

1 3. On December 3, 2015, Mr. Falconi filed an Omnibus Motion to Establish a
2 Continuing Duty to Disclose Physical Residences, and Medical, Dental, and Visitation; to
3 Allow the Supervision of Phone Communication; to Establish Boundaries and Procedures
4 for Medical, Dental, Vision, Educational, Mental Health, and Extracurricular
5 Appointments. Mr. Falconi alleges he "has repeatedly requested updated information
6 from [Ms. ██████] regarding her physical residence, as well as medical, dental, and vision
7 information." Further, Mr. Falconi claims Ms. ██████ refused to comply with his requests.

8 4. On December 30, 2015, Mr. Falconi filed an Ex Parte Motion for Temporary
9 Suspension of Visitation, seeking to suspended Ms. ██████ visitation with the minor child
10 until Ms. ██████ provides her physical address. Mr. Falconi alleges similar circumstances
11 as outlined in his Motion. Specifically, Mr. Falconi alleges Ms. ██████ refused to disclose
12 her physical address prior to her scheduled visit with the minor child. Additionally, Mr.
13 Falconi alleges Ms. ██████ is "evading requests for the information and providing
14 irrelevant answers in her responses." Mr. Falconi claims "[t]he child's welfare and safety
15 are at stake when his parents are unaware of where he resides."

16 5. On December 30, 2015, Ms. ██████ filed an Opposition to Ex Parte Motion for
17 Temporary Suspension of Visitation. Ms. ██████ alleges, pursuant to the Parties'
18 agreement, she was to have visitation with the minor child during a portion of his
19 Christmas break from school. Moreover, Ms. ██████ alleges she provided Mr. Falconi the
20 address for the hotel she and the minor child would be staying at during his visit.
21 Additionally, Ms. ██████ alleges Mr. Falconi "indicated that he intends to prevent [Ms.
22 ██████] from having visitation with the child until the Court rules on the ex parte motion."

23 Conclusions of Law

24 1. The Nevada Supreme Court specified a "central tenet of our legal system is
25 the concept of notice and hearing. Justice is served only when parties are given adequate
26 notice and an appropriate opportunity to respond in open court." Clark County Sports
27 Enterprises, Inc. v. Kaighn, 93 Nev. 395, 396, 566 P.2d 411, 412 (1977).
28

1 2. Washoe District Family Court Rule ("WDFCR") 43(2)(b) allows the
2 granting of motions on an ex parte basis only in clear and grave emergencies, such as
3 those situations in which there is an imminent threat to the health, safety, and welfare of
4 a party or minor child.

5 3. With the limited and unsubstantiated information provided by Mr. Falconi,
6 this Court is unable to conclude the minor child's health and safety is or was in imminent
7 danger. Good cause appearing, Mr. Falconi's Motion is not the proper subject of an ex
8 parte order and his Motion is DENIED on an ex parte basis.

9 4. However, the allegations of Mr. Falconi prohibiting Ms. [REDACTED] from having
10 the agreed upon visitation with the minor child, a violation of the current Order regarding
11 child custody and visitation and the adopted Parenting Plan, as well as allegations of Ms.
12 [REDACTED] refusal to provide her physical address, are of concern to the Court and necessitate
13 the Court's intervention. Mr. Falconi may not unilaterally alter this Court's Order. Until
14 an ex parte or other motion is ruled on, he is required to abide by the Orders in place.

15 5. In the present case, Mr. Falconi is insistent on obtaining Ms. [REDACTED] physical
16 address. This concern would hold merit, except that Ms. [REDACTED] notified Mr. Falconi of the
17 actual place she intended to exercise visitation with the Parties' minor child. It is far more
18 important that Mr. Falconi know where the child is rather than where Ms. [REDACTED] resides.

19 6. Mr. Falconi's refusal to permit visitation was pretextual and inappropriate.
20 Ms. [REDACTED] shall file an affidavit within 10 days setting forth the cost of the minor child's
21 airfare. Mr. Falconi shall pay this amount to Ms. [REDACTED] within 15 days. In addition, Ms.
22 [REDACTED] has been prevented from seeing her child at Christmas. She shall receive make-up
23 visitation of 2 days for every day of visitation missed. This make-up visitation shall be
24 enjoyed within the next 6 months. The Parties shall agree upon the make-up visitation
25 within the next 30 days. If a new schedule is not submitted to the Court, the Court will set
26 the make-up days for the Parties.

27 7. Mr. Falconi's Omnibus Motion will be addressed in a separate Order.
28

1 PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT
2 OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A
3 CATEGORY D FELONY AS PROVIDED IN NRS 193.130.

4 NRS 200.359 provides that every person having a limited right of custody to a
5 child or any parent having no right of custody to the child who willfully detains,
6 conceals or removes the child from a parent, guardian or other person having lawful
7 custody or a right of visitation of the child in violation of an order of this court, or
8 removes the child from the jurisdiction of the court without the consent of either the
9 court or all persons who have the right to custody or visitation is subject to being
10 punished for a category D felony as provided in NRS 193.130.

11 Pursuant to NRS 125.510(7) the terms of The Hague Convention of October 25,
12 1980, adopted by the 14th Session of The Hague Conference on Private International
13 Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

14 **IT IS SO ORDERED.**

15 Dated: January 11, 2016.

16 
17 District Judge

CERTIFICATE OF MAILING

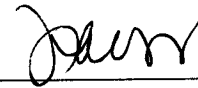
Pursuant to NRCP 5(b), I certify I am an employee of the Second Judicial District Court, and on the 11 day of January, 2016, I deposited for mailing, first class postage pre-paid, at Reno, Nevada, a true and correct copy of the foregoing document addressed to:

Alexander M. Falconi
[REDACTED]
[REDACTED]

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify on the 11 day of January, 2016, I electronically filed the foregoing with the Clerk of Court by using the ECF system which will send a notice of electronic filing of the document to:

JAMES J. BARNES, ESQ.



Judicial Assistant