IN THE SUPREME COURT OF THE STATE OF NEVADA

LUBA SNOW DACE fka
LUBA GONZALEZ

Appellant,

v.

ENRIQUE IVAN VELAZQUEZ-GONZALEZ

Respondent.

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Supreme Court No.: 92300
Related Appeal No. 84759
90570

District Court No.: D-18-575860-D

APPEAL FROM FEBRUARY 17, 2026 COMBINED POST-DECREE ORDER GRANTING IN PART DEFENDANT'S MOT TO CLARIFY WINTER BREAK HOLIDAY PROVISION AND DENYING PLAINTIFF'S CMOT TO REVISE ALL HOLIDAY PROVISIONS AND TO MODIFY LEGAL CUSTODY & ORDER DENYING MOTION FOR RECONSIDERATION

Eighth Judicial District Court of the State of Nevada
In and for the County of Clark
THE HONORABLE HEIDI ALMASE
DISTRICT COURT JUDGE

APPELLANT'S OPENING BRIEF

Luba Snow Dace
[redacted]

I. NRAP 26.1 DISCLOSURE STATEMENT

Appellant Luba Snow Dace is an individual and is not a nongovernmental corporate party. Accordingly, no disclosure is required under NRAP 26.1(a).

Dated this 15th day of May 2026.

/s/Luba Snow Dace
LUBA SNOW DACE
[redacted]
Las Vegas NV, 89178
[redacted]

II. TABLE OF CONTENTS

I. NRAP 26.1 DISCLOSURE..... i

II. TABLE OF CONTENTS …….. ii

III. TABLE OF LEGAL AUTHORITIES……..... iv

IV. JURISDICTIONAL STATEMENT..... 1

V. ROUTING STATEMENT 2

VI. ISSUES PRESENTED……..... 2

VII. STATEMENT OF THE CASE AND PROCEDURAL HISTORY..... 5

A. Initial Proceedings, the Stipulated Decree, and FFCL…… 5

B. Subsequent Filings……..... 7

C. Luba's Motion for Reconsideration…….…… 10

VIII. STATEMENT OF FACTS.....11

A. Decree section 9.6 and electronic visitation ……11

B. Winter Break and broader holiday schedule dispute ……...11

C. RMOT chronology relevant to tolling and merits ……13

D. Combined order and prior appeal overlap ……...15

IX. SUMMARY OF ARGUMENT.....16

X. ARGUMENT…. 18

A. Standard of Review 18

B. The district court erred by resolving disputed holiday and medical issues without an evidentiary hearing 19

C. The district court abused its discretion and denied due process by imposing a 15-minute video-call limit beyond the relief requested……..... 22

D. The district court erred by treating a contested Winter Break dispute as a clarification/stipulation and by denying Appellant's countermotion to revise all holiday provisions 25

E. The district court applied the wrong legal standard to the medical decision-making dispute 31

F. The district court lacked authority to substantively modify overlapping custody or visitation terms during a pending custody appeal, absent remand (if applicable) 33

XI. CONCLUSION.....36

XII. CERTIFICATE OF COMPLIANCE..... 39

XIII. CERTIFICATE OF SERVICE 40

III. TABLE OF LEGAL AUTHORITIES

Cases Law

Arcella v. Arcella, **133 Nev. 868, 407 P.3d 341** (2017) 21

Bautista v. Picone, **134 Nev. 334, 419 P.3d 157** (2018) 21

Callie v. Bowling, **123 Nev. 181, 160 P.3d 878** (2007) 19

Chavez v. Ventura, **No. 90697-COA** (Nev. Ct. App. Mar. 5, 2026) (Order of Reversal and Remand) 16, 19, 20, 22

Huneycutt v. Huneycutt, **94 Nev. 79, 575 P.2d 585** (1978) 5, 19, 34, 36, 37

Kelley v. Kelley, **139 Nev. Adv. Op. 39, 535 P.3d 1147** (2023) 4, 17, 31, 32, 33, 37

Mack-Manley v. Manley, **122 Nev. 849, 138 P.3d 525** (2006) 5, 19, 34, 36, 37

Myers v. Haskins, **138 Nev. Adv. Op. 51, 513 P.3d 527** (Nev. Ct. App. 2022) ….. 3, 16, 19, 20, 21

Rooney v. Rooney, **109 Nev. 540, 853 P.2d 123** (1993) 3, 16, 19, 20, 21

Statutes

NRS 125C.0035(4) 23, 27

Rules

EDCR 1.10 4

EDCR 5.502(f) 8, 9, 21

NRAP 3A(b)(7) 1

NRAP 3A(b)(8) 1

NRAP 4(a)(4) 1

NRAP 17(b)(10) 2

NRAP 26.1 i

NRAP 28(e)(1) 39

NRAP 32(a)(4) 39

NRAP 32(a)(5) 39

NRAP 32(a)(6) 39

NRAP 32(a)(7) 39

NRAP 32(a)(7)(C) 39

NRCP 1 4

NRCP 60(a) 17, 25, 26, 27

NRCP 60(b) 27

IV. JURISDICTIONAL STATEMENT

This Court has jurisdiction under NRAP 3A(b)(7) because the February 17, 2026, order is a post-judgment order affecting child custody and visitation-related provisions, including Winter Break parenting time and electronic visitation/video-call terms. (*1622 Order* at p. 31:12–22; p. 32:5–28; p. 33:1–6, entered 02/17/26).

Jurisdiction also exists under NRAP 3A(b)(8) because the challenged order is a special order entered after final judgment (Stipulated Decree of Divorce and incorporated Marital Settlement Agreement, notice of entry filed December 10, 2021) resolving post-decree motions, countermotions, and reconsideration-related relief. (*1269 Decree/MSA (Ex. 1)* filed 12/08/2021; *1271 NEO of Decree*/*MSA* filed 12/10/2021; *1516 FFCL* filed 01/02/25; *1518 NEO of FFCL* filed 01/07/25; *1622 Order* at pp. 1–2, filed 02/17/2026; and *1623 NEO of Order filed* 2/17/26).

Appellant appeals the February 17, 2026, combined written order. (*1622 Order* filed 02/17/26). To the extent the appeal challenges issues addressed through Appellant's reconsideration motion, Appellant asserts that the reconsideration motion was a timely post-judgment motion that tolled the time to appeal under NRAP 4(a)(4), to the extent applicable. (*1578 RMOT* filed 09/16/25). The final order appealed from is a combined Order entered on February 17, 2026. The notice of entry of order was filed on February 17, 2026. (*1623 NEO of Order* filed

02/17/2026). Appellant timely filed a notice of appeal on March 9, 2026. (*1628 Notice of Appeal* filed on 03/09/26).

Appellant also seeks review of interlocutory and procedural rulings merged into and reflected in the appealed February 17, 2026, combined order, including the court's combined disposition and vacatur of the January 14, 2026 and January 28, 2026 chambers/no-appearance matters. (*1622 Order* at p. 2:7-11, entered 02/17/26).

V. ROUTING STATEMENT

This case should be assigned to the Court of Appeals as stated in NRAP 17(b)(10) because it involves a family law matter not involving termination of parental rights.

VI. ISSUES PRESENTED

1. Whether the district court abused its discretion and denied due process by imposing a new 15-minute limit on electronic visitation/video calls where the decree set call days and time but did not contain a duration cap, and Appellant requested only a change in call days. (*1622 Order* at pp. 31–33 (15-minute cap); *1602 Pltf's MOT* at p. 27:21–26 (Appellant's requested day change); *1269 Decree/MSA* ¶ 9.6 (electronic visitation terms)).

2. Whether the district court erred by shortening or modifying Winter Break based on an agreement/stipulation or "clarification" theory where the issue was contested in the parties' briefing and the requested change reduced Appellant's court-ordered holiday time. (*1622 Order* at p. 32:5-20 (Winter Break modification); *1593 Def's* MOT at pg. 4:17-23 (Defendant's requested Monday endpoint); *1602 Pltf's OPP and CMOT* at pg.2:17-20, pg. 3:13-28 (Appellant's opposition)).

3. Whether the district court erred in denying Appellant's countermotion to revise and clarify all holiday provisions (not just Winter Break), where Appellant sought a comprehensive holiday/vacation schedule aligned with the current custody framework. (*1622 Order* at pg. 32:17-20 (denial of broader holiday/vacation relief); *1602 Pltf's OPP and CMOT* at pg. 2:1-6; pg. 2:18-20 (CMOT/requested relief); *1603 Pltf's. Ex. 8*, Bates 024–027 (proposed schedule exhibit)).

4. Whether the district court erred by denying or resolving custody/visitation and medical decision-making requests without an evidentiary hearing after paper briefing where material facts were disputed, including whether the court misapplied the Rooney/Myers prima facie/adequate-cause framework and made merits-like factual determinations on the papers. (*1622 Order* at p. 1:20-28, p.

2:1-2 (Jan. 14, 2026/ January 28, 2026 Chambers/No appearances submission on 578/582/583/593/602/607), p. 2:9-11 (RESOLVES/VACATES chambers matters); *Minute Order* at pp. 1-2 (strike of 1609 and refusal to consider new relief) filed 02.12.26; *1622 Order* at p. 4:8-16 (denied for failure to establish adequate cause); p. 10:1-10 (prima facie/adequate cause/substantial change framing)).

5. Whether the district court applied the wrong legal standard to the medical decision-making dispute resolved in the February 17, 2026, combined order, including by treating a present joint-legal medical impasse as a custody-modification issue requiring a substantial-change/adequate-cause threshold rather than applying the proper *Kelley* best-interest/medical tie-break framework. (*1622 Order* at p. 10:1-10 (prima facie/adequate cause/substantial-change framing); *1568 Order* at pp. 8-11 (reciting *Kelley* factors); *1610, Pltf. Ex. 11* Bates 080-081 (radiograph refusal acknowledging diagnostic limits without x-rays); *1610 Pltf. Ex. 12* Bates 082-087 (Talking Parents appointment cancellation/rescheduling over objection); *1622 Order* at p. 29 (Kelley-factor findings re "reasonably timely" care and "no evidence" of serious harm)).

6. Whether the district court lacked authority to modify overlapping custody/visitation terms—including Winter Break parenting time and electronic

visitation restrictions—while prior Appeal No. 90570 involving child custody/parenting-time issues was pending, absent remand or other proper appellate procedure (if applicable), under *Huneycutt* and *Mack-Manley*. (*1629 CAS* (identifying prior appeal 90570); *1622 Order* at p. 4:2-7 (acknowledging 90570 "currently pending"); *1622 Order* at p. 32:6-17 (Winter Break modification); *1622 Order* at pp. 31:12-22, 32:27-28, 33:1-5 (electronic visitation/15-minute cap)).

VII. STATEMENT OF THE CASE AND PROCEDURAL HISTORY

A. Initial Proceedings, the Stipulated Decree, and FFCL

Appellant Luba Snow Dace ("Luba") and Respondent Enrique Ivan Velazquez-Gonzalez ("Enrique") were divorced by stipulated decree filed December 8, 2021, with notice of entry filed December 10, 2021. (*1271 NEO of Divorce Decree*, filed 12/10/2021). Pursuant to the Stipulated Decree and incorporated Marital Settlement Agreement, the parties shared joint legal custody and joint physical custody of their minor child on a week-on/week-off timeshare with Wednesday exchanges, except where superseded by holiday, vacation, or other special custody times. (*1269 Divorce Decree* Ex. 1: pg. 9, ¶ 9.3, second paragraph, filed 12/08/21). The parties further stipulated to vacation provisions allowing each parent up to seven days of vacation in a single block, which may be

added to normal custody time such that a parent may, by exercising vacation time, have the child for up to three consecutive weeks (one normal custody week, plus a vacation week, plus the following week that would otherwise be that parent's custody time). (*1269 Divorce Decree* Ex. 1: pg. 12, ¶ 9.5, filed 12.08.21). The decree also set a holiday schedule—including parent's birthdays, Mother's/Father's Day, Thanksgiving, and Christmas/Winter Break—and expressly noted that, under an alternating weekly schedule, the parties would likely have the opportunity to enjoy major holiday times in alternating years. (*1269 Divorce Decree* Ex. 1: pg. 10-12, ¶ 9.4, filed 12.08.21).

On January 2, 2025, the district court entered post-judgment Findings of Fact, Conclusions of Law, and Orders ("FFCL"), with notice of entry filed January 7, 2025. (*1518 NEO of FFCL,* filed 01/07/2025). The FFCL awarded Enrique primary physical custody and granted Luba parenting time on the first, second, fourth, and fifth weekends of each month, from Friday after school (or 3:00 p.m. if school is not in session) through Monday to school (or 9:00 a.m. if school is not in session). (*1516 Order* at 37:7-15). The FFCL expressly preserved the prior holiday/vacation schedule notwithstanding the change to the baseline timeshare: "the parties' prior holiday/vacation timeshare SHALL remain status quo." (*1516 FFCL* at p. 37:14-15). The FFCL did not address how the revised baseline schedule

would interact with, or require adjustment to, the decree's existing holiday schedule—which had been structured for shared physical custody and assumed both parents would have substantial blocks of parenting time under an alternating weekly framework. As a practical matter, the shift to primary physical custody materially changed the baseline schedule and is the backdrop for Appellant's later requests for a more detailed holiday schedule.

B. Subsequent Filings

This post-decree matter concerns holiday scheduling, parent-child communication, and medical decision-making disputes under the parties' divorce decree and joint legal custody framework. (*1269 Decree/MSA* Ex. 1: ¶ 9.1 (Legal Custody); ¶ 9.4 (Holiday/Vacation Visitation); ¶ 9.5 (Vacation Time); ¶ 9.6 (Zoom Video Conferencing) filed 12/08/21).

On November 15, 2025, Enrique filed a Motion to Clarify Winter Break Holiday Provision. The clerk issued a Notice of Hearing setting that motion for January 14, 2026, as an in-chambers/no-appearance matter. Luba opposed and filed a countermotion seeking broader holiday revision and legal-custody-related medical decision relief, rather than merely a winter-break clarification. (*1593 Respondent's MOT to Clarify Winter Break* and *1595 Exhibits* filed 11/15/2025; *1598 Notice of Hearing*, filed 11.19.2025; *1602 Appellant's OPP/CMOT* and *1603*

Exhibits filed 11/28/2025; *1269 Decree/MSA* Ex.1 pp. 11-12: ¶ 9.4.7 (Christmas Holiday/Winter Break)).

The district court set the winter-break clarification motion and Luba's related countermotion for chambers decision on January 14, 2026. Separately, Luba's reconsideration motion concerning the prior August 29, 2025, medical-decision ruling was continued and later set for chambers decision on January 28, 2026. (*1598 Notice of Hearing Def's Holiday Clarification,* filed 11/19/2025 (Jan. 14, 2026, in Chambers Decision); *1604 Luba's Ex Parte request to Continue Hearing on RMOT,* filed 12/03/2025; *1605 Order Granting Ex Parte Request,* filed 12/03/2025 (Jan. 28, 2026, in Chambers Decision)).

Briefing on the Winter-break/CMOT matters included Enrique's motion papers and exhibits (1593; 1595); Enrique's OST application and exhibits (1600; 1601); Luba's opposition/countermotion and exhibits (1602; 1603); Enrique's reply/opposition/countermotion and exhibits (1607; 1608); Luba's December 12, 2025, filing (1609) and separately filed exhibit appendix (1610). Enrique's objection/sur-reply papers with exhibits (1612; 1613), Luba's EDCR 5.502(f)(1) notice (1615); Enrique's supplemental notice with exhibits (1616; 1617), and the order denying Enrique's ex parte OST request (1618).

Appellant, Luba, filed a December 14, 2025 notice under EDCR 5.502(f) clarifying that she partially withdrew only the portion of her December 12 filing that could be viewed as an improper reply to an opposition to a countermotion, while preserving her opposition to newly asserted requests and asking the court to consider her supporting declaration and exhibits. (*1615 Pltf's Notice EDCR 5.502 f (1)* filed 12/14/2025). The district court thereafter entered minutes on February 12, 2026, striking the December 12 filing (1609) under EDCR 5.502(f), and also finding Enrique's requested new relief in his December 7 reply [1607] and declining to consider those new requests to prevent prejudice. (DaceCourtMinutes ISSUED 02/12/26).

On February 17, 2026, the district court entered a combined written order denying Luba's reconsideration motion filed September 16, 2025 [1578], denying Luba's countermotion filed on November 28, 2025 [1602], granting in part Enrique's winter-break clarification relief filed on November 15, 2025 [1593], and imposing a 15-minute limit on video calls. Luba timely appealed from that combined order and any interlocutory rulings merged therein. (*1622 Order,* filed 02/17/2026.)

This appeal challenges both the procedure used (paper/chambers resolution without evidentiary hearing despite disputed facts) and the substance of the

combined order, including the Winter Break modification/clarification, the denial of Appellant's broader holiday and legal-custody/medical relief, and the newly imposed 15-minute video-call limitation. (*1622 Order,* filed 02/17/2026; *1602 OPP and CMOT,* (prayer pp. 27-28, and declaration pp. 29-32) filed 11/28/2025; *1578 RMOT* filed 9/16/2025)).

C. Luba's Motion for Reconsideration

Luba filed a motion for reconsideration on September 16, 2025. (*1578 RMOT* filed 9/16/2025). On September 30, 2025, Enrique filed his opposition to the reconsideration motion and his countermotion seeking attorney's fees and costs. (*1582 OPP/ CMOT,* filed 9/30/2025). On October 14, 2025, Luba filed a combined reply in support of reconsideration and opposition to Enrique's fee countermotion, together with a separately filed exhibit appendix. (*1583 Pltf's RPLY/OPP,* filed 10/14/2025; *1584 Pltf's Exhibit Appendix,* filed on 10/14/2025).

On February 17, 2026, the district court entered combined written order denying Luba's reconsideration motion (1578); denying Enrique's countermotion for attorney's fees and costs CMOT (1582); granting in part Enrique's motion to clarify Winter Break (1593); denying Luba's countermotion (1602), and vacating January 14, 2026, and January 28, 2026, chambers/no-appearance matters. (*1622 Order*, filed 02/17/2026).

Luba timely filed a Notice of Appeal on March 9, 2026, challenging the February 17, 2026, combined order. (*1628 Notice of Appeal*, filed 03/09/2026).

VIII. STATEMENT OF THE FACTS

A. Decree section 9.6 and electronic visitation

The parties' divorce decree/Marital Settlement Agreement provides that Luba has Zoom/video calls with the child during Enrique's custody time, including holiday and vacation time, each Monday and Friday at 7:15 p.m., with related privacy/no-monitoring terms. The decree provision does not set a fixed fifteen-minute duration cap. (*1269 Decree/MSA,* Ex. 1: ¶ 9.6 pg. 13, filed 12/08/2021).

In her opposition/countermotion, Luba requested a change in call days, from the Monday/Friday schedule to Tuesday and Thursday at 7:15 p.m. under the current custody framework, not a reduction in call duration. (*1602 Pltf's OPP/CMOT*, prayer p. 27:21–26). The district court later summarized that request as seeking electronic visitation "each Tuesday and Thursday at 7:15 PM." (*1622 Order* at p. 30:21-23).

B. Winter Break and broader holiday schedule dispute

On November 15, 2025, Enrique filed a motion seeking to "clarify" the decree's Winter Break provision by replacing the decree's stated endpoint, "the first Wednesday in January, the normal exchange day", with an endpoint tied to

school resuming (the first Monday after Winter Break ends when school resumes). (1593 at p. 4:17-20, filed 11/15/2025). The decree's Winter Break language is contained in the parties' Marital Settlement Agreement (Exhibit 1) at ¶ 9.4.7. (*1269 Decree/MSA*, Ex. 1, pp. 11-12, ¶ 9.4.7).

Enrique asserted the Winter Break language had become "outdated" after the post-judgment custody schedule changed the regular exchange day from Wednesday to Monday, and he sought confirmation that for Winter Break 2025–2026 child would return to him on Monday rather than "Wednesday, January 7, 2026." (*1593* at p.4:21-23, filed 11/15/2025). The post-judgment FFCL was filed January 2, 2025, with notice of entry filed January 7, 2025, and it expressly provided that "the parties' prior holiday/vacation timeshare SHALL remain status quo." (*1516 FFCL* at p. 37:14-15, filed 01/02/2025; *1518 NEO of FFCL*, filed 01/07/2025). The decree also provides that the regular visitation schedule is "superseded by holiday, vacation, or other special custody times." (*1269 Decree/MSA,* Ex. 1, p. 9, ¶ 9.3).

In his motion, Enrique stated he was "not asking the Court to" "add or subtract days beyond what the two-part structure already provides." (*1593* at p. 11:24). Luba opposed that request and filed a countermotion seeking broader relief, including revision and clarification of all holiday provisions under the current

custody framework. (*1602* at pp. 24:20-28, 25:1-28, 26:1-6; *1603 Pltf. Ex. 8*, Bates 024–027). Luba's requested relief included denial of Enrique's motion "in its entirety" and adoption of a comprehensive schedule rather than a Winter Break-only adjustment. (*1602* at p. 2:18-20).

The parties' filings reflect that the Winter Break issue was disputed. Luba maintained that Enrique's request would change the practical duration of the second Winter Break segment by moving the exchange from the decree's Wednesday endpoint to a Monday endpoint tied to school resuming. (1593; 1602).

Luba also relied on the October 15, 2024, non-jury trial transcript addressing the same Winter Break endpoint issue, where the district court stated the problem was "not ambiguous" but "inconvenient" and directed the parties to abide by the existing orders unless they later reached a written agreement reduced to writing. (*1603, Pltf. Ex. 1*, Bates 001–005).

C. RMOT chronology relevant to tolling and merits

Luba filed a motion for temporary sole medical decision-making authority on July 9, 2025 (*1551*). Luba filed an exhibit appendix (*1552*) and an FDF (*1553*) on July 10, 2025. She also filed an ex parte motion for order shortening time on July 11, 2025 (*1556*). The district court denied the ex parte shortening-time request by written order filed July 11, 2025 (*1557*). (*1551 Pltf's Mot Temp Sole Medical*

Decision Authority, filed 07/09/2025; *1552 Pltf's Exhibit Appendix*, filed 07/10/2025; *1553 Pltf's FDF*, filed 07/10/2025; *1556 Pltf's Ex Parte MOT OST*, filed 07/11/2025; *1557 Order Denying Ex Parte Req OST*, filed 07/11/2025).

Enrique filed an opposition and countermotion (*1562*) on July 31, 2025, with supporting exhibits (*1563*) and an FDF (*1565*) filed August 1, 2025. Luba filed a reply (*1566*) on August 14, 2025, and an exhibit appendix (*1567*) on August 19, 2025. The district court entered a written order (*1568*) on August 29, 2025, denying Luba's medical-decision motion and preliminarily granting Enrique's countermotion. (*1562 Def's OPP to Mot Medical Decision and CMOT*, filed 07/31/2025; *1563 Def's Exhibits in Support of OPP/CMOT*, filed 08/01/2025; *1565 Def's FDF*, filed 08/01/2025; *1566 Pltf's Reply in Support of Motion/OPP to CMOT,* filed 08/14/2025; *1567 Pltf's Exhibit Appendix*, filed 08/19/2025; *1568 Order Denying Motion for Medical Decision and Preliminarily Granting CMOT*, filed 08/29/2025).

Luba filed an objection (*1577*) to the August 29, 2025, order and a motion to reconsider (*1578*) on September 16, 2025. A Clerk's Notice of Curative Action (*1580*) was filed September 18, 2025. The district court filed a Notice of Hearing (*1581*) on September 18, 2025. Enrique filed an opposition/countermotion for attorney's fees and costs (*1582*) on September 30, 2025. Luba filed a

reply/opposition (*1583*), exhibit appendix (*1584*), and FDF (*1585*) on October 14, 2025. (*1577 Pltf's OBJ* to 08/29/2025 Order, filed 09/16/2025; *1578 Pltf's RMOT Medical*, filed 09/16/2025; *1580 Clerk's Ntc of Curative Action*, filed 09/18/2025; *1581 Ntc of Hearing for December 10, 2025*, filed 09/18/2025; *1582 Def's OPP and CMOT for Attorney's Fees/Costs*, filed 09/30/2025; *1583 Pltf's Reply in Support of RMOT and OPP to CMOT for Attorney's Fees/Costs*, filed 10/14/2025; *1584 Pltf's Exhibit Appendix*, filed 10/14/2025; *1585 Pltf's FDF*, filed 10/14/2025).

D. Combined order and prior appeal overlap

A prior appeal, Nevada Supreme Court Case No. **90570**, involving child custody/parenting-time issues, was pending when the district court entered the February 17, 2026, combined order. (*1629 Civil Appeal Statement* (identifying Appeal No. 90570); *1622 Order* at 4:2-7 (noting Case No. 90570 was "currently pending")).

The February 17, 2026, order modified Winter Break parenting-time terms and imposed a fifteen-minute limit on electronic visitation/video calls. (*1622 Order at* p. 32:6-16 (Winter Break modification); *1622 Order* at pp. 32:27-28, 33:1-5 (electronic visitation terms/15-minute limit)).

IX. SUMMARY OF ARGUMENT

This appeal challenges a combined post-decree order that resolved multiple contested custody/visitation and medical decision-making disputes on a paper record, without an evidentiary hearing, and that also imposed substantive restrictions not requested by either party. The most concrete error is the court's imposition of a new fifteen-minute cap on video calls—relief neither party requested—entered on a paper record without notice or an evidentiary basis, and functioning as a bright-line restriction on parent-child contact.

First, the district court abused its discretion by deciding disputed holiday, communication, and medical issues through chambers/no-appearance submission rather than convening an evidentiary hearing. Under the *Rooney/Myers* adequate-cause framework as reiterated in *Chavez v. Ventura*, when a movant's verified allegations — assumed true at the threshold stage — could warrant relief, the court may not resolve material factual disputes or credibility on competing papers. The February 17, 2026, order confirms that the Winter Break motion and related countermotion were submitted for chambers decision on January 14, 2026, and the reconsideration/medical issue was submitted for chambers decision on January 28, 2026; yet the court resolved the disputed issues without live testimony.

Second, the district court denied due process and abused its discretion by imposing a new fifteen-minute cap on electronic visitation. Appellant requested only a change in call days, and the decree sets call days and time but does not impose a duration cap. The court granted the day-change but then imposed a hard fifteen-minute limitation—substantive relief beyond the issue presented—without notice and without an evidentiary basis, materially reducing parent-child contact.

Third, the district court erred by treating Respondent's Winter Break request as a "clarification" and by denying Appellant's countermotion to revise all holiday provisions. Respondent sought to replace the decree's "first Wednesday in January" endpoint with an earlier, school-resumption Monday endpoint—reducing Appellant's court-ordered Winter Break time. That is a substantive change, not a clerical correction under NRCP 60(a). The dispute was contested in the briefing, and Appellant sought comprehensive holiday/vacation revision aligned with the current custody framework; the denial of that broader relief must be reviewed independently.

Fourth, the district court applied the wrong legal standard to the medical decision-making dispute by treating a present joint-legal medical deadlock as if it were merely a custody-modification request requiring a substantial-change/adequate-cause threshold rather than applying the proper *Kelley* best-

interest/medical tie-break framework. In any event, disputed facts bearing on provider recommendations, timing, and unilateral interference could not properly be resolved on the pleadings and required an evidentiary hearing.

Finally, to the extent a prior custody/parenting-time appeal was pending when the February 17, 2026, order entered, the district court lacked authority to substantively modify overlapping custody/visitation terms—such as Winter Break parenting time and electronic visitation restrictions—absent remand or other proper appellate procedure.

For these reasons, the Court should reverse or vacate the challenged portions of the February 17, 2026, order and remand for application of the correct legal standards and for an evidentiary hearing on disputed material issues.

X. ARGUMENT

A. Standard of Review

Custody and visitation determinations—including holiday parenting-time allocations and conditions on parent-child communication—are reviewed for abuse of discretion. A district court abuses its discretion when it applies the wrong legal standard, its decision is unsupported by substantial evidence, or its ruling is arbitrary or capricious.

The denial of an evidentiary hearing in a custody/visitation dispute is also reviewed for abuse of discretion, but that discretion is constrained by Nevada's adequate-cause screening framework. Under *Rooney* and *Myers* (as reiterated in *Chavez v. Ventura*), the district court may screen for adequate cause on the papers, but generally must accept the movant's specific allegations as true and may deny a hearing only where the opposing submissions conclusively refute those allegations; the court may not resolve material factual disputes or credibility on competing declarations.

Questions of appellate jurisdiction, interpretation of governing rules or written orders, and the district court's authority to enter challenged relief while a related appeal was pending are reviewed de novo. (*Huneycutt*; *Mack-Manley*).

Due process issues—including whether the procedures employed afforded notice and a meaningful opportunity to be heard—are reviewed de novo. *Callie v. Bowling*, 123 Nev. 181, 183, 160 P.3d 878, 879–80 (2007).

The denial of a motion for rehearing/reconsideration is reviewed for abuse of discretion.

B. **The district court erred by resolving disputed holiday and medical issues without an evidentiary hearing.**

The Court of Appeals recently reiterated Nevada's *Rooney/Myers* "adequate cause" framework in *Chavez v. Ventura*, No. 90697-COA (Nev. Ct. App. Mar. 5, 2026) (Order of Reversal and Remand). Under that framework, the district court may screen custody-related requests for adequate cause on the papers, but generally must accept the movant's specific factual allegations as true and may deny a hearing only where the opposing submissions conclusively refute those allegations such that live testimony is unnecessary. *Chavez* further confirms that reversal may be required without deciding the ultimate merits when the district court resolves disputed best-interest issues on competing papers rather than setting a hearing where a prima facie showing is made.

That framework applies here because the February 17, 2026, combined order resolved multiple post-decree custody/visitation and medical-decision matters that were set for chambers/no-appearance submission and then decided on the written record. The order confirms a January 14, 2026, chambers/no-appearance submission on Enrique's Winter Break motion (*1593*), Luba's opposition/countermotion (*1602*), and Enrique's reply (*1607*), and a January 28, 2026, chambers/no-appearance submission on Luba's reconsideration motion (*1578*) and related briefing. (*1622 Order* at pp. 1–2). The court then stated:

"Accordingly, this written order RESOLVES and VACATES the Chamber matters scheduled for January 14, 2026, and January 28, 2026." (*1622* Order at p. 2:9-11).

On this record, the combined order cannot stand to the extent it resolved disputed material factual issues across holiday scheduling, electronic-visitation restrictions, and the medical impasse without an evidentiary hearing. Luba's filings presented specific allegations and supporting materials directed to best interest and current decision-making; Respondent disputed those allegations and offered a competing narrative. Where the parties' papers join material factual disputes, *Rooney/Myers* do not permit the court to resolve credibility or factual truth in chambers. See also *Arcella v. Arcella*, 133 Nev. 868, 872, 407 P.3d 341, 346 (2017); *Bautista v. Picone*, 134 Nev. 334, 336–37, 419 P.3d 157, 159–60 (2018).

The procedural posture also confirms prejudice. Before the combined order issued, the district court struck Luba's December 12, 2025, filing (*1609*) as unauthorized under EDCR 5.502(f), while simultaneously finding Respondent raised new requests for relief in his December 7, 2025, filing (*1607*) and declining to consider those new requests "to prevent prejudice against Luba." (*Minutes*, issued 02/12/2026). That minute order underscores that the court was operating under compressed paper-briefing constraints while resolving disputed best-interest matters without testimony.

Because Appellant's countermotion sought revision of the holiday schedule as a whole (including how the decree's holiday/vacation structure functions under the post-FFCL custody framework), the need for an evidentiary hearing extended beyond Winter Break in isolation: the court was asked to address whether the broader holiday/vacation provisions still operate predictably and fairly under primary custody. (*1602* at pp. 2:18, 24:21-28, 25:1-28, 26:1-6; *1603 Pltf. Ex. 8*, Bates 024–027).

Consistent with *Chavez*, this Court need not decide the ultimate merits of the parties' best-interest narratives to grant relief. The proper disposition is to reverse or vacate the February 17, 2026, order to the extent it resolved disputed material facts without an evidentiary hearing, and remand for a hearing. On remand, the district court retains discretion over the form and scope of the proceeding, but it must afford the parties a meaningful opportunity to present evidence and be heard on the contested issues.

C. **The district court abused its discretion and denied due process by imposing a 15-minute video-call limit beyond the relief requested.**

Luba sought a change in call days, not a reduction in call duration. Her countermotion requested that, during Enrique's physical custody, the child have regular video contact with Luba on Tuesdays and Thursdays at approximately 7:15

p.m., and did not request any cap on duration. (*1602* at p. 27:22-26). The controlling decree provision likewise sets call days and a start time (Mondays and Fridays at 7:15 p.m.) and privacy/no-recording terms, but does not impose any fixed time limit. (*1269 ¶ 9.6 at p. 13*).

The district court granted the day-change request, finding that Tuesday/Thursday calls at 7:15 p.m. were in the child's best interests, but then added new relief: it ordered those calls "SHALL occur each Tuesday and Thursday at 7:15 PM … for a period not to exceed fifteen (15) minutes." (*1622 Order* at 31:12–22). That fifteen-minute cap was not requested and is not found in the decree text; it is a substantive restriction on parent-child contact.

This was an abuse of discretion because the court imposed a categorical limitation without an evidentiary basis. A categorical reduction in parent-child contact is a best-interest determination requiring specific findings under NRS 125C.0035(4). The issue presented was whether moving calls off exchange days would better facilitate regular contact under the current custody structure. By adding a hard fifteen-minute ceiling, the court transformed a scheduling adjustment into a restriction on contact without live testimony or a record developed to determine whether fifteen minutes is sufficient to foster the parent-child relationship.

The added cap also violated notice and fairness principles and was prejudicial. Appellant had notice the **call days** were disputed; she did not have notice that the court was considering a new **duration ceiling** that would truncate contact even after granting her requested day change. Had she been on notice, Appellant would have presented targeted best-interest facts and narrower alternatives (e.g., enforcing start times, prohibiting litigation talk, clarifying privacy/no-recording requirements, or using a "reasonable duration" standard) rather than a rigid cap. The lack of notice mattered because it deprived Appellant of a meaningful opportunity to address the court's chosen remedy.

In this case, the challenged procedures and relief are reflected in the district court's paper/chambers disposition ("RESOLVES and VACATES" the January 14 and January 28 chambers matters) (*1622 Order* at p. 2:9–11) and the imposition of a new fifteen-minute cap on electronic visitation. (*1622 Order* at p. 31:12–22).

The error is not harmless. The record reflects the child's need for meaningful contact is not hypothetical: during the April 14, 2025, court-ordered video call, the child became tearful, repeatedly stated she missed her mother, and asked for additional mid-week contact. (*1603 Pltf's Ex*. 7, Bates 022-023). Luba's sworn declaration further explains why a rigid cap is especially harmful under the current structure: in practice, Enrique has approximately twenty-three (23) days each

month and Luba approximately seven (7), with periods of up to twelve (12) consecutive days without in-person time; during those stretches, Enrique permits only three telephone calls and denies reasonable additional contact. (*1602* at pp. 12:22-38, 13:1-5). He also routinely refuses brief additional parenting time and extra video-calls, including requests made for or at child's request. (*1602* at pp. 7:19-28, 8:1-23). The record also reflects Enrique has treated Luba's school participation as requiring his "written permission," reinforcing the broader gatekeeping pattern. (*1603 Pltf's Ex. 9*, Bates 066, 072-074; *Ex. 3,* Bates 010-011). Against that backdrop, a bright-line fifteen-minute ceiling predictably functions as a unilateral termination tool—even when the child is asking to continue the conversation.

Remedy. The Court should vacate or reverse the fifteen-minute limitation while leaving in place (or remanding for reconsideration of) the call-day modification under proper procedure.

D. **The district court erred by treating a contested Winter Break dispute as a clarification/stipulation and by denying Appellant's countermotion to revise all holiday provisions.**

Enrique's Winter Break motion was not a clarification of ambiguous language under NRCP 60(a), but an attempt to shorten Luba's court-ordered holiday time while avoiding the standards governing modification. Whether NRCP

60(a) permits the relief granted (clerical correction vs. substantive modification) is reviewed de novo. In the decree, the second Winter Break segment runs through "the first Wednesday in January, the normal exchange day." (*1269 Decree/MSA* ¶ 9.4.7). The January 2025 post-judgment order altered the **regular weekly exchange day** for the baseline schedule, but it did not amend the decree's Winter Break endpoint, which continues to state "the first Wednesday in January." And the FFCL expressly preserved holiday/vacation timeshare notwithstanding the baseline change: "the parties' prior holiday/vacation timeshare SHALL remain status quo." (1516 at p. 37:14-15). Accordingly, Enrique's request to replace 'Wednesday' with 'Monday' was not an interpretive clarification of ambiguous language—it was a request to change the holiday term itself. Enrique nevertheless asked the district court to replace that endpoint with a different one tied with school resuming: "the first Monday after the end of the school's Winter Break, when school resumes." (*1593* at p. 4:17-20). Although Enrique claimed he was "not asking the Court to" "add or subtract days beyond what the two-part structure already provides," (*1593* at 11:24) his proposed rewrite did exactly that by substituting an earlier, event-driven endpoint for the decree's date-certain endpoint. In years like 2025-2026, where he expressly sought return on the first Monday back "not Wednesday, January 7, 2026, the change shortens Luba's second-segment Winter Break time

and alters the duration of the holiday period awarded by the decree (*1593* at p. 4:21-24). A request that reduces one parent's court-ordered holiday time is a substantive modification, not a clerical correction or mere clarification. Even if Respondent's request were construed as a motion for relief from judgment under NRCP 60(b), it still fails: NRCP 60(b) requires a motion invoking specific grounds for relief and compliance with the rule's procedural requirements, and Respondent did not invoke or plead any 60(b) ground. Respondent instead sought a substantive rewrite of parenting-time terms under the label "clarification," which does not supply the required legal basis for modifying court-ordered holiday time. Because any substantive reallocation of holiday/vacation parenting time is a best-interest determination, it must be supported by specific findings under NRS 125C.0035(4).

Luba opposed that request and expressly argued that Respondent was not seeking a genuine clarification, but instead attempting to use NRCP 60(a) and generic references to continuing jurisdiction to "substantively rewrite an unambiguous holiday provision years after entry, without alleging any change in circumstances or addressing the statutory best-interest factors." Appellant further argued that Nevada law did not permit serial relitigation of an issue already addressed by the district court. (*1602* at pp. 3:22-28, 4:1-3).

The record supports Luba's position that the Winter Break issue was contested, not stipulated. In her opposition and countermotion, Luba asked the court to deny Enrique's motion in its entirety and to enter a revised, clear, and comprehensive holiday schedule instead. (*1602* at 2:18-20). She did not agree that Winter Break could properly be rewritten in isolation. Rather, she argued that all existing holiday provisions had been drafted under the former joint-physical-custody structure and no longer operated fairly or predictably after the January 2025 custody changes. (*1602* at pp. 24:20-28, 25:1-28, 26:1-6). She therefore submitted a proposed revised holiday and vacation schedule and sought broader relief than Winter Break alone. (*1603 Pltf. Ex. 8*, Bates 024–027). The same structural problem exists with the decree's vacation provisions. The decree's vacation language was drafted for the parties' former week-on/week-off physical custody schedule with midweek exchanges, but the January 2025 custody change materially altered the baseline framework while leaving the holiday/vacation text intact. *(1269 Decree/MSA*, Ex. 1, p. 9 ¶¶ 9.3 (Regular Visitation), p. 12 ¶¶ 9.5 (Vacation Time with the Child); *1516 FFCL* at 37:14-15). As a result, applying the decree's vacation clause without comprehensive revision predictably produces recurring conflict and skewed outcomes under a primary-custody schedule. This further confirms that piecemeal "clarification" of Winter Break in isolation is not

an adequate remedy and that the appropriate course is a comprehensive holiday/vacation schedule aligned with the current custody structure.

Luba also relied on the October 15, 2024, non-jury trial transcript, where counsel raised the same Winter Break problem and the district court stated that the issue was "not ambiguity" but "inconvenience," explaining: "It's inconvenient. It's not ambiguous," and directing the parties to abide by the existing orders unless they later reached a written agreement reduced to writing. (*1603 Pltf. Ex.1* Bates 001-005). After that directive, Luba attempted to resolve the holiday dispute by proposing a revised Holiday and Vacation Schedule and asking Enrique to stipulate. Enrique rejected the proposal by email, stating he did "not agree to stipulate to it," asserting it "materially reduces [his] already-limited weekend time," claiming holidays were already "heavily weighted" in Mother's favor, and stating he would "object to any holiday/vacation schedule that reduces [his] time with the child or conflicts with [his] primary custodial status." (*1603 Pltf. Ex.10* Bates 075-076). This sequence reflects that the court addressed the Winter Break endpoint issue on the record and that the parties did not reach a written stipulation to revise the holiday/vacation schedule. (*1603 Pltf. Ex.1*, Bates 001–005; *1603 Pltf. Ex. 10,* Bates 075–076).

Thus, to the extent the district court treated Winter Break as an agreement-driven or merely clerical issue, that was error. The parties' filings showed no true stipulation. They showed a live dispute over whether the decree's plain endpoint could be replaced with a shorter one and whether the broader holiday schedule needed comprehensive revision under the current custody framework. Because Enrique's motion sought a substantive change in holiday time, and because Luba's countermotion separately sought revision of all holiday provisions, the denial of Luba's broader holiday request must be reviewed independently from the ruling on Respondent's Winter Break motion. (*1593* filed 11/15/2025; *1602* filed 11/28/2025 at p. 3 (deny motion "in its entirety"); *1622 Order* at p. 32 (denying CMOT to modify all holiday/vacation orders)).

Remedy. This Court should reverse or vacate the Winter Break "clarification" to the extent it substantively shortened Appellant's court-ordered holiday time without the required modification standards, and remand with instructions for the district court to determine, after appropriate procedure (and an evidentiary hearing if material facts remain disputed), whether a comprehensive holiday and vacation schedule is required under the current custody framework. (*1593*; *1602*; *1603 Pltf. Ex. 8*, Bates 024–027; *1622 Order* at p. 32).

E. **The district court applied the wrong legal standard to the medical decision-making dispute.**

This appeal concerns a current joint-legal medical impasse, not merely a traditional custody-modification request. When joint legal custodians disagree on a medical decision, the district court must break the tie by determining the child's best interests under the *Kelley* factors: (1) seriousness of harm or likelihood of serious harm; (2) medical-professional evaluation or recommendation; (3) risks involved in treatment; and (4) if the child is of sufficient age and capacity, the child's preference. (*1568 Order* at p. 8 (quoting *Kelley* factors)).

Although the February 17, 2026, order recites *Kelley*, the court's analysis and disposition reflect an improper conflation of standards. The order treated Appellant's medical-decision request as a motion to modify temporary legal custody subject to adequate-cause screening and required a substantial change of circumstances, then denied relief for failure to establish adequate cause. (*1622 Order* at p. 10:3-6 (prima facie case); p. 10:6-9 (adequate cause … substantial change of circumstances)). To the extent the court treated a current medical tie-break as a custody-modification threshold dispute—rather than applying *Kelley* to resolve the deadlock on current facts and provider recommendations—it applied the wrong legal standard.

The need for an evidentiary hearing was especially acute because the medical dispute turned on credibility and timeline presentation in the parties' submissions. Appellant documented child's inflamed, bleeding gums on November 21, 2025, with time-stamped photographs (*1610, Pltf. Ex. 2A*, Bates 077–079). Respondent attempted to rebut that evidence with a "healthy gums" photo dated December 5, 2025 (*1608*, Def. Ex. 7) and argued it contradicted Appellant's bleeding-gums documentation. But Respondent's own framing establishes the flaw: the "healthy gums" photo is post-appointment, and the record reflects a December 4 dental consult and ensuing treatment planning. Comparing a post-appointment image to Appellant's earlier, time-stamped documentation is not an apples-to-apples rebuttal and underscores why material medical facts and credibility issues could not be resolved fairly on the pleadings.

A hearing also would have provided admissible, contextual input directly relevant to the *Kelley* factors—particularly provider recommendation and risk. The record includes a radiograph refusal form acknowledging that decay may be invisible without x-rays and that the dentist could not make a full diagnosis without them. (*1610 Pltf. Ex.11*, Bates 080–081). The record also includes TalkingParents communications reflecting unilateral cancellation or rescheduling of previously scheduled care over Appellant's objections—evidence relevant to whether a tie-

break/decision-making allocation was needed to prevent recurrence. (*1610 Pltf. Ex. 12,* Bates 082–087).

The error was prejudicial because the order made merits-like findings on a paper record that are disputed by the documentary record. The court found the child received the necessary dental work "in what appears to be a reasonably timely manner" and that "neither party provided evidence" of serious harm or substantial likelihood of serious harm. (*1622 Order* at p. 29:3-7). It also found "neither party provided an evaluation or recommendation by a medical professional." (*1622 Order* at p. 29:9-10). Yet the record included provider recommendations and risk information, including an orthodontist letter dated June 10, 2025, with treatment recommendations and consequences if left untreated. (*1552 Pltf. Ex. 1*).

Finally, the court resolved the medical dispute through chambers/no-appearance submission in the combined order; where the parties present competing factual narratives about diagnosis, timing of care, provider recommendations, radiograph refusals, and unilateral cancellations, an evidentiary hearing is required to resolve disputed material facts.

Remedy. Remand is required for application of the correct governing framework to the present medical decision-making deadlock under *Kelley*, and for

an evidentiary hearing to resolve disputed material facts to the extent they remain contested.

F. **The district court lacked authority to substantively modify overlapping custody or visitation terms during a pending custody appeal, absent remand (if applicable).**

Appeal No. 90570 involving child custody/parenting-time issues was pending when the district court entered the February 17, 2026, order. The district court therefore lacked authority to revisit issues "pending before" the appellate court and could act only on matters "collateral to and independent from the appealed order." (*1602* at pp. 17:26-28, 18:1-3). Appellant preserved this divestiture/jurisdiction issue below by raising it in her opposition/countermotion. (1602 at pp. 17:26–28, 18:1–3). The combined order itself acknowledges that the January 2, 2025, custody modification order and the April 11, 2025, order were already on appeal and that the matter was "currently pending" before the Nevada Supreme Court as Case No. 90570. (*1622* at p. 4:2-7). The Civil Appeal Statement likewise identifies the pending appeal. (*1629* at p. 3:8–9).

Under *Huneycutt v. Huneycutt*, 94 Nev. 79, 575 P.2d 585 (1978), and *Mack-Manley v. Manley*, 122 Nev. 849, 138 P.3d 525 (2006), substantive custody or visitation modifications while the overlapping issues are before the appellate court require remand, subject to narrow emergency exceptions. To the extent the Winter

Break and electronic-visitation changes overlap with the custody/parenting-time framework at issue on appeal, those portions must be vacated absent remand or a recognized emergency exception supported by findings. This overlap matters legally because, once a custody/parenting-time framework is on appeal, the district court may not change the parties' contact terms in a way that alters the very subject of appellate review absent remand or a recognized emergency basis supported by findings.

The question here is overlap: the February 17, 2026, order modified Winter Break parenting time and imposed a new fifteen-minute cap on electronic visitation—changes that alter parent-child contact rather than merely addressing collateral administrative matters. Even if legal custody issues were not themselves on appeal, Winter Break parenting time and electronic-visitation limits are visitation/parenting-time terms, and the district court could not substantively revise overlapping contact provisions without remand if the prior appeal placed the custody/parenting-time framework at issue. (*1622 Order* at p. 32:5–17 (Winter Break modification); p. 31:12–22 and p. 33:1–5 (15-minute cap); *1622 Order* at p. 4:2-7 (Case No. 90570 "currently pending"); *1629* at p. 3:8-9 (identifying Appeal No. 90570)).

Accordingly, to the extent applicable, any portions of the February 17, 2026, order that substantively modified overlapping custody/visitation terms while Appeal No. 90570 was pending should be vacated and remanded for proper procedure consistent with *Huneycutt and Mack-Manley*. (*1622 Order* at p. 4:2–7; p. 32:5–17; p. 31:12–22 and p. 33:1–5; *1629* at p. 3:8–9).

Remedy. To the extent Appeal No. 90570 was pending, this Court should vacate the portions of the February 17, 2026, order that substantively modified overlapping parenting-time/visitation terms and remand for proceedings consistent with the appellate posture (remand) or a recognized emergency exception supported by findings.

XI. CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court reverse or vacate the challenged portions of the February 17, 2026, combined post-decree order and remand for further proceedings consistent with Nevada law.

Specifically, Appellant requests that the Court:

1. **Vacate the fifteen-minute electronic-visitation limitation** imposed on video calls and remand for reconsideration only after proper notice and procedures, including an evidentiary hearing if material facts are disputed.

2. **Reverse or vacate the Winter Break ruling** to the extent it substantively shortened Appellant's court-ordered holiday time under the guise of "clarification," and remand for application of the proper legal standard and for entry of a clear, comprehensive holiday schedule aligned with the current custody framework.
3. **Reverse the denial of Appellant's countermotion** seeking revision of all holiday provisions and remand for the district court to address the holiday and vacation schedule comprehensively, rather than by piecemeal alteration of Winter Break alone, with an evidentiary hearing if material facts remain disputed.
4. **Reverse the medical decision-making rulings** to the extent the district court applied the wrong legal standard and/or resolved disputed medical facts on the pleadings, and remand for application of the correct *Kelley* framework and for an evidentiary hearing as necessary.
5. **To the extent applicable**, vacate any portions of the February 17, 2026 order that substantively modified custody/visitation terms overlapping with issues pending in Appeal No. 90570 without remand, and remand for proper procedure consistent with the divestiture principles of *Huneycutt* and *Mack-Manley*.

Appellant further requests such other and further relief as this Court deems just and proper.

DATED this 15th day of May 2026.

/s/Luba Snow Dace
LUBA SNOW DACE
[redacted]
Las Vegas NV, 89178
[redacted]
In Proper Person

XII. CERTIFICATE OF COMPLIANCE

1. I certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), and the type style requirements of NRAP 32(a)(6). This brief was prepared in a proportionally spaced typeface using Microsoft Word (Office 365) in Times New Roman, 14-point font.
2. I further certify that this brief complies with the type-volume limitations of NRAP 32(a)(7). Excluding the parts of the brief exempted by NRAP 32(a)(7)(C), this brief contains **7,674** words.
3. I certify that I have read this brief and, to the best of my knowledge, information, and belief, it is not frivolous and is not interposed for any improper purpose. I further certify that this brief complies with the Nevada Rules of Appellate Procedure, including NRAP 28(e)(1), requiring record citations for assertions regarding matters in the record. I understand that I may be subject to sanctions if this brief is not in conformity with the Nevada Rules of Appellate Procedure.

Dated this 15th day of May 2026.

/s/Luba Snow Dace
LUBA SNOW DACE
[redacted]

XIII. CERTIFICATE OF SERVICE

I certify that on this 15th day of May 2026, I served a copy of this

APPELLANT'S OPENING BRIEF upon all parties to the appeal as follows:

☒ By mailing it by first-class mail with sufficient postage prepaid to the following address:

Enrique Velazquez-Gonzalez
[redacted]

Dated this 15th day of May 2026.

/s/Luba Snow Dace
LUBA SNOW DACE
In Proper Person