

COMMISSION ON JUDICIAL SELECTION APPLICATION

EIGHTH JUDICIAL DISTRICT
DEPARTMENT N

REVISED
9:16 am, Jan 12, 2023

Replace the highlighted spaces on this page with the vacancy you seek to fill
N

Candidates may only choose one department and may not withdraw to apply for another department within this selection period

By

(Timothy R. Treffinger, Esq.)



Personal Information

1.	Full Name	Timothy Ryan Treffinger
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	No.
3.	How long have you been a continuous resident of Nevada?	11 years
4.	City and county of residence	Las Vegas, Clark County
5.	Age	36

Employment History

6. Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current or Last Employer	Law Office of Timothy Treffinger
Phone	702-333-5594
Physical Address & Website	1016 Monticello Drive, Las Vegas, NV 89107
Date(s) of Employment	2015-Present
Supervisor's Name and Title	n/a
Your Title	Owner
Describe Your Key Duties	Managing Attorney, Litigation, Preparation of legal docs.
Reason for Leaving	N/A

Previous Employer	Law Office of Elizabeth Mikesell
Phone	closed
Address & Website	closed
Date(s) of Employment	3/30/2015-7/1/2015
Supervisor's Name and Title	Elizabeth Mikesell
Your Title	Field Counsel
Describe Your Key Duties	Insurance Defense for Liberty Mutual

Reason for Leaving	Terminated

Previous Employer	Nevada Attorney General
Phone	702-486-3420
Address & Website	555 E Washington Ave #3900, Las Vegas, NV 89101 https://ag.nv.gov/
Date(s) of Employment	August 2013-January 2015
Supervisor's Name and Title	
Your Title	Deputy Attorney General
Describe Your Key Duties	Tri-County Prosecution Unit Prosecuted Domestic Violence and VAWA cases for three rural counties.
Reason for Leaving	Terminated

Previous Employer	Brennan Legal Counsel Group
Phone	702-306-8104
Address & Website	8870 S Maryland Pkwy Las Vegas NV 89123 http://www.mylegalchampion.com/
Date(s) of Employment	July 2013-August 2013
Supervisor's Name and Title	Shauna Brennan, Esq.
Your Title	Associate
Describe Your Key Duties	Civil Litigation
Reason for Leaving	Better opportunity with Attorney General.

Previous Employer	Storey County District Attorney
Phone	775-847-0964
Address & Website	201 S C St, Virginia City, NV 89440 http://www.storeycounty.org/
Date(s) of Employment	June 2012- June 2013
Supervisor's Name and Title	District Attorney William Maddox
Your Title	Deputy District Attorney
Describe Your Key Duties	Criminal prosecution duties, trained law enforcement in academy.
Reason for Leaving	End of position

Previous Employer	Unemployed
Phone	n/a
Address & Website	n/a
Date(s) of Employment	June 2008-July 2012
Supervisor's Name and Title	n/a
Your Title	n/a
Describe Your Key Duties	In law school.
Reason for Leaving	n/a

Previous Employer	Loyola University Police
Phone	504-865-3434
Address & Website	6363 St Charles Ave, New Orleans, LA 70118 www.loyno.edu
Date(s) of Employment	October 2004-June 2008
Supervisor's Name and Title	Chief Patrick Bailey
Your Title	T/Officer
Describe Your Key Duties	Police and security duties on private college campus.
Reason for Leaving	Graduated.

Previous Employer	Best Buy
Phone	973-515-4994
Address & Website	410 NJ-10, East Hanover, NJ 07936 www.bestbuy.com
Date(s) of Employment	October 2002-June 2004
Supervisor's Name and Title	Unknown
Your Title	Sales Associate
Describe Your Key Duties	Retail Sales
Reason for Leaving	Left for college.

////

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

High School: Seton Hall Preparatory School- Diploma 2001-2004, Graduated

120 Northfield Ave, West Orange, NJ 07052

College: Loyola New Orleans- BA- Psychology, Cum Laude 2004-2009 Graduated

6363 St Charles Ave, New Orleans, LA 70118

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

1. Forensic Team- Extemporaneous Speaking- competed for all four years of high school in JV, then Varsity, as well as coaching duties.
2. Loyola New Orleans Club Hockey 2004-2008, founding member, coach, starting goalie.
3. Loyola New Orleans Student Newspaper 2004-2006, photographer.

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

Loyola New Orleans School of Law 2009-2010

526 Pine St, New Orleans, LA 70118

Changed schools due to an opportunity to transfer to a better school becoming available.

University of New Hampshire, School of Law, Juris Doctorate, LLM: International Criminal Law and Justice Awarded in 2012 and 2013 respectively top 25% of class (per registrar).

2 White St, Concord, NH 03301

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

No employment during law school.

////

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.

Participated in UNH Criminal Defense Clinic both the class, and then volunteer work afterwards. Represented misdemeanor/felony defendants.

Participated in Teen Court, a diversion program assisting teens in prosecuting/defending their peers for school/minor violations, and assisting the peer juries, as a mentor.

Law Practice

12. State the year you were admitted to the Nevada Bar.
2012

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

N/A

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

Yes

There was a suspension that was not imposed due to an arrest in 2016. Ultimately no suspension was imposed and a public reprimand was imposed. The underlying charges were ultimately dismissed following diversion. The original suspension date was 5/11/17

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 16-20 for the five years directly preceding your appointment or election to the bench.

16. Estimate percentage of time spent on:

Legal Discipline	Percentage of Practice
Domestic/family	60
Juvenile matters	5
Trial court civil	5
Appellate civil	1
Trial court criminal	23
Appellate criminal	5
Administrative litigation	1
Other: Please describe	

17. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

80% non jury trials, 20% jury trials.

18. Give the approximate number of jury cases tried to a conclusion during the past five years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

Jury cases- 5

Non-Jury- 15

19. List courts and counties in any state where you have practiced in the past five years.

Federal : Nevada District Court, Nevada Bankruptcy Court

Clark County: 8th Judicial District Court, Las Vegas Justice Court, Henderson Justice Court, North Las Vegas Justice Court, Henderson Municipal Court, Las Vegas Municipal Court, North Las Vegas Municipal Court, Goodsprings Justice Court, Mesquite Justice Court

Nye County District Court

Nye County Justice Court

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), complete the following tables:

Case 1
Case name and date: State v. Argabright 2014
Court and presiding judge and all counsel: Nye County District Court Judge Lane Prosecutor: Timothy Treffinger Defense Counsel: Michael Becker
Importance of the case to you and the case's impact on you: This was my first jury trial. A case involving the alleged molestation of two foster children. This case is important to me due to the lessons learned in dealing with minor victims, victims of abuse, and the importance of adequate law enforcement investigation. This case helped me develop the ability to prepare for unforeseen circumstances arising during trial, and taught me to think on my feet and quickly research issues that suddenly appear during trial proceedings. Though the defendant was ultimately acquitted, the discussions with the jury that followed this case shaped my approaches to all cases going forward. This also caused a heightened relationship with the training side of that position (as it was grant funded there was a

requirement to train law enforcement along with normal prosecutorial duties) and molded the training program that followed.
Your role in the case: 1 st Chair prosecutor.

Case 2
Case name and date: State v. Constable 2016
Court and presiding judge and all counsel: Las Vegas Justice Court Judge Bennett-Haron Prosecuting Office: Clark County District Attorney Defense Counsel: Timothy Treffinger
Importance of the case to you and the case's impact on you: This was one of the first prosecutions from the new housebreaking statutes being enforced in Clark County, charged at the felony level. While not the most salacious charge, this case is important to me as it shows how diligence and constant work on behalf of a criminal defendant can yield positive results. This matter went up to district court on the original felony housebreaking charge, then was remanded back down for a bench trial on a trespassing charge. Ultimately the defendant was acquitted at bench trial following the presentation and cross examination of witnesses. This matter took nearly 18 months for a result, but allowed the client to continue to pursue his occupational aspirations. Being able to deal hands on with new statutes and their application in the courtroom was a novel and fascinating experience.
Your role in the case: Defense Counsel

Case 3
Case name and date: Millsap v. Gasper 2020
Court and presiding judge and all counsel: 8 th Judicial District Court Family Division, Judge Mary Perry Counsel for opposing party: Willick Law Group
Importance of the case to you and the case's impact on you: The importance of this case stems from the attempts to weaponize CPS involvement in order to try to better one's position in a family court matter. Having dealt with the Division in the past as a prosecutor who focused on sex crimes and violence against women and children up to this point I had not seen the ways in which these agencies play a vital role in the outcome of some family court cases.

<p>In this case the demonstrated abuse of the use of the agency by the other side allowed for a positive and swift result during the evidentiary hearing in this matter. This gave a new perspective on the relationship between these agencies and how they can impact these cases in both positive and negative ways depending on whether the agency is contacted for the appropriate reasons.</p>
<p>Your role in the case: Lead Counsel</p>

<p>Case 4</p>
<p>Case name and date: State v. Gayles-Zanders</p>
<p>Court and presiding judge and all counsel: 8th Judicial District Court- Judge Tierra Jones Prosecutors: Marc DiGiacomo, Steven Rose Defense Counsel: Timothy Treffinger, Telia Williams</p>
<p>Importance of the case to you and the case's impact on you:</p> <p>This matter is important due to the involvement of the competency process and how it impacted this case. My client had numerous attorneys prior to my involvement, and the case had languished in competency proceedings for several years. I was able to foster a productive relationship with the client, quickly get her out of the competency process so that she might have the trial she wanted from day one of being arrested.</p> <p>Aside from being a homicide case, and all the attendant work associated therewith, the impact this case has had on my view of the competency process, and how some parties get lost within that system due to their inability to trust or work with their attorneys has changed my view on that system. Following this experience I have viewed client issues that appear to be competency issues through a different lens, and attempt to work hand in hand with these clients to ensure that the perceived competency issue is actually a competency issue, rather than a simple issue with the attorney client relationship. The implications of being held long term in competency proceedings directly impacts constitutional rights and abilities to adequately defend a case once it finally makes its way to trial.</p> <p>At the end of the day I never want a client to languish in custody in competency proceedings for years if it can ultimately be avoided. Constitutionally we all deserve our right to a fair and public hearing and our day in court to defend ourselves.</p>
<p>Your role in the case: 1st Chair Defense Counsel</p>

////

Case 5
Case name and date: Fuller v. Johnson 2020
Court and presiding judge and all counsel: 8 th Judicial District Court- Family Division Judge Heidi Almase Counsel: Timothy Treffinger (opposing party was Pro Se)
Importance of the case to you and the case's impact on you: This case was another opportunity to dig into an issue that does not have well settled law in Nevada with regard to community property asset issues. This matter involved season tickets (which up until the last few years was not an issue due to the professional sports landscape in Las Vegas) and how the seat licenses and tickets (and the relationship between the two) related to divorce proceedings. Through the research and ultimately evidentiary hearing in this matter I was able to learn a great deal about these issues, especially in the manner in which they interplay with prenuptial agreements, title to assets, and a variety of related issues. These types of cases are always important to me as any opportunity to dig into novel issues, research them, and apply that research in the courtroom I believe heightens my trial and motion practice going forward.
Your role in the case: Lead Counsel

21. Do you now serve, or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

No

22. Describe any pro bono or public interest work as an attorney.

None.

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

None.

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past five years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

I am in compliance, my course list is as follows:

1. Crucial Soft Skills for the Successful Attorney
2. Domestic Violence and Divorce
3. When Attorneys Wrongdoings Rise to Ethics Violations
4. Preventing Substance Abuse and Suicide in the Legal Profession
5. Current Trends in Legal Technology
6. Mastering Jury Selection
7. Navigating Police and Citizen Encounters
8. Trial Techniques Using Legal Videos
9. Ethics of Charging and Collecting Fees
10. Substance Abuse or Substantive Abuse
11. Mediation 101: Alternative Dispute Resolution
12. The Inherent Conflict Between Free Speech and Intellectual Property
13. FISA Primer
14. Privacy, Cybersecurity and Intellectual Property
15. Technology, Internet, and the Law
16. Substance Abuse and the Impaired Lawyer
17. Ethics related to Marijuana Laws
18. Primer on Police Misconduct
19. Federal Responses to State MJ laws
20. Sexual Orientation Asylum
21. Trial Publicity
22. Commercial Litigation
23. Animals in the Service of People
24. Music Business Agreements
25. Intellectual Property
26. Child and Elder Abuse Reporting
27. Sex Crime vs. Sexual Harassment

28. A Guide to Understanding Mediation
29. Private Judge Arbitration
30. Tech Contracts
31. Legal Ethics Real Problems
32. Small Business Employment Law
33. Substance Abuse and Ethically Challenging Cases
34. White Collar Cases
35. Digital Age Challenges to ethics.
36. Overcome Substance Abuse Issues
37. I-9 Compliance
38. Technology and Implications
39. Arbitration over Litigation
40. Trial Skills
41. Supreme Court Rulings: Procedure
42. Protecting Clients Cybersecurity
43. How Lawyers Can Help Bring Change in Profession and Beyond.

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

Neither

Business & Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

2019-2021- Classic Car Restoration and Sales.

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:

a. the nature of the business

Classic Car Restoration and Sales

b. the nature of your duties

Administrative

- c. the extent of your involvement in the administration or management of the business

Handled administrative paperwork, worked on obtaining licensing from state agencies.

- d. the terms of your service

None as of this date, the company has closed.

- e. the percentage of your ownership

When company was in existence 66%

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

None

Civic Professional & Community Involvement
--

29. Have you ever held an elective or appointive public office in this or any other state?

No

Have you been a candidate for such an office?

Yes

If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

Ran for Clark County District Attorney in 2022, Received ~287,000 votes in general election..

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

State Party Central Committee Member 2021-2022

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

None

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

Chinese American Citizens Alliance- Compliance Officer 2020-Present

33. List honors, prizes, awards, or other forms of recognition.

2022- Endorsed by Veterans in Politics International

2022- Endorsed My Vegas Magazine

34. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

None.

36. During the past ten years, have you been registered to vote?

Yes

Have you voted in the general elections held in those years?

Yes

37. List avocational interests and hobbies.

1. Hockey
2. Cooking
3. Financial Technology
4. Dog training.
5. Cinema
6. Art and Literature
7. Computer Science

Conduct

38. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?

Yes

39. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.

No

Aside from matters discussed in other areas that were ultimately dismissed following diversion, due to the dismissal it is unclear whether this would qualify under this question, hence the clarification here. Further explanation below.

40. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to the corresponding question in the confidential section.

Yes

In 2016 my home was raided by the Nye County Sheriff's Office due to the drug use of my significant other at the time. Upon searching the residence a small quantity of narcotics along with paraphernalia was recovered. Ultimately my case entered the diversion program, which I successfully completed, and the case was dismissed.

With regard to bar discipline related to this issue I received a public reprimand due to the way the charges and conduct reflected poorly on the legal profession, along with my own professional credibility. This has been my only disciplinary issue with the Nevada Bar, and I strive to make sure that no further issues arise in my practice or personal life.

41. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

No

42. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

No

43. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

No

44. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

No

45. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.

Nothing aside from former clients coming before me.

Other

46. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

N/A

47. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify you as a supreme court justice. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

Attached with heading related to this question.

48. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

No further information, I appreciate the time and consideration by the Commission.

49. Attach a sample of no more than ten pages of your original writing in the form of a decision, "points and authorities," or appellate brief generated within the past five years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

T. Treffinger Answer to Question 47

26. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify you as a supreme court justice. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

I believe that my life experience, education, diverse practice experience, and personality set me apart from my peers with regard to this family court position. In my youth I had the privilege to travel, expanding my horizons and allowing me to meet a diverse group of peers both domestically and abroad. This has allowed me to build a base of dealing with a diverse group of people, such as the melting pot we have here in Las Vegas, along with respect for cultural and religious differences that arise in family court proceedings,

While in college I had the opportunity to work for the campus police department for my entire tenure at Loyola. In that role we attempted to apply a community policing standard where we would attempt to resolve issues and altercations for the betterment of the community rather than simply taking a solely law enforcement standpoint. This helped develop the skills to mediate and resolve issues as amicably as possible for the better of the community as a whole and those involved in the altercation as well.

During law school I worked with the youth in New Hampshire in the Teen Court program attempting to divert troubled teens onto a better path, while also mentoring student prosecutors/defense/juries during the program. Additionally, I was able to participate in the Criminal Defense Clinic completing the basic, advanced, and an independent study representing indigent defendants under the supervision of a licensed attorney. This has allowed me to gain courtroom experience even back in my 2L and 3L year.

T. Treffinger Answer to Question 47

Following completion of my juris doctorate I was able to complete a course of study resulting in an LLM in International Criminal Law and Justice. The capstone of this program resulted in a presentation and study on the One Child Policy in China and its impact on family units, population, and related social justice issues. Through the comparison of various family (and family court systems) throughout the world I was able to explore how various statutes impact family court proceedings, criminal proceedings, and society giving a unique insight into how family law is adjudicated differently depending on the country and jurisdiction one resides in.

in my practice I have had the privilege of acting as a prosecutor for numerous counties, with part of that time specializing in cases involving domestic violence and child abuse cases. During this time, I had the privilege to work with the forensic interview process along with fellow law enforcement officers, social workers, and interviewers giving deep insight into the way children deal with traumas of the worst kind.

Following my work in public service I went into private practice where I focused on family law and criminal defense in my own office. Additionally, and while it is not the proudest experience of my life, I have faced the criminal justice system as a defendant and know the weight that court proceedings can have on the individual parties associated with the case. I believe this gives me a unique perspective as I have been in the position of enforcing the law, defending citizens in the criminal justice system, participating in the system as a party, and being actively involved in family court matters as counsel of record. I attempt to bring this unique viewpoint to every case that comes across my desk, and I would bring that unique viewpoint to the courtroom in evaluating each case that came before me.

T. Treffinger Answer to Question 47

I continue to give back to the community when able. Currently I serve as the Compliance Officer for the Chinese American Citizens Alliance, one of the oldest civil rights organizations in the country, and I always look for additional ways to involve myself in our community which is important for preserving relationships between the Courts, the legal profession, and the community at large.

Based on the experiences of working in a variety of roles and settings I have developed a calm and rational disposition when resolving disputes. I believe my work in the courtroom reflects the rational and calm demeanor expected of those who work in the judiciary and working with a wide variety of clients has given me the ability to problem solve and de-escalate tense situations before they can spin out of control and allow the parties to focus on the betterment of themselves and the situation at hand.

These various life experiences and opportunities I have had the privilege to experience are what I believe sets me apart from my peers who seek this position. I hope to bring my experience to the 8th Judicial Family Court where I will strive to treat every case with patience, respect, dignity, and a high level of courtroom standards. Thank you once again for your consideration.

WRITING SAMPLE T. TREFFINGER- Application Dept. N

1 Timothy R. Treffinger, Esq.
2 Nevada Bar No.: 12877
3 2350 S Jones Blvd, D11
4 Las Vegas, NV 89146
5 702-333-5594
6 AttorneyTreffinger@gmail.com

DISTRICT COURT

CLARK COUNTY, NV

7 MARISA DURAN,
8 Plaintiff,

Case No.: D-18-572798-D
Dept No.: F

9 vs.

Hearing Date:

10 GUSTAVO GOMEZ,
11 Defendant

Hearing Time: 10:00AM

Oral Arguments Requested: Yes

12
13 **DEFENDANT’S OPPOSITION TO PLAINTIFF’S MOTION REGARDING CUSTODY,**
14 **AND COUNTERMOTION FOR PRIMARY PHYSICAL CUSTODY, TO SET CHILD**
15 **SUPPORT, AND SUPERVISED VISITATION FOR PLAINTIFF, FOR ATTORNEY’S**
16 **FEES AND OTHER RELIEF**
17


18 COMES NOW the Defendant, GUSTAVO GOMEZ, by and through his attorney, TIMOTHY
19 R. TREFFINGER, ESQ., and hereby OPPOSES the Plaintiff’s motion regarding custody
20 currently on file, and hereby moves this Court for an Order as follows:
21

- 22 1. Denying the Plaintiff’s motion in its entirety.
23 2. Granting Defendant primary physical custody of the minor children;
24 3. Granting Plaintiff supervised visitation with the minor children;
25 4. Awarding Defendant child support at the statutory rate of 18% of the Plaintiff’s gross
26 monthly income;
27 5. Awarding Defendant attorney’s fees and costs to be paid by Plaintiff; and
28

1 6. Other relief as the Court deems just and proper;

2 This Opposition and Countermotion is based on the papers and pleadings herein, the
3 following Points and Authorities, the attached exhibits, and any argument adduced by the Court
4 at time of hearing.
5

6 Dated this 13th of March, 2020.

7
8 
9 _____
10 TIMOTHY R. TREFFINGER, ESQ.
11 Nevada Bar No.: 12877
12 *Attorney for Defendant*

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I. FACTS**

13 The parties were previously married and divorced previously in this action. As a result of their
14 union three children were born to the parties: JACOB GOMEZ (2/5/11), MYLIA GOMEZ
15 (7/12/07), and ANTHONY GOMEZ (10/29/01). Anthony is no longer a minor so the subject of
16 this opposition and motion applies to JACOB and MYLIA.
17

18 Since the separation of the parties, on information and belief, has started a relationship with
19 MICHAEL TODARO, who resides in the home with the Plaintiff and the children. Since the
20 inception of this new romantic relationship issues have started to ensue regarding the
21 environment of the home as well as both the Plaintiff and Mr. Todaro's treatment of the children.
22 (See below, as well as Exhibit 2 related to Mr. Todaro's criminal history)
23

24 Upon information and belief there is a recurring issue in the home wherein the Plaintiff and
25 Mr. Todaro engage in loud sexual behavior for long periods of time late into the evening that
26 disturbs the sleep of the children, and is causing significant emotional trauma to the children in
27 this case. (See Exhibit 3 : Messages from MYLIA to Defendant)
28

1 Upon information and belief the Plaintiff and/or Mr. Todaro have become physically violent
2 towards the children in this case. (See Exhibit 4: Evidence related to physical abuse), and the
3 atmosphere in the home is one of fear.

4 Upon information and belief the Plaintiff and/or Mr. Todaro have taken items given to the
5 children by the Defendant (Ipads, phones, etc.) and in some cases have destroyed this property
6 because they feel that the object is “spying” on them, or because the children “do not deserve”
7 these nice items.
8

9 Upon information and belief the children have repeatedly requested to live with the Defendant
10 instead of residing in the chaotic and fearful environment the Plaintiff has placed them in.
11

12 There are significant issues on both sides of this case that need to be examined by the Court,
13 and the Defendant was in the process of gathering evidence and hiring an attorney when he was
14 arrested for DUI and pleadings began to be filed into this case.

15 Following his arrest the Defendant has stopped drinking, and is willing to submit to whatever
16 testing/monitoring the Court deems necessary to prove that he has adequately addressed any
17 alcohol related issues.
18

19 On 2/3/2020 the Plaintiff filed a motion to readdress custody status following the Defendant’s
20 arrest for DUI while the children were in his care, however the issues present during Plaintiff’s
21 custody far exceed the Defendant’s alcohol related issues, and the steps that he has taken to
22 ensure such issues do not occur in the future. This Opposition and Countermotion followed.
23

24 **II. LEGAL ARGUMENT**

25 **a. PLAINTIFF’S MOTION SHOULD BE DENIED IN ITS**
26 **ENTIRETY**
27

1 The majority of the grounds listed in Plaintiff's motion are specious at best, and belied by the
2 record in this case, including in Plaintiff's own pleadings. (See Exhibit 1: Plaintiff's filed
3 complaint of divorce, page 4 of 8). The Plaintiff in her motion cites "He (the Defendant) was
4 abusive physically and mentally while we were married." However when initially filing for
5 divorce under section "8." of the Complaint the box next to "domestic violence" is not checked.
6 This is especially interesting since the Plaintiff went out of her way to check the "other" box and
7 cite "alcoholism" as an additional consideration, so no claim can be made that she simply
8 skipped the section by mistake. At no point in counsel's cursory review of the record in this
9 matter was physical or mental abuse (domestic violence) cited in any pleadings in this matter.
10
11

12 Defendant's use of alcohol will be addressed below in with regard to his countermotion, but
13 the allegations made in Plaintiff's motion are not backed up by any evidence, and based upon the
14 new phantom claims of domestic violence the Plaintiff's credibility is definitely in question at
15 this point.
16

17 If Plaintiff is indeed in possession of evidence of these issues they do not seem to be attached
18 to the motion pleadings, nor have they been provided to Defendant so that he can have time to
19 review this alleged evidence attack the veracity of these claims.
20

21 Defendant does concede he was arrested for a DUI with subject minor in the car, however that
22 is the only claim that has any veracity in the Plaintiff's motion. This issue was addressed by
23 CPS and contact with the children was still allowed after their assessment, a review of these CPS
24 records is likely required to move forward on these issues.
25

26 Plaintiff's assertion that there is no drinking or drug abuse going on in her home environment
27 is significantly in question as well considering her significant other, who resides in the home is a
28 multiple time felon (enough to warrant a habitual criminal enhancement) and has a conviction for

1 “Attempted Possession of a Controlled Substance.” (See attached Exhibit 2: Robert Todaro’s
2 Judgments of Conviction and NDOC record search) It should be noted that Mr. Todaro is
3 someone who the Plaintiff intentionally exposes her children to with at least one drug conviction,
4 convictions for possession of weapons, burglary, and an assortment of other crimes at the felony
5 and gross misdemeanor levels. Mr. Todaro also appears to have been convicted of domestic
6 violence, and has multiple arrests at the justice court level as well.
7

8 The Plaintiff has not met the burden of proving her allegations, and therefore her motion
9 should be denied in its entirety.
10

11
12 **b. GUSTAVO SHOULD BE AWARDED PRIMARY PHYSICAL**
13 **CUSTODY OF THE CHILDREN AT ISSUE**

14 Pursuant to NRS 125C.0045(1)(a), this Court may “make such an order for the custody, care,
15 education, maintenance and support of the minor child as appears in his or her best interest.” In
16 determining the best interest of a minor child, this Court should use the factors set forth in NRS
17 125C.0035(4):
18

- 19 a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent
20 preference as to his or her custody.

21 MYLIA is of sufficient age and capacity to inform the Court of her preference, as well as
22 testify to some of the issues present in the home. On information and belief she would prefer to
23 reside with Gustavo.
24

- 25 b) Any nomination of a guardian for the child by the parent.

26 No nomination of Guardian is present at this time.
27
28

1 c) Which parent is more likely to allow the child to have frequent associations and a
2 continuing relationship with the noncustodial parent.

3 It is clear that Marisa seeks to restrict the relationship between Gustavo and the children as
4 much as possible. She has baselessly moved for sole legal and physical custody, without
5 alleging sufficient grounds. Gustavo has only sought to restrict access to the children to
6 alternating weekends, and has only sought primary custody to give Marisa a chance to address
7 the issues present in her home and with her romantic partner.
8

9 It is clear that Gustavo is more likely to foster a relationship with both parents and the
10 children in comparison to the actions of Marisa in this matter.
11

12 d) The level of conflict between the parents.

13 The level of conflict between the parties is high at this time, and continues to increase with
14 the alleged physical and emotional abuse occurring within the home of the Plaintiff. Once new
15 custody orders are in place this should limit a great deal of the conflict.
16

17 e) The ability of the parents to cooperate to meet the needs of the child.

18 Future cooperation of the parents is something that needs to be fleshed out in this case,
19 specifically with Plaintiff placing her romantic partner ahead of the interests of the children as
20 that is significantly hampering cooperation.
21

22 Defendant believes that if Plaintiff addresses her issues with the same diligence that he has
23 addressed his use of alcohol future cooperation can be maintained.

24 f) The mental and physical health of the parents.

25 While Defendant is actively seeking to remedy his issues with alcohol, there may be
26 significant mental health and emotional issues present on the side of the Plaintiff considering her
27
28

1 behavior, along with the behavior she allows to occur by Mr. Todaro, that needs to be addressed
2 in this case.

3 g) The physical, developmental and emotional needs of the child.

4 The childrens' needs can be adequately met by the Defendant who is employed and at times
5 picks up a second job or extra work in order to continue to provide for his children.
6

7 h) The nature of the relationship of the child with each parent.

8 Both parents have long term relationships with these children, and these relationships need to
9 be maintained regardless of how custody status changes in this case.
10

11 i) The ability of the child to maintain a relationship with any sibling.

12 All siblings have resided together, and should continue to reside together with the requested
13 change in custody so that these relationships can be maintained.

14 j) Any history of parental abuse or neglect of the child or a sibling of the child.

15 See above allegations of abuse by Plaintiff and Mr. Todaro regarding the children, as well as
16 the exhibits related to those allegations. There are serious issues here with the treatment of the
17 children when they are in Plaintiff's care.
18

19 k) Whether either parent or any other person seeking custody has engaged in an act of
20 domestic violence against the child, a parent of the child, or any other person residing
21 with the child.
22

23 Based upon the evidence provided it seems as though Plaintiff has become physically violent
24 towards the children at the request of Mr. Todaro.

25 l) Whether either parent or any other person seeking custody has committed any act of
26 abduction against the child or any other child.

27 This prong is not applicable to this case at this time.
28

1 Furthermore, pursuant to *Rivero v. Rivero*, “physical custody involves the time that a child
2 physically spends in the care of the parent.” 125 Nev. 410, 421; 216 P.3d 213, 222 (2009).
3 Additionally, “the party with primary physical custody is the party that has the primary
4 responsibility for maintaining a home for the child and providing for the child’s basic needs.” *Id.*
5 At 428, 226. Furthermore, “the determination of who has primary physical custody revolves
6 around where the child resides” and “if a parent has physical custody less than 40 percent of the
7 time, then that parent has visitation rights and the other parent has primary physical custody.” *Id.*

8
9 In assessing which parent is best suited to be the primary custodian, the Court looks at, among
10 other things, whether the child has been living in a wholesome and stable environment, based
11 upon the above referenced issues the environment that the children are currently housed (with the
12 Plaintiff) is far from wholesome and stable. Gustavo on the other hand is a fit and proper person
13 for the care, custody, and control of the minor children, even with his current pending DUI issue.
14 The issues referenced here, upon information and belief, that the children are exposed to are
15 incredibly disconcerting, and a change is definitely warranted. It is clearly in the children’s best
16 interest that Gustavo be awarded primary physical custody so that a more wholesome and stable
17 environment can be maintained. Marisa should receive alternating weekends with the children to
18 maintain a healthy relationship with her children, so long as the issues with her and her current
19 significant other can be abated, otherwise a future motion for supervised visitation may be made.

20
21 Additionally, a full review of the CPS records related to these children needs to be conducted
22 by the Court as it is believed that a variety of the allegations made here were brought to the
23 attention of the investigators in the course of the investigation related to the DUI.
24

25
26 //

1 **CONCLUSION**

2 Based upon the foregoing, it is clear that it is in the children’s best interest for Gustavo to be
3 awarded primary physical custody and Marisa should be awarded alternate weekend visitation
4 until she can demonstrate the resolution of her home environment issues to the Court. Marisa
5 should be ordered to pay child support pursuant to Nevada Revised Statutes and should be
6 responsible for one half the cost of health insurance as well as half of all unreimbursed medical
7 expenses pursuant to the 30/30 rule. Gustavo further requests he be awarded attorney’s fees in
8 an amount deemed appropriate by the Court. It is likely an evidentiary hearing would be required
9 to flesh out some of the serious issues present in this matter, and therefore such a hearing is
10 hereby requested by the Defendant.
11
12

13 Dated this 13th of March, 2020.

14
15 
16 _____
17 TIMOTHY R. TREFFINGER, ESQ.
18 Nevada Bar No.: 12877
19 *Attorney for Defendant*
20
21
22
23
24
25
26
27
28

//
//