

1 Sur-Reply addressing Father's claims prior to the Court determining whether a hearing or
2 judgment is appropriate.

3 Therefore, Mother shall have ten days from the date of this Order to file a Sur-
4 Reply, if any, to Father's Reply. Thereafter, either party may submit this matter to the
5 Court for consideration by filing a Request for Submission.

6 Additionally, in Father's Reply, he requests for the Court to inform him as to
7 whether or not it is necessary for him to prove Mother agreed to the dental surgery.
8 Father claims that this will impact wither or not he will issue subpoenas. Father also
9 alleges that Mother refuses to disclose her actual address, violating this court's August 26,
10 2009 Order.

11 Father is requesting the Court to provide him advice as to how to proceed with
12 preparing and presenting his case. This Court is only able to direct unrepresented parties
13 to seek the advice of a licensed attorney or visit the Family Court Self Help Center which
14

15 advice but can give information regarding court procedures. Unrepresented parties may
16 also wish to speak with a family law lawyer at no cost through the Law Library's
17 "Lawyer in the Library" program. Enclosed is information on the "Lawyer in the
18 Library" program.

19 Regarding contempt, NRS 22.010 defines contempt as "[d]isobedience or resistance
20 to any lawful writ, order, rule or process issued by the court or judge at chambers." The
21 party moving for an order to show cause must make a prima facie showing that the non-
22 moving party had the ability to comply with the order and that his or her violation was
23 willful. *See Rodriguez v. District Court*, 120 Nev. 798, 102 P.3d 41 (2004).

24 To constitute the basis for a judgment of contempt, an order must be clear and
25 unambiguous. *Cunningham v. Eight Judicial Dist. Ct of the State of Nevada*, 102 Nev. 551,
26 559-560, 729 P.2d 1328, 1333 (1986). Such an order must "spell out the details of
27 compliance in clear, specific and unambiguous terms so that the person will readily know
28 exactly what duties or obligations are imposed on him." *Id.* at 560, 729 P.2d at 1333-1334.

1 Here, the Court finds that Father has failed to demonstrate a prima facie showing
2 that Mother has willfully violated a Court order. Based on the reasons mentioned above,
3 this Court requires additional information to determine whether the Court should reduce
4 the alleged arrearages to a judgment. Therefore, Father's request is denied.

5 As to Father's claim that Mother has violated this Court's August 26, 2009 Order,
6 the Court entered a No-Contact Order on that date. Regarding Mother's address, the
7 Order states:

8 The court orders that within 30 days from the date of this order Mother
9 obtain and provide Father with either a fictitious address issued by the
10 Confidential Address Program or with the actual address where the child
resides with Mother.

11 The Court finds that Mother obtained a fictitious address in compliance with this
12 Court's Order. The Order does not state that Mother must provide Father her address
13 upon the expiration of her fictitious address. Based on Father's allegations, Father has
14 failed to demonstrate a prima facie showing that Mother has willfully violated a Court
15 order. Therefore, his request is denied. Joint legal custodians have an obligation to share
16 with each other the address where the child resides. Mother is admonished to comply
17 with this obligation.

18
19 Modify Custodial Arrangement

20 Pursuant to the Court's Order After Hearing, filed October 19, 2011, the parties
21 share joint legal and joint physical custody, with Mother having the minor child from
22 12:30 a.m. on Sunday until 3:00 p.m. on Wednesdays, and Father having the child the
23 remainder of the time. On Wednesdays, Father will pick the child directly up from
24 school. Pursuant to the Order entered August 26, 2009, "[a]ll exchanges of the child shall
25 occur in the entry way of the Denny's restaurant on Wells Avenue in Reno. Neither party
26 shall approach the others automobile."

27 In his Motion, Father requests for modify the parties' custodial arrangement.
28 Father indicates that the child has entered the first grade. Father requests to modify to a
week-on/week-off arrangement. Father claims that the Court suggested this

1 arrangement at the parties' last hearing. Father alleges that this modification would
2 eliminate the midnight Sunday exchange time, which would allow the child to establish a
3 reasonable bedtime.

4 In her Opposition, Mother argues that Father's request does not meet the *Ellis v.*
5 *Carucci* standard. Mother claims that there has been no substantial change of
6 circumstances and the child's best interest is not served by the modification. Mother
7 argues that Father's proposal will force the child to spend more time with a babysitter,
8 and argues that the parties will have three additional nights during the week of 12:30 a.m.
9 custodial exchanges. Additionally, Mother argues that the child benefits by seeing both
10 of his parents on more than a week-on/week-off schedule.

11 In his Reply, Father reiterates his assertion that this Court has previously
12 suggested modifying the custodial schedule. Father argues that a change of circumstance
13 has occurred since the minor child is now in the first grade and argues that Mother is
14 now requiring Father wake the child up during their midnight custodial exchange.
15 Father argues that based on Mother's conduct, it is in the child's best interests to modify
16 their schedule.

17 Pursuant to *Wallace v. Wallace*, "A court decision regarding visitation is a 'custody
18 determination'" 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996). When modifying child
19 custody, the district courts must apply Nevada child custody law, including NRS Chapter
20 125C and case law. *Rivero v. Rivero*, 125 Nev. 410, 429, 216 P.3d 213, 227 (2009). The court
21 may modify joint physical custody if it is in the best interest of the child. *Id.* See also, NRS
22 125.510(2).

23 Father filed a similar motion to modify custody last year. Following a
24 hearing of January 23, 2013, the parties' existing visitation schedule was ordered. The
25 child's entry into first grade was foreseeable at that time. As Father notes in his motion,
26 the possibility of week-to-week custody exchanges was discussed at that hearing and
27 rejected. Repetitive litigation regarding custody and visitation is not in the interest
28 children. The Nevada Supreme Court has noted "because numerous courts have
documented the importance of custodial stability in promoting the developmental and