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

15
16 CHRISTINA CALDERON STIPP,
17 Appellant/Cross-Respondent,

CASE NO.: 57327

18 v.

19 MITCHELL DAVID STIPP
20 Respondent/Cross-Appellant,
21

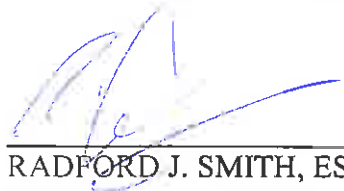
22 **MOTION TO DIRECT TRANSMITTAL OF**
23 **CHILD CUSTODY EVALUATION UNDER SEAL**
24

25 COMES NOW, Respondent/Cross-Appellant, MITCHELL D. STIPP ("Mitchell"), by and
26 through his attorney Radford J. Smith, Esq., and hereby moves this Court, to direct the transmittal of the
27
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1 child custody evaluation prepared by Dr. John Paglini dated April 29, 2010 under seal. This motion is
2 made and based upon the following points and authorities.

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4 DATED this 9 day of May, 2011

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12 Respondent/Cross-Appellant Mitchell Stipp

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14 **I.**
15 **POINTS AND AUTHORITIES**

16 This case concerns the appeal of the written decision of Judge Frank Sullivan of Department O,
17 Eighth Judicial District, Clark County, State of Nevada, which was entered on November 4, 2010 (the
18 "Appealed Order"). The Appealed Order is included as part of the appendix filed by Christina
19 Calderon-Stipp (App., Vol. I-VIII) on March 31, 2011 as Document No. 11-09742. App., Vol. VIII,
20 pgs. 1495-1514. Judge Sullivan extensively relied upon the child custody evaluation prepared by Dr.
21 John Paglini dated April 29, 2010 to form the basis of the Appealed Order. *Id.* Therefore, it is
22 necessary for this Court to review it as part of the record on appeal. However, EDCR 5.13(c) provides
23 as follows:
24

25 No copy of a written report, or any part thereof, may be made an exhibit
26 to, or a part of, the open court file except by the judge. No child who is the
27 subject of a written report may see a copy of the report or be advised of its
28 contents by anyone. No party may reproduce a copy of a written report or
any part thereof or share the contents of a written report with any other

1 person. A written report may be received as direct evidence of the facts
2 contained therein that are within the personal knowledge of the specialist
3 who prepared the report.

4 Nevertheless, EDCR 5.13(f) provides that the original report must be returned to the district court clerk
5 or may be kept by the judge in chambers, and "this separate file may not be viewed by or released to
6 anyone except a judicial officer or an employee of a judicial officer without an order from the court."
7 (emphasis added).

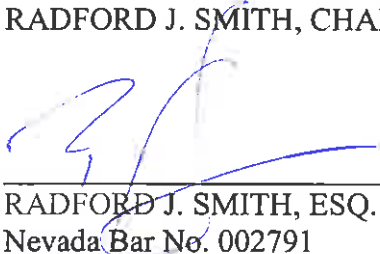
8 II.

9 CONCLUSION

10 Since the child custody evaluation is necessary for the Court's review of Mitchell's appeal and it
11 cannot be included in an appendix under EDCR 5.13, Mitchell files this motion requesting that the Court
12 direct the district court or its clerk to transmit a copy of the original report to the clerk of this Court in a
13 sealed envelope so that it can be considered by the Court as part of the record in this case.
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17 DATED this 9 day of May, 2011

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document described as "MOTION TO DIRECT TRANSMITTAL OF CHILD CUSTODY EVALUATION UNDER SEAL" by mail pursuant to NRAP 25 on this 9 day of May, 2011, to all interested parties as follows:

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An employee of Radford J. Smith, Chartered