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Oct 14 2013 02:26 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**IN THE SUPREME COURT OF THE STATE OF NEVADA**  
**OFFICE OF THE CLERK**

\* \* \* \* \*

SUSAN FALLINI,  
Appellant,

Supreme Court No.: 56840

vs.

Estate of MICHAEL DAVID ADAMS,  
By and through his mother JUDITH ADAMS,  
Individually and on behalf of the Estate,  
Respondent.

\_\_\_\_\_ /

**OPPOSITION TO MOTION TO WITHDRAW REMITTITUR AND CLARIFY  
INSTRUCTIONS FOR ALLOWANCE OF INTEREST**

**I.  
Relevant History**

This appeal was commenced by Mrs. Fallini on September 7, 2010. After re-opening and a second round of briefing this Court entered its order reversing in part and affirming in part on March 29, 2013. The remittitur was issued on August 14, 2013, almost two months before the filing of the instant motion.

**II.  
Motion is Untimely**

Respondent's motion can only be considered one for rehearing under NRAP 40. No other

1 rule allows for a motion to this Court for a change to, or modification of a decision after it has  
2 been made. NRAP 40(a)(1) provides:

3 *Time.* Unless the time is shortened or enlarged by order, a petition for rehearing  
4 may be filed within 18 days after the filing of the court's decision under Rule 36.

5 The last day for seeking a rehearing of the Courts decision (which did not grant interest on  
6 that portion of the judgment affirmed) was April 16, 2013. After that date the within motion  
7 became time barred.

8 Whether or not NRAP 37 affirmatively requires this Court to award interest on the  
9 modified judgment herein is not the issue. The issue is whether the Rules of Appellate Procedure  
10 regarding finality (such as NRAP 40(a) (1)) are to be taken seriously. At some time, the litigation  
11 must end. In this case it ended on April 16, 2013.

12 Respondent offers no explanation of good cause why he did not react timely to this  
13 Court's Order which contained no order regarding post judgment interest. Even if he had, NRAP  
14 40 provides no exceptions for good cause lateness. The Rule, of course, provides for enlargement  
15 of time by order. But that should have been done before the time had run.  
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18 **III.**  
19 **Conclusion**

20 Finality and the ultimate conclusion of litigation is a long and time honored policy of the  
21 law. How long would Respondent have this litigation remain open? It has already been an open  
22 wound for seven years. The mistakes and malfeasance of her counsel have been visited on  
23 Appellant by virtue of unbending Rule. Respondent has sat on this Court's Order for two months.

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1 His motion is untimely and must be denied.

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Dated this 14th day of October, 2013.

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By: /s/ John Ohlson

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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of JOHN OHLSON, and that on this date I personally served a true copy of the foregoing **OPPOSITION TO MOTION TO WITHDRAW REMITTITUR AND CLARIFY INSTRUCTIONS FOR ALLOWANCE OF INTEREST**, by the method indicated and addressed to the following:

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Aldrich Law Firm, Ltd.  
1601 S. Rainbow Blvd., Ste. 160  
Las Vegas, NV 89146

- Via U.S. Mail
- Via Overnight Mail
- Via Hand Delivery
- Via Facsimile
- Via ECF

DATED this 14th day of October, 2011.

/s/ Robert M. May  
Robert M. May