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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF NEVADA, TRUCKEE BRANCH**

10
11 IN RE THE MARRIAGE OF:)
12)
13 PETITIONER:) **RESPONDENT’S DECLARATION**
14 KATHERINE ESTEL DE FIORI) **IN SUPPORT OF MOTION**
15) **FOR CHILD SUPPORT AND**
16 and) **OTHER ORDERS**
17)
18 RESPONDENT:)
19 NICOLAS EROS DE FIORI) Yvette Durant, Commissioner
20) Department B
21)
22)
23)
24)

25 I, Nicolas Eros De Fiori, Respondent in this case, have personal knowledge of the
26 facts I state below, and if I were to be called as a witness, I could competently testify
27 about what I have written in this declaration.
28

29 **1. BACKGROUND**

30 Based upon all the facts, history and circumstances presented herein, the
31 preponderance of evidence indicates the Petitioner is hiding income and refusing to be
32 gainfully employed in an attempt to avoid paying child support. The Petitioner is an
33

1 admitted sex worker. Receiving income from the underground economy is a primary
2 reason spouses hide income in divorce proceedings. The Petitioner being a full time sex
3 worker would provide creditable explanations for the Petitioner acting in bad faith and
4 for the Petitioner's sudden, and otherwise inexplicable, rejection of the Petitioner's two
5 minor children, ages 9 and 13 at the time, after being a loving, caring (albeit alcoholic)
6 mother until September 2014 when the Petitioner met and chose to live an alternative,
7 singles' lifestyle with her now fiancé, Karl William Jesse.

8 The Petitioner filed for divorce in April 2014, has conspicuously done nothing to
9 help bring these divorce proceedings to a conclusion, and has been acting in bad faith by:
10 (a) stalling and delaying, (b) making misrepresentations and omissions of facts, (c)
11 willful violation of orders, (d) being unwilling and intransigent in negotiating the division
12 of property, (e) being voluntarily unemployed and underemployed, and (f) attempting to
13 coerce and manipulate the Respondent.

14 2. **ORDERS REQUESTED**

15 The Respondent requests the following orders:

- 16 1. Child Support – retroactive at the guideline amount after the Petitioner obtains
17 gainful employment at her earnings capacity.
- 18 2. Seek Work – requiring five (5) employer applications per week.
- 19 3. Financial Declaration – for current and two prior periods.
- 20 4. Bifurcate division of property – to permit sale of personal property.

21 3. **PETITIONER ACTING IN BAD FAITH**

22 **Violations of Orders** - The Petitioner had the ability to comply with, and willfully
23 violated the following orders without cause and with impunity:

- 24 1. Alcohol/drug testing and treatment orders – Made on October 6, 2014.
25 Petitioner ignored orders; plead ignorance of orders to me and transportation
26 problems as good cause to Court. Court accepted transportation problems as
27 good cause and stayed the orders. Respondent's objection to staying the
28

1 orders was denied.

2 2. Co-parenting course order: Made on October 6, 2014. Petitioner has not
3 completed the course. Good cause not given.

4 3. & 4. Visitation orders: Made October 6, 2014. Modified November 3, 2014. Order
5 included Petitioner be breathalyzed prior to each visit. The Petitioner has not
6 exercised a single visitation pleading transportation problems as the reason.
7 Orders modified for the Respondent to provide transportation. The Petitioner
8 still did not exercise a single visitation. (Note: The Petitioner had the use of
9 Mr. Jesse's van through October 2014.)

10 5. Authorization for therapy order - The Petitioner failed to return a form
11 authorizing the children to go to therapy after numerous reminders from the
12 Respondent and the therapist. The Petitioner lied by stating there was
13 nowhere for her to mail the form near her residence. The Petitioner could
14 have mailed the form from her place of employment at Boreal that was in
15 walking distance from her home or three (3) miles down the street at the
16 Soda Springs post office.

17 6. & 7. Telephone contact orders: Made October 6, 2015. Modified June 1, 2015.
18 Petitioner has never followed the orders according to schedule; only
19 sporadically called; ceased calling for two months and has now completely
20 stopped calling.

21 8. Mailing Address Order – Made on June 1, 2015. The Petitioner has: (a)
22 repeatedly provided false and/or non-existent addresses, (b) twice delayed
23 updating her mailing address for addresses for three (3) months, and (c) told
24 the Respondent she'd provide her mailing address "when it's an appropriate
25 time to be served."

26 9. Financial Declaration Order for Child Support – Made on September 21,
27 2015. The Petitioner filed and improperly served blank declarations marked
28 as "final." Note: The Petitioner filed and properly served complete financial

1 declarations when she requested and was granted spousal support at an ex
2 parte hearing.

3 10. Job contact order – Made September 21, 2015. Petitioner failed to file a job
4 contact log and did not provide the Court with good cause.

5 11. Order to appear at November 2, 2015 child support hearing – Made on
6 September 21, 2015. Continuation of the September 21 child support hearing
7 to review job contact logs. Petitioner failed to file a job log, failed to attend
8 the hearing and failed to call to inform the Court she would not be attending.
9 Note: The Court offering an early season snow storm with only a few inches
10 of accumulation and clear wet roads, and the Court stating it knew the
11 Petitioner lived on the (Donner) Summit (Petitioner has filed two changes of
12 address evidencing she does not) as a possible reason the Petitioner failed to
13 attend the hearing is not plausible. The Court denied the Respondent’s
14 request to continue the hearing and required the Respondent file a new
15 motion requesting seek work and child support orders.

16 **Uncooperative/Delaying Proceedings** - The Petitioner has been uncooperative
17 throughout these proceedings causing continuous delays as evidenced by the following:

- 18 • Non-responsive/Refusal to Cooperate – The Petitioner has: (a) not responded
19 to discovery requests, (b) not filed responses to motions, (c) ignored the
20 Respondents requests to discuss settlement, and (d) ignored two stipulations.
- 21 • Avoiding Service – The Petitioner: (a) has violated statute and Court orders
22 requiring the Petitioner keep a current mailing address on record, stating she
23 will be served “when it’s an appropriate time for me to be served, (c) accepted
24 mail service one, (d) accepted personal service twice, both by going to the
25 Nevada County Sheriff’s office, (e) refuses to provide her residence address
26 based upon the unfounded and unsubstantiated claim she is in fear of the
27 Respondent, and (f) will not accept electronic service. Petitioner sent the
28 Respondent a text immediately after the Respondent’s father served the

1 Petitioner by email (which was shortly after the Petitioner emailed the
2 Respondent's father stating "this is my new email," it was an old email, not
3 new) stating that the Petitioner suddenly does not use email.

- 4 • Grant Respondent's Father Guardianship (attempt to avoid child support) –
5 Without reason or explanation, the Petitioner repeatedly suggested
6 Respondent's 81-year-old father be granted guardianship which would
7 preclude the Petitioner from having to pay child support.
- 8 • Relocation Order (delays and manipulation) – It took three (3) months for the
9 Petitioner to accept service of the Respondent's motion for a relocation order.
10 During that time the Petitioner repeatedly attempted to manipulate and pressure
11 the Respondent (directly and through the Respondent's father) into relocating
12 the children without a Court order by stating "so the boys and you will be safe"
13 in spite of the Petitioner knowing that doing so would effectively result in child
14 abduction. The Petitioner was told and understands that her repeated
15 suggestion created friction between the Respondent and the Respondent's
16 father putting at risk the Respondent's financial means to continue these
17 divorce proceedings and at risk the Respondent and the children' housing.
- 18 • Custody (attempted coercion) – Petitioner attempted to coerce the Respondent
19 into agreeing to joint legal custody by stating she would not agree to a
20 relocation order and later she would request spousal support if Respondent did
21 not agree.
- 22 • Voluntary Unemployment - Petitioner stated she voluntarily resigned from her
23 job as a cafeteria clerk at Boreal in December 2014 without first securing new
24 employment and claims to having been unemployed since resigning.
- 25 • Voluntary Underemployment – The Petitioner has been intermittently
26 underemployed since re-entering the work force in June 2013, first as an on-
27 call food server with Full Belly Deli for \$20 per hour starting (called 4 times),
28 then as a part-time deli clerk with Sweet Potatoes Deli in the Resort at Squaw

1 Creek for \$12/per plus tips from November 2013 to April 2014, and finally as
2 a part-time cafeteria clerk with Boreal Mountain Resort at minimum wage after
3 working only a month in November/December 2014.

- 4 • Voluntarily Impoverishment – At the September 21, 2015 hearing, the
5 Petitioner testified to having “no money,” (conspicuously not stating she has
6 no income). The Petitioner also testified living in a room and not having to pay
7 the \$500 a month in return for being the caretaker of an elderly man.
- 8 • Attempts to interfere with Respondent’s financial support – In January 2015,
9 the Petitioner started calling the Respondent’s father for frivolous reasons after
10 the Petitioner was told and understood that her calls created friction between
11 the Respondent and the Respondent’s father putting at risk the Respondent’s
12 financial means to continue these divorce proceedings and at risk the
13 Respondent and the children’s housing. In September 2015, Respondent’s
14 father prepared and the Respondent filed a declaration testifying to the above
15 facts.

16
17 **4. SEEK WORK ORDER**

18 The Respondent therefore requests the following orders. The Petitioner:

- 19 1. make five (5) applications of employment directly to employers each week.
- 20 2. register (within 10 days of this hearing date) with a local employment
21 agency,
- 22 3. maintain a log of employment applications and the results of each
23 applications and provide biweekly logs to the Court and the Respondent.

24 **Petitioner** - The Petitioner has been intermittently voluntarily underemployed at
25 various part-time minimum wage jobs and not obtained gainful employment since re-
26 entering the workforce in June 2013. As shown below, the Petitioner has an earnings
27 capacity of \$35,000, and an ability and opportunity to work but is not willing to work.

- 28 • Earnings Capacity – The Petitioner was continuously employment since

1 entering the workforce in various administrative positions in the early 1990's
2 allowing her to gain the experience necessary to become a highly skilled,
3 highly sought-after and quickly employed Executive Assistant/Office Manager
4 with an annual salary of \$35,000 plus full benefits by April 2001 when she
5 became a stay home mother.

- 6 • Ability to Work – Petitioner is age 47, in good health, a high school graduate
7 and retains highly marketable administrative skills as evidenced the
8 Petitioner's experience and qualifications stated above, and by the Petitioner
9 applying for an administrative assistant position with Olsen Construction
10 (salary offer of \$32,000) in August 2013 and being called back for a second
11 interview. The interview was the first position the Petitioner applied for after
12 deciding to re-enter the workforce.
- 13 • Opportunity to Work - There is employment available in the Petitioner's local
14 region that requires the Petitioner's office administration skills and experience
15 at an income level commensurate with the Petitioner's earning capacity. In
16 addition, assuming the Petitioner's claim not to have transportation is
17 creditable, the commute from Truckee to Reno NV, where many job
18 opportunities are available, is common and public transportation and ride
19 sharing is available.
- 20 • Underemployment at minimum wage is not in the children's best interests –
21 The Petitioner retains an annual earnings capacity of \$35,000; therefore, the
22 Petitioner obtaining minimum wage employment at 40 hours a week is well
23 below the Petitioner's earning capacity, does not meet the children's needs and
24 is not in the children's best interests.
- 25 • Job Search Training -The Petitioner has had more than sufficient time to obtain
26 job search training. The Respondent helped the Petitioner prepare the resume
27 she used to obtain the interview at Olsen Construction that the Petitioner had in
28 an email folder for her "new" email address.

- 1 • Not diligently looking for gainful employment – The Petitioner’s claim to
2 have been unemployed since December 2014, violation of the job contacts
3 order and failure to attend the November 2 hearing clearly indicate that the
4 Petitioner is unwilling to work and not seeking gainful employment.

5 **Respondent** – Respondent has the willingness to work but not the ability or
6 opportunity work which is the reason the Respondent did not file a job contact log.

7 Due to the Petitioner’s chronic alcoholism, her numerous detailed admissions of
8 infidelities and numerous detailed admissions of prostituting, the Respondent has been
9 overburdened, put under enormous amount of stress, and has been distracted from being
10 able to focus on work since 2008 causing the Respondent to lose his job, business and
11 professional license and irreparably tarnishing his reputation. The Respondent’s career as
12 a pension actuary is unrecoverable.

13 The Respondent reached out to his two most recent employers for job
14 opportunities and was ignored. As such, the Respondent does not currently have the
15 ability or opportunity to work and will need to return to school. Without the opportunity
16 or ability to work no income should be imputed on the Respondent.

17
18 **5. CHILD SUPPORT ORDER**

19 The Respondent requests the following orders.

- 20 1. The Petitioner pay child support retroactively to July 2015 (date of original
21 child support filing).
22 2. Child support be calculated at the guideline amount upon the Petitioner
23 obtaining gainful employment at Petitioner’s earning capacity.

24
25 **6. FINANCIAL DECLARATION ORDER**

26 The Respondent the Petitioner be ordered to provide complete and accurate:

- 27 • Schedule of Assets and Debts, and
28 • Income and Expense Declarations for the following periods:

- 1 a. 06/01/2015 to Present. Period since the Petitioner moved back to Truckee,
2 b. 03/01/2015 to 05/31/2015. Period during which the Petitioner stated she
3 was living at Mr. Jesse’s mother’s house in Jamestown/Sonora.
4 c. 12/01/2014 to 02/28/2015. Period between the date the Petitioner and Mr.
5 Jesse voluntarily resigned from their jobs at Boreal and the date they moved
6 to live with the Petitioner’s mother.

7 **Hiding Income** - The facts stated herein and the lifestyle evidence presented
8 below indicate that the Petitioner has money and is hiding income.

- 9 1. **Need to provide for wellbeing** - The Petitioner has a need to provide for her
10 own wellbeing and to pay for food, clothing, transportation, etc.
11 2. **No transportation is not creditable** - In late November 2014 the Petitioner text
12 the Respondent stating she was purchasing a vehicle from a friend’s dealership
13 in Jamestown, putting the title in Mr. Jesse’s name due to the Petitioner’s poor
14 credit and she would make the payments. Then in late December the Petitioner
15 text the Respondent stating her friends called her car “a big white bus.” Based
16 upon the forgoing, and the basic need to have transportation, the Petitioner’s
17 claim not to have a car since October 2014 is not creditable.
18 3. **Ignoring Discovery** – The Petitioner did not respond to form interrogatories
19 and left blank all items on the Petitioner’s financial declarations (Forms FL-
20 150 and FL-142), both common tactics used by spouses who hide income and
21 assets.
22 4. **Evidence of Income** (1) Petitioner always has an active cell phone, (2) in late
23 December 2014 the Respondent encountered the Petitioner and Mr. Jesse in the
24 Truckee Safeway (the Petitioner pushed me) with a basket full of groceries, (3)
25 In late December 2014 the Petitioner text me a picture of apparently new and
26 expensive audio equipment stating “do you know what this is,” (4) In July
27 2015 the Petitioner text me saying she took “a quick trip to LA,” (5) In October
28 2015 at 8AM Mr. Jesse sent me a text stating he and the Petitioner were “at the

1 Truckee airport having fun.”

2 **5. BIFURCATE DIVISION OF PROPERTY**

3 Due to the Petitioner’s bad faith and in the best interests of the property, it is
4 fiduciarily prudent for the Respondent to request the following orders:

- 5 1. Bifurcation of the division of the property allowing Respondent to take
6 property of his choosing not to exceed one-half of the fair market value based
7 upon resale values the Respondent obtained from eBay, and
8 2. The bifurcation order permit the Respondent sell the property without the
9 Petitioner’s consent and equally distribute the sale proceeds plus the market
10 value of the property taken by the Respondent, after equitably reducing such
11 sum in order to repay the Respondent’s father’s loans, between the Petitioner
12 and the Respondent.

13 **Background** - Through loans from the Respondent’s father, the Respondent has
14 bore the entire cost to store the Petitioner and the Respondent’s community property. The
15 Respondent’s father can no longer afford to make loans that have accumulated to
16 \$3,378.39 and are increasing by \$322.38 each month. Neither the Petitioner nor the
17 Respondent have the ability or financial means to store the property. The Petitioner will
18 not consent to selling the property or sign a property settlement stipulation the
19 Respondent prepared to divide the property. The Petitioner has been told and understands
20 that the Petitioner’s bad faith creates friction between the Respondent and the
21 Respondent’s father putting at risk the Respondent’s financial means to continue these
22 divorce proceedings and at risk the Respondent’s and the children’s housing.

23
24 I declare under penalties of perjury under the laws of the State of California that
25 the forgoing is true, accurate and complete.

26
27 DATED: _____
28 Nicolas Eros De Fiori, Respondent