

1 Code:

Name: Alexander M. Falconi

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Reno, NV 89503

Telephone Number: (775)722-3959

Appearing in Proper Person

HOWARD W. CONYERS

BY

DEPUTY

IN THE FAMILY DIVISION

OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

Alexander M. Falconi

Petitioner,

Case No: FV08-03200

FV08-03200

vs.

Dept. No: 11

11

Ann

Respondent,

MOTION TO MODIFY TEMPORARY CHILD CUSTODY, VISITATION, AND FINANCIAL SUPPORT

COMES NOW, petitioner Alexander M. Falconi, and asks the court to modify temporary child custody status, temporary visitation, and financial support, regarding the child [REDACTED] R. Falconi (age 2, birthdate [REDACTED]). The interim order concerning this matter was entered on 12-12-2008. In support of this motion, petitioner states as follows:

- 1) The respondent has been unable to comply with the interim order established after case management conference due to a schedule conflict regarding employment. A minor adjustment of 30 minutes at the previously scheduled exchange times will resolve the conflict. The petitioner should have visitation from 3:00 p.m. Wednesday to 12:30 a.m. Friday, and from 3:00 p.m. Friday to 12:30 a.m. Sunday. The respondent's employment schedule is from 3:30 p.m. To 12:00 a.m.
- 2) The NEVADA SUPREME COURT modified the definition of "joint physical custody". Pursuant to the RIVERO v. RIVERO [1] decision, joint physical custody no longer necessarily means that the parents share the child equally. Physical custody shall now be considered joint if the time share allows both parents to share significant time with the child. The current time share allows the petitioner 40% (67 hours) and the respondent 60% (101 hours), therefore, temporary physical custody should be awarded to the parties jointly.
- 3) Pursuant to the NEVADA SUPREME COURT RIVERO v. RIVERO [1] decision, the

1 WRIGHT FORMULA established in WRIGHT v. OSBORN [2] should be used to calculate the
2 amount of temporary child support each parent must pay pursuant to NEVADA REVISED
3 STATUTE 175B.070, including any adjustments supported by specific findings of fact. Second,
4 the court should determine the percentage of time each parent spends with the child. Third, the
5 court should determine the difference between those amounts of time. Fourth, the court
6 multiplies each parent's child support by the time difference. Fifth, the court subtracts this
adjusted child support amount from the parent who has the child more of the time, and adds the
adjusted child support amount to the parent who has the child less of the time. Sixth, the court
subtracts the smaller number from the larger, and the parent that owes the larger amount of
child support pays that amount (after subtraction) to the other parent. Seventh, the court applies
any applicable statutory caps.

7 4) The time share schedule, reduces the amount of time the child spends at day care by 80%. The
8 court should be aware of the potential amount of financial savings the respondent will by
reducing the amount of time the child spends at child care.

9 5) The "entertainment bonus" should not be calculated in the petitioner's gross monthly income for
10 the reason that the current economic volatility, especially in the electronics retail industry, does
11 not guarantee an average bonus over time. Calculating this bonus, which could consist up to
12 as much as 58% of the petitioner's gross monthly income, would thrust the petitioner into a
13 unpredictable financial situation at the whims of an out-of-control economic meltdown which
would invariably affect the child negatively during his time with the father. Instead, the
petitioner proposes disclosing every pay stub received to the defendant so that whenever the
entertainment bonus is received, 18% of the amount is calculated into the next monthly child
support payment.

14 WHEREFORE, the petitioner pleads that it is in the child's best interest to establish both a stable time
15 share schedule and a stable financial responsibility. Petitioner requests the visitation adjustment
16 specified in section 1, establishment of physical custody to the parties jointly as specified in section 2,
17 and pursuant to the NEVADA SUPREME COURT RIVERO v. RIVERO [1] decision, petitioner
18 demands the WRIGHT formula be implemented retroactively from the date that the time share
scheduled in the interim order came into effect. To maintain the existing order of disproportionate child
support, even temporarily, would create a devastating amount of financial instability which would
invariably effect the child negatively.

19 Dated this 18th day of December, 2008.

20 Respectfully,
21 

22 [1] 124 Nev. Adv. Op. No. 84 (2008).

23 [2] 114 Nev. 1367, 970 P.2d 1071 (1998).

AFFIDAVIT IN SUPPORT OF THE MOTION

STATE OF NEVADA)
COUNTY OF WASHOE) ss.

I, ALEXANDER M. FALCONI, being first duly sworn under penalties
(Your Name)
of perjury, state that I have read this Motion and the contents are true and correct of my own
personal knowledge except for those things I have stated on information and belief, and as for those
matters, I do believe they are true.

DATED this 24th day of December, 2008.


(Your Signature)

Alexander M. Falconi
(Print Your Name)

1605 N. Virginia St #28
(Address)

RENO, NV 89503
(City, State, Zip)

(775) 722-3959
(Telephone No.)

SUBSCRIBED AND SWORN to before me

this 24th day of December, 2008.


NOTARY PUBLIC

