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5 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

6
7 CHRISTINA CALDERON STIPP)
8 Appellant/Cross-Respondent,)
9 vs.)
10 MITCHELL DAVID STIPP,)
11 Respondent/Cross-Appellant.)
12

SUPREME COURT CASE NO. 57327

13 **MOTION FOR EXTENSION TO FILE**
14 **APPELLANT/CROSS-RESPONDENT'S REPLY TO RESPONSE TO ORDER TO SHOW**

15 COMES NOW the Appellant/Cross-Respondent, CHRISTINA CALDERON-STIPP,,
16 hereinafter "CHRISTINA", by and through her attorney of record, PATRICIA L. VACCARINO, ESQ.
17 of the VACCARINO LAW OFFICE , and hereby moves the Court pursuant to NRAP 26 for a brief
18 extension up through and including April 12, 2011 to file Appellant/Cross-Respondent's Reply to
19 Respondent/Cross-Appellant's Order to Show Cause. The grounds for Appellant's Motion are
20 set forth in the following Points and Authorities and undersigned counsel's Affidavit.

21 DATED this 7th April 2011.

22 VACCARINO LAW OFFICE

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25 PATRICIA L. VACCARINO, ESQ.
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27 Attorney for Appellant/Cross-Respondent,
CHRISTINA CALDERON-STIPP
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I.

**FACTS AND LAW SUPPORTING A BRIEF EXTENSION TO FILE REPLY TO RESPONSE
TO THE ORDER TO SHOW CAUSE**

Since being served with Respondent/Cross-Appellant's Response to Order Show counsel has been extremely busy furnishing a large Appendix and extensive Fast Track Statement. Further, the deadline date to file was miscalendared by undersigned counsel's assistant, who added an additional three days to the prescribed period due to E-mail service. However, as NRCP 26(c) states the additional, three day allowance for mail is not allowed when "specific due dates are set by Court Order", as the 10-day reply date was set pursuant to the Court's Order to Show Cause filed on February 22, 2010.

As the time period is 10-days to file a Reply within service of the Response to the Order to Show Cause, NRAP 26(2) applies, and intermediate and non-judicial days are not computed. While undersigned counsel's office calendared a due date of April 11, 2011, that date would have been accurate, but for the three day issue noted above. The actual date the Reply was due, without three additional days for service by mail or E-mail, was Wednesday, April 6, 2011. Counsel believes the Reply will be finalized and submitted to the Supreme Court for filing by no later than Monday, April 11, 2011 or sooner.

NRAP RULE 26. Computing and Extending Time

(a) Computing Time. The following rules apply in computing any period of time specified in these Rules, a court order, or an applicable statute:

(1) Exclude the day of the act, event, or default that begins the period.

(2) Exclude intermediate Saturdays, Sundays, and nonjudicial days when the period is less than 11 days, unless the period is stated as a specific date.

(3) Include the last day of the period unless it is a Saturday, Sunday, or a nonjudicial day, or—if the act to be done is filing a paper in court—a day on which the weather or other conditions make the clerk's office inaccessible, in which event the period extends until the end of the next day that is not a Saturday, Sunday, or a nonjudicial day.

(b) Extending Time.

(1) By Court Order.

(A) For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file a notice of appeal except as

provided in Rule 4(c).

(B) Except as otherwise provided in these Rules, counsel may request by telephone a 5-day extension of time for performing any act except the filing of a notice of appeal. If good cause is shown, the clerk of the Supreme Court may grant such a request by telephone or by written order of the clerk. Subsequent extensions of time shall be granted only upon motion to the Supreme Court under Rule 27 and subsequent extensions of time for filing briefs will be subject to Rule 31.

(2) By Stipulation. Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be extended by stipulation of the parties. No stipulation extending time is effective unless approved by the court or a justice thereof; and such stipulations must be filed before expiration of the time period that is sought to be extended.

(c) Additional Time After Service. When a party is required or permitted to act within a prescribed period after a paper is served on that party, 3 calendar days are added to the prescribed period unless the paper is delivered on the date of service stated in the proof of service. For purposes of this Rule, a paper that is served electronically is not treated as delivered on the date of service stated in the proof of service. Specific due dates set by court order or acts required to be taken within a time period set forth in the order are not subject to this additional 3-day allowance.

(d) Shortening Time. Except as otherwise provided in these Rules, or when not otherwise controlled by statute, the time prescribed by these Rules to perform any act may be shortened by stipulation of the parties, or by order of the court or a justice.

NRAP RULE 27. MOTIONS

(a) In General.

(1) Application for Relief. An application for an order or other relief is made by motion unless these Rules prescribe another form. A motion must be in writing and be accompanied by proof of service.

(2) Contents of a Motion. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it. The motion shall contain or be accompanied by any matter required by a specific provision of these Rules governing such a motion. If a motion is supported by affidavits or other papers, they shall be served and filed with the motion.

(3) Response.

(A) Time to File. Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within 7 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8 or 41 may be acted upon after reasonable notice to the parties that the court intends to act sooner.

(B) Request for Affirmative Relief. A response may include a motion for affirmative relief. The time to respond to the new

1 motion is governed by Rule 27(a)(3)(A). The title of the
2 response must alert the court to the request for relief.

3 (4) Reply to Response. Any reply to a response shall be filed
4 within 5 days after service of the response. A reply shall not
5 present matters that do not relate to the response.

6 (b) Disposition of a Motion for a Procedural Order. The court
7 may act on a motion for a procedural order—including a
8 motion under Rule 26(b)—at any time without awaiting a
9 response. Under Rule 27(c), the clerk may act on motions for
10 specified types of procedural orders. A party adversely
11 affected by the court's, or the clerk's, action may file a motion
12 to reconsider, vacate or modify that action. Timely opposition
13 filed after the motion is granted in whole or in part does not
14 constitute a request to reconsider, vacate, or modify the
15 disposition; a motion requesting that relief must be filed.

16 (c) Power of a Single Justice to Entertain Motions; Delegation
17 of Authority to Entertain Motions.

18 (1) Single Justice's Orders. In addition to the authority
19 expressly conferred by these Rules or by law, a justice of the
20 Supreme Court may act alone on any motion but may not
21 dismiss or otherwise determine an appeal or other proceeding.
22 The Supreme Court may provide by order or rule that only the
23 court may act on any motion or class of motions. The court
24 may review the action of a single justice.

25 (2) Clerk's Orders.

26 (A) Procedural Motions. The chief justice may delegate to the
27 clerk authority to decide motions that are subject to disposition
28 by a single justice. An order issued by the clerk under this Rule
shall be subject to reconsideration by a single justice pursuant
to motion filed within 10 days after entry of the clerk's order.

(B) Orders of Dismissal. The Supreme Court may delegate to
the clerk authority to enter orders of dismissal in civil cases
where the appellant has filed a motion or parties to an appeal
or other proceeding have signed and filed a stipulation that the
proceeding be dismissed, specifying terms as to the payment
of costs.

(d) Form of Papers; Number of Copies.

(1) Format.

(A) Reproduction. All papers relating to motions may be
reproduced by any process that yields a clear black image of
letter quality. The paper must be opaque and unglazed. Only
one side of the paper may be used.

(B) Cover. A cover is not required, but there must be a caption
that includes the name of the court and the docket number, the
title of the case, and a brief descriptive title indicating the
purpose of the motion and identifying the party or parties for
whom it is filed. If a cover is used, it shall be white.

(C) Binding. The document must be bound in any manner that
is secure, does not obscure the text, and permits the document
to lie reasonably flat when open.

(D) Paper Size, Line Spacing, and Margins. The document
must be on 8 1/2 by 11-inch paper. The text must be double-
spaced, but quotations more than 2 lines long may be indented
and single-spaced. Headings and footnotes may be single-
spaced. Margins must be at least 1 inch on all 4 sides. The

pages shall be consecutively numbered at the bottom.
(E) Typeface and Type Style. The document must comply with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6).

(2) Page Limits. A motion or a response to a motion shall not exceed 10 pages, unless the court permits or directs otherwise. A reply to a response shall not exceed 5 pages.

(3) Number of Copies. An original and 1 copy must be filed unless the court requires a different number by order.

(e) Emergency Motions. If a movant certifies that to avoid irreparable harm relief is needed in less than 14 days, the motion shall be governed by the following requirements:

(1) Before filing the motion, the movant shall make every practicable effort to notify the clerk of the Supreme Court and opposing counsel and to serve the motion at the earliest possible time. If an emergency motion is not filed at the earliest possible time, the Supreme Court may summarily deny the motion.

(2) A motion filed under this subdivision shall include the title "Emergency Motion Under NRAP 27(e)" immediately below the caption of the case and a statement immediately below the title of the motion that states the date or event by which action is necessary.

(3) A motion filed under this subdivision shall be accompanied by a certificate of counsel for the movant, entitled "NRAP 27(e) Certificate," that contains the following information:

(A) The telephone numbers and office addresses of the attorneys for the parties;

(B) Facts showing the existence and nature of the claimed emergency; and

(C) When and how counsel for the other parties were notified and whether they have been served with the motion; or, if not notified and served, why that was not done.

(4) If the relief sought in the motion was available in the district court, the motion shall state whether all grounds advanced in support of the motion in the Supreme Court were submitted to the district court, and, if not, why the motion should not be denied.

(5) The motion shall otherwise comply with the provisions of this Rule.

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III.

CONCLUSION

Thus, it is respectfully requested that Appellant/Cross Respondent's Motion for Extension to file her Reply to Respondent/Cross-Appellant's Response to Order Show Cause be granted. The brief delay in timely filing was inadvertent as noted above.

DATED this 17th day of April 2011.

Respectfully submitted by:

VACCARINO LAW OFFICE



PATRICIA L. VACCARINO, ESQ.

Nevada Bar No. 005157

8861 W. Sahara Ave., Suite 210

Las Vegas, Nevada 89117

Attorney for Appellant/Cross-Respondent

CHRISTINA CALDERON STIPP

AFFIDAVIT OF PATRICIA L. VACCARINO, ESQ.

STATE OF NEVADA }
COUNTY OF CLARK } ss:

PATRICIA L. VACCARINO, ESQ., being first duly sworn, deposes and says:

1. That I am an attorney licensed to practice law in the State of Nevada and attorney of record for the Appellant/Cross Respondent, CHRISTINA-CALDERON STIPP.

2. On March 23, 2011, a copy of Respondent-Cross-Appellant's Response to Order to Show Cause was received in our office via electronic mail. I believed my assistant calendared the Reply deadline properly according to NRAP 26 (a). However, I now understand that she should have calculated the reply deadline to April 6, 2011.

3. The calendaring error was addressed by calling the Supreme Court Clerk on April 7, 2011. I was revising the Reply on April 7, 2011 to be filed with this Court.

4. Our office has been extremely busy preparing a large Appendix and Child Custody Fast Track Statement in this case. Also, there is a pending Motion with a late Supplement filed by the Respondent/Cross Appellant yesterday which is scheduled to be heard on Tuesday, April 12, 2011 in the District Court in this matter.

5. Upon discovery of my calendaring error, my assistant immediately I contacted the Court Clerk who advised us that a Motion to Extend Time must be filed prior to the submission of the Reply to the Supreme Court. I believe the Clerk maintains the Reply was due April 4, 2011, but my review of the Rule, date of service and calendar reveal the Reply was due to be filed no earlier than April 6, 2011.

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1 6. That this Motion is made in good faith and not for purposes of delay.

2 7. I ask that the Reply Brief in relation to the Order to Show Cause be filed with this Court
3 upon presentation in the near future.

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5 
6 PATRICIA L. VACCARINO, ESQ.

7 SUBSCRIBED and SWORN to before me
8 this 7th day of April 2011.

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10 
11 NOTARY PUBLIC in and for said
12 COUNTY and STATE.



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CERTIFICATE OF SERVICE

I certify that on the 7th day of April 2011, I served a copy of this MOTION FOR
EXTENSION TO FILE APPELLANT/CROSS-RESPONDENT'S REPLY TO RESPONSE TO
ORDER TO SHOW CAUSE upon all counsel of record:

☐ NRAP 25 By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es):

Radford J. Smith, Esq.
64 N. Pecos Rd., #700
Henderson, NV 89074

Dated this 7th day of April 2011.



Matt Layton