D, LUBA SNOW v. ENRIQUE IVAN VELAZQUEZ-GONZALEZ.

The Order I uploaded on February 8, 2022 for the December 7, 2021 hearing was not signed despite communications with Mr. Grimes directly quoting the video transcript as set forth in the body of the motion above.

Before filing this motion I emailed Mr. Grimes to seek to resolve the issue without having to involve the court. That communication received no response, so I filed the instant motion.

Pursuant to NRS 53.045, I declare under penalties of perjury that the foregoing is true and correct.

Executed on February 9, 2022 /s/ Benjamin B. Childs

(date) (signature)

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that on February 9, 2022 I electronically filed this MOTION TO AMEND OR MAKE ADDITIONAL FINDINGS OF FACTS [NRCP 52(b) ] AND/OR TO ALTER OR AMEND JUDGMENT [NRCP 59(e)] AND/OR CORRECT CLERICAL ERROR [NRCP 60(a) AND (b)] ,

with Exhibits, and it was eserved through the 8th Judicial District Court electronic filing system to opposing counsel. Electronic service is in lieu of mailing.

/s/ Benjamin B. Childs, Sr.

BENJAMIN B. CHILDS, SR, ESQ.
Nevada Bar No.: 3946
Attorney for Plaintiff

Electronically Filed
2/9/2022 10:20 AM
Steven D. Grierson
CLERK OF THE COURT

BENJAMIN B. CHILDS, ESQ.
State Bar # 3946
[redacted]
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

LUBA GONZALEZ kna LUBA SNOW

Plaintiff

vs.

ENRIQUE IVAN VELAZQUEZ-GONZALEZ

Defendant

Case # D-18-575860-D
Dept # P

==========

EXHIBITS TO
MOTION TO AMEND OR MAKE ADDITIONAL FINDINGS OF FACTS [NRCP 52(b) ] AND/OR TO ALTER OR AMEND JUDGMENT [NRCP 59(e)] AND/OR CORRECT CLERICAL ERROR [NRCP 60(a) AND (b)]

Attached are the Exhibits, which were inadvertently omitted from the motion.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that on February 9, 2022 I electronically filed this EXHIBITS TO MOTION TO AMEND OR MAKE ADDITIONAL FINDINGS OF FACTS [NRCP 52(b) ] AND/OR TO ALTER OR AMEND JUDGMENT [NRCP 59(e)] AND/OR CORRECT CLERICAL ERROR [NRCP 60(a) AND (b)] with Exhibits attached, and it was eserved through the 8th Judicial District Court electronic filing system to opposing counsel. Electronic service is in lieu of mailing.

/s/ Benjamin B. Childs, Sr.
BENJAMIN B. CHILDS, SR, ESQ.
Nevada Bar No.: 3946
Attorney for Plaintiff

ELECTRONICALLY SERVED
2/8/2022 5:17 PM

Electronically Filed
02/08/2022 5:16 PM
CLERK OF THE COURT

**ORDR**

Melvin R. Grimes, Esq.
State Bar of Nevada No. 12972
**ROBERTS STOFFEL FAMILY LAW GROUP**
[redacted]
*Attorney for Defendant*

**DISTRICT COURT**
**FAMILY DIVISION**
**CLARK COUNTY, NEVADA**

| | |
|---|---|
| LUBA GOZALEZ nka Luba Snow,<br><br>Plaintiff,<br>v.<br><br>ENRIQUE IVAN VELAZQUEZ-GONZALEZ<br><br>Defendant. | Case No: D-18-575860-D<br><br>Dept No: P<br><br><br><br>Date of Hearing: December 7, 2021<br>Time of Hearing: 9:00 a.m. |

**ORDER AFTER HEARING**

This matter having come before this Court on the 7th day of December, 2021, for an *Arcella* Hearing. The Defendant, Enrique Ivan Velazquez-Gonzalez, being represented by and through his attorney, Melvin R. Grimes, Esq., of Roberts Stoffel Family Law Group; the Plaintiff, Luba Gonzalez nka Luba Snow, being present by and through her attorney of record, Nathan R. Gibbs, Esq. of Kelleher and Kelleher.



Case Number: D-18-575860-D

The Parties and Counsel appearances in person, in accordance with Administrative Order. The Court having heard arguments of Counsel and reviewed the pleadings on file herein hereby Orders as follows:

1. **The wishes of the child, to the extent that the child is of sufficient age and capacity to form an intelligent preference**

The minor child has stated that she wants to be around other students. The Court finds that the minor child was not getting interaction with other students in Bloom. The schools presented by the Parties represent the minor child's preferences, [redacted] and [redacted] The child will be around other students and meets the child's preferences. (*See Video at 11:14:15)*

2. **The child's educational needs and each school's ability to meet them;**

The minor child does not have any special education needs. The Court notes that both of the minor child's parents are smart, and intelligence is hereditary. Both schools will be able to meet child's needs. (*See Video at 11:14:34)*

3. **The curriculum, method of teaching, and quality of instruction at each school;**

The Court notes that neither party delved into the method of teaching, thus the Court searched into the matter. (*See Video at 11:15:06)*

At [redacted] there is no guarantee that the teachers are certified. With a public school or a magnet school, there are more controlling factors, and the teachers are likely to be certified. *(See Video at 11:15:11)*

At [redacted] the teacher to student ratio is set at 19:1, while Doral is 28:1. *(See Video at 11:15:24)*

The money spent per student spent on educational level, at [redacted] 10,033 while Doral spends $5,066. *(See Video at 11:15:30)*

The subject where the most children are lacking is math. The Court recognizes that there are more subjects than math, but when students fall behind, teaches tend to spend more time with the student to give more education. When there is a smaller class size, it is easier for teachers to give a little extra time without cutting too much time from the other students. *(See Video at 11: 15:54)*

4. **The child's past scholastic achievement and predicted performance at each school;**

Not applicable as the child is only in kindergarten, and this is her first opportunity. *(See Video at 11:16:21)*

5. **The child's medical needs and each school's ability to meet them;**

Not applicable as the child does not have any known special medical needs *(See Video at 11:16:35)*

6. **The child's extracurricular interests and each school's ability to satisfy them;**

The Court did not hear any testimony from either Party that the minor child has been forming friendships.

7. **Whether leaving the child's current school would disrupt the child's academic progress;**

Both parents agreed that going to a different school is best for the minor child. Not applicable (See Video at 11:16:55)

8. **The child's ability to adapt to an unfamiliar environment;**

Right now, even without considering that the child had been recently in enrolled in [redacted] the Court did not consider this factor. (See Video at 11:18:26)

[redacted]

her current school to another school. The Court finds that this disrupts and creates insecurity in a child. (*See Video at 11:18:50)*

The Court finds that the child is at the top of the waiting list, which would mean that the Plaintiff added the minor child to the wait list long before she was permitted. (*See Video at 11:19:16)*

The Child is currently forming friendships in [redacted] yet no one has testified whether she has made friends in her school. (*See Video at 11:19:54)*

Previously, Plaintiff argued that class size is important, and the amount the school spends on each child is important. The Court agrees that class size and the budget of each child is important, as such the Court Orders that the minor child shall remain at [redacted] *(See Video at 11:20:10)*

9. **The length of commute to each school and other logistical concerns;**

[redacted] is 35 minutes from Plaintiff's house under normal driving conditions, and 23 minutes from Defendants. [redacted] is 25 minutes from Plaintiff's house, and 24 minutes from Dad's (*See Video at 111:17:26)*

The distances are so close to equal, that this factor is not applicable. (*See Video at 11:17:38)*

10. **Whether enrolling the child at a school will be alienating the child from a parent;**

If the child was not put in a school that is equidistant from both parties, may grow to alienate the child. She would start getting bitter about having to wake up earlier with one parent. This factor is not applicable *(See Video at 11:17: 53)*

///

///

///

**11. Whether enrolling the child at a school will be alienating the child from a parent;**

[redacted]

charter schools "cherry-pick" their students. (*See Video at 11:20:29)*

The Plaintiff also testified that she would like the minor child to be around other intelligent children, than the average schools, however, in [redacted] she will be surrounded by diversity. The Court notes that Diversity is not an *Arcella* factor. (*See Video at 11:20:45)*

**12. The diversity in the proposed schools.**

In [redacted] the minor child would be surrounded by other children who look like her. [redacted] has a 42% Hispanic community that will help the minor child become more comfortable. *(See Video at 11:21:20)*

The Parties should look into Doral in the future as it provides educational benefits. (*See Video at 11:21:31)*

The Court notes that the minor child is smart and needs a school that can keep up with her and offer the minor child challenges. The Court asks the Defendant to objectively review the proposed schools that the Plaintiff presented, for the sake of the minor child (*See Video at 11:23:38)*

The Court finds that the Defendant is strongly opposed to religious schools, but the Court did not take religion to be a factor. However, the Court believes that the Court ruled out many other options that may have been closer to the Parties. The minor child must be taught how to learn now, as opposed to five (5) years in the future. (*See Video at 11:23:48)*

The Court finds that [redacted] went against everything the Plaintiff stood for in the first day of the evidentiary hearing. The Court heard the Plaintiff state that class size and money spent per student, then changed her argument when [redacted] met those specifications. On the few factors the Parties did agree on, [redacted] met their qualifications. (*See Video at 11:24:49)*

NOW THEREFORE,

THE COURT ORDERED the following:

1. [redacted]
2. The Plaintiff shall be allowed to apply at the [redacted] Elementary School in February of 2023.
3. The Parties shall work together and research the [redacted] to decide if it is in the best interest of the Minor Child.
4. That if the Parties stipulate to attending family therapy, the Parties shall shall agree on a therapist and attend therapy for a minimum of six months.

THE COURT FURTHER ORDERS that Attorney Grimes shall prepare the Order from today's hearing and submit it directly to Attorney Gibbs for review and signature.

THE COURT FURTHER ORDERS the Case shall be closed.

*Statutory Notices*

The Parties are put on notice of the following provision of *NRS* §125C.006, which states:

> 1. If primary physical custody has been established pursuant to an order, judgment or decree of a court and the custodial parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the custodial parent desires to take the child with him or her, the custodial parent shall, before relocating:
>
> > (a) Attempt to obtain the written consent of the noncustodial parent to relocate with the child; and
> > (b) If the noncustodial parent refuses to give that consent, petition the court for permission to relocate with the child.
>
> 2. The court may award reasonable attorney's fees and costs to the custodial parent if the court finds that the noncustodial parent refused to consent to the custodial parent's relocation with the child:
>
> > (a) Without having reasonable grounds for such refusal, or
> > (b) For the purpose of harassing the custodial parent.
>
> 3. A parent who relocates with a child pursuant to this section without the written consent of the noncustodial

parent or the permission of the court is subject to the provisions of NRS 200.359.

Both Parties shall be bound by the provisions of *NRS* §125C.0045(6) which states:

> *PENALTY FOR VIOLATION OF ORDER*: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN *NRS* § 193.130. *NRS* § 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in *NRS* §193.130.

Pursuant to *NRS* §125C.0045(7), the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

The minor children's habitual residence is located in the United States of America. *NRS* § 125C.0045 (7) and (8) specifically provide as follows:

> Section 7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

Section 8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

> (a) The parties may agree, and the Court shall include in the Order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in Subsection 7.
>
> (b) Upon motion of the parties, the Court may order the parent to post a bond if the Court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the Court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

The Parties are further put on notice that they are subject to the provisions of *NRS* §31A and *NRS* § 125.450 regarding the collection of delinquent child support payments.

The Parties are further put on notice that either Party may request a review of child support pursuant to *NRS* §125B.145.

The Parties shall submit the information required in *NRS* §125B.055, *NRS* §125.130 and *NRS* §125.230 on a separate form to the Court and the Welfare Division of the Department of Human Resources within ten (10) days from the date

the Decree in this matter is filed. Such information shall be maintained by the Clerk in a confidential manner and not part of the public record.

The Parties shall update the information filed with the Court and the Welfare Division of the Department of Human Resources within ten (10) days should any of that information become inaccurate.

IT IS SO ORDERED.

Dated this 8th day of February, 2022

DISTRICT COURT

**ROBERTS STOFFEL FAMILY LAW GROUP**

Melvin R Grimes, Esq.
State of Nevada Bar No. 12972

[redacted]

*Attorney for Defendant*

**LAW OFFICE OF BENJAMIN B. CHILDS**

D78 478 92AA 0D3F
Mary Perry
District Court Judge

Benjamin Childs, Esq.
State of Nevada Bar No. 3946

*Attorney for Plaintiff*

**CSERV**

DISTRICT COURT
CLARK COUNTY, NEVADA

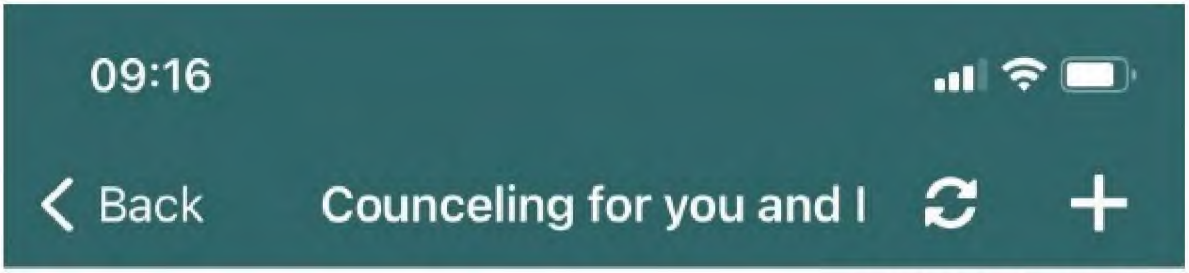
| | |
|---|---|
| Luba Gonzalez, Plaintiff<br><br>vs.<br><br>Enrique Ivan Velazquez-Gonzalez, Defendant. | CASE NO: D-18-575860-D<br><br>DEPT. NO. Department P |

**AUTOMATED CERTIFICATE OF SERVICE**

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 2/8/2022

[redacted]




12/7/2021, 4:04 PM

We agreed in court in front of the judge to go to counseling to help us learn how co-parent. Judge strongly advised you to follow through with this.

Do you want me to pick a counselor or do you want to give me 3 names to pick from?

12/7/2021, 5:49 PM - Enrique Gonzalez

12/8/2021, 4:49 PM

Can you please answer?

12/8/2021, 6:48 PM - Enrique Gonzalez

12/8/2021, 6:53 PM

No thank you.

12/8/2021, 7:16 PM - Luba Snow

12/8/2021, 7:19 PM

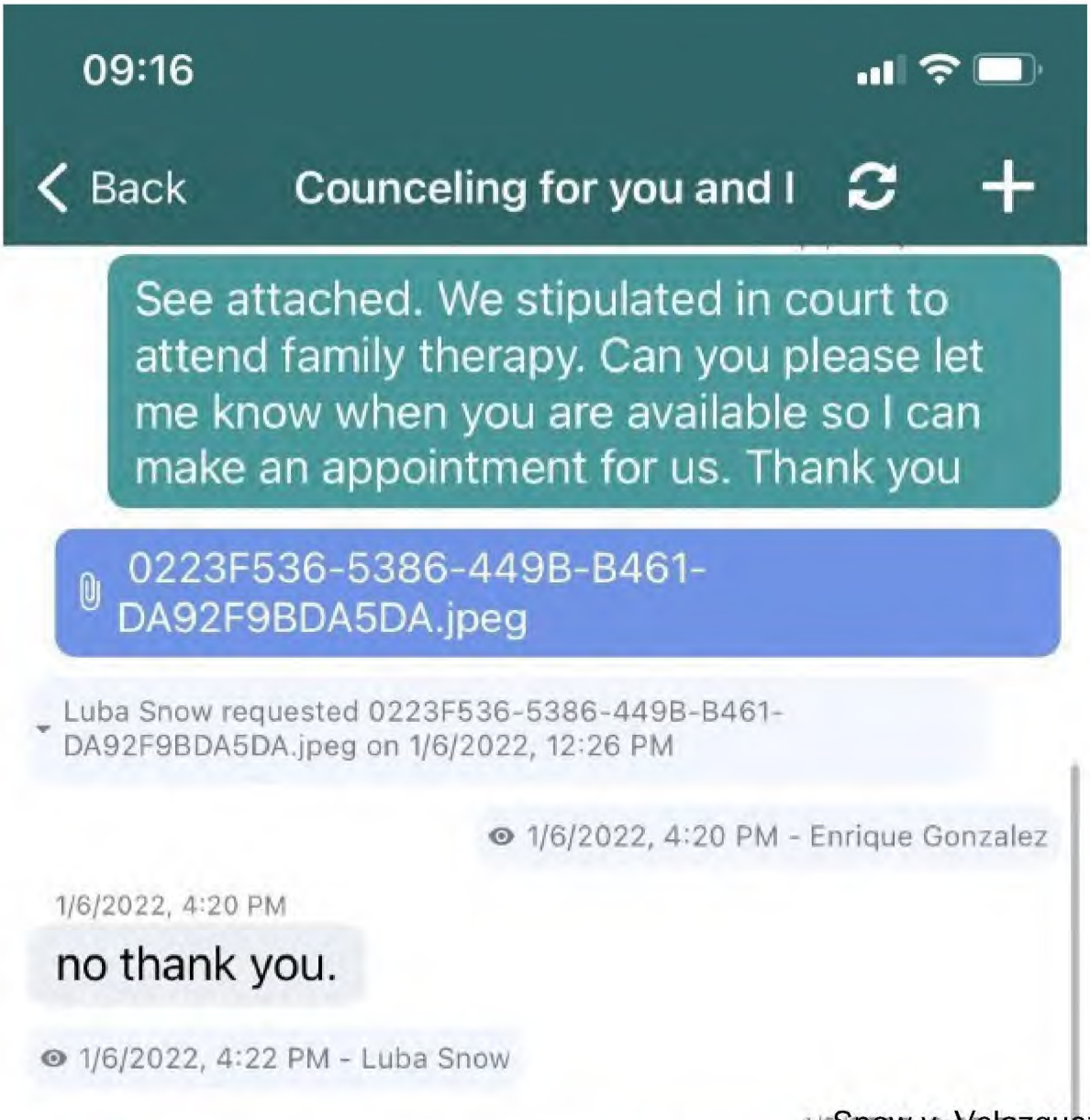
We need help to learn how to co-paren. Will you reconsider? My insurance will pay for it. Jennifer can come too. We all need to put [redacted] first and put our anger aside.

12/9/2021, 7:36 AM - Enrique Gonzalez

1/6/2022, 12:24 PM

See attached. We stipulated in court to


0223F536-5386-449B-B461-DA92F9BDA5DA.jpeg


09:16
Back
Counceling for you and I
See attached. We stipulated in court to attend family therapy. Can you please let me know when you are available so I can make an appointment for us. Thank you
0223F536-5386-449B-B461-DA92F9BDA5DA.jpeg
Luba Snow requested 0223F536-5386-449B-B461-DA92F9BDA5DA.jpeg on 1/6/2022, 12:26 PM
1/6/2022, 4:20 PM - Enrique Gonzalez
1/6/2022, 4:20 PM
no thank you.
1/6/2022, 4:22 PM - Luba Snow