

**EXHIBIT “2”**

**From:** Mitchell Stipp <mitchell.stipp@yahoo.com>

**To:** Patricia Vaccarino <plvlaw@aol.com>

**Cc:** marshal <marshal@willicklawgroup.com>

**Subject:** Fw: Stipp v. Stipp - Letter dated October 22, 2013, with enclosure

**Date:** Tue, Oct 22, 2013 7:41 pm

**Attachments:** SCAN8371\_000.pdf (1192K)

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Patricia:

I received your email and fax. Per your request, please be advised that I am not able to sign the stipulation in its present form. First, the caption is styled incorrectly. Your client is now the appellant, and I am the respondent. I moved the court voluntarily to withdraw my appeal after your client filed an action with DAFS, which was granted and unopposed by your client. There is no cross-appeal. Second, the second sentence of the first paragraph of the stipulation is untruthful to the extent that you represent that your client lacks the present funds to pursue this appeal. Moreover, the reference to attorney's fees and costs that may be before Judge Sullivan is irrelevant to this appeal. If I were to agree to any stipulation, this sentence must not be included.

Your client's appeal was and still is (even after the Supreme Court narrowed the issue to attorney's fees and costs) frivolous on its face. Accordingly, I believe I am entitled to my fees and costs incurred addressing matters related to your client's appeal. Accordingly, please ask if your client is willing to pay them in exchange for my agreement to dismiss. If not, I would ask that she file a motion so I can address the matter with the court.

I understand that Marshal Willick has been working on a "global" settlement agreement. To date, I have not seen it despite several promises to deliver one. May be this matter should be addressed by him? I understand that Christina's brief is not due until October 28, 2013. There appears to be more time than your deadline of noon tomorrow to resolve this matter.

Please discuss the matter with your client and advise me of her response.

Best Regards,  
Mitchell D. Stipp  
10120 W. Flamingo Rd.  
Suite 4-124  
Las Vegas, Nevada 89147  
Telephone: 702-378-1907  
Facsimile: 702-549-3110

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This electronic mail transmission and any attachments are confidential and may be privileged.

They should be read or retained only by the intended recipient. If you have received this transmission in error, please notify the sender immediately and delete the transmission from your system.

In addition, in order to comply with IRS Treasury Circular 230, I am required to inform you that

unless I have specifically stated to the contrary in writing, any advice I provide in this email or any attachment concerning federal tax issues or submissions is not intended or written to be used, and cannot be used, to avoid federal tax penalties.

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----- Forwarded Message -----

**From:** "plvlaw@aol.com" <plvlaw@aol.com>  
**To:** [mitchell.stipp@yahoo.com](mailto:mitchell.stipp@yahoo.com)  
**Cc:** [ccstipp@gmail.com](mailto:ccstipp@gmail.com)  
**Sent:** Tuesday, October 22, 2013 3:27 PM  
**Subject:** Stipp v. Stipp - Letter dated October 22, 2013, with enclosure

Please see attached. Thank you.



1 file his Motion, lie to the Court and attempt to extort funds from CHRISTINA in exchange for his  
2 signature on a stipulation. Now, after abusing process and lying to the Court, MITCHELL is  
3 wrongfully, frivolously requesting that the Court sanction CHRISTINA's attorney and grant  
4 MITCHELL a monetary award for damages and costs without a legal basis to do so.

5 MITCHELL, in his Motion, reveals his continued resentment and anger towards CHRISTINA  
6 and her counsel and his paranoia that CHRISTINA is allegedly out to ruin him. MITCHELL  
7 includes interesting, frivolous and unfounded claims that CHRISTINA only filed her appeal as a  
8 method to make public his Affidavit of Financial Condition to assist the trustee who is investigating  
9 what is alleged to be fraudulent transfers by MITCHELL. MITCHELL also wrongfully alleges that  
10 CHRISTINA's Appeal was filed to "embarrass, harass, and impugn MITCHELL's character and  
11 professional reputation." Yet, it is public record that the Federal Bankruptcy Court and Federal  
12 investigators are claiming MITCHELL has stolen funds from banks. CHRISTINA has not made  
13 public MITCHELL's alleged criminal wrongdoing, the officials investigating already had the  
14 information necessary to investigate MITCHELL before CHRISTINA filed her Cross-Appeal in this  
15 case. MITCHELL's bizarre statements reveal MITCHELL's paranoia and fear of consequences  
16 he is facing for his criminal behavior. Yet, MITCHELL's problems have absolutely NO relevance  
17 to CHRISTINA's issues of concern in this case but do cause her some huge concerns, to wit:  
18 ensuring the welfare of the children, receiving fair and proper support for the children and having  
19 MITCHELL finally follow Court Orders and coparent with her in furtherance of the children's best  
20 interest. CHRISTINA is a single mother of two, who has a full-time job. Unlike MITCHELL,  
21 CHRISTINA is far too busy to spend time devising plots to "embarrass, harass and impugn  
22 MITCHELL's character and professional reputation". Regrettably, it appears MITCHELL needs no  
23 assistance with this task. Such statements lack merit, have no basis and are simply a  
24 manifestation of MITCHELL's paranoid reasoning due to his fear of being criminally prosecuted  
25 for his wrongful behavior. MITCHELL's arguments and claims are nonsensical. Clearly, the  
26 Bankruptcy Trustee could easily receive an Order to lift the seal in the District Court action if  
27 accessing such records was necessary and prudent. CHRISTINA and her counsel were required  
28 by Appellate Rules to attach the relevant filings of the District Court action to her Docketing



1 Statement. MITCHELL now somehow uses this proper and legal conduct as a basis to file a  
2 frivolous Motion.

3 CHRISTINA's appeal has a legal and factual basis as evidenced by the Order issued on  
4 August 26, 2013 from this Court allowing the Appeal to Continue. Yet, CHRISTINA must end the  
5 financial bleed of litigation whenever she can without compromising what is best for the children.  
6 If this Court believed CHRISTINA's Cross-Appeal lacked merit and was frivolous, we trust  
7 sanctions pursuant to NRAP 38 would have issued and the Appeal would already have been  
8 dismissed. There is no legal basis for this Court to sanction CHRISTINA. MITCHELL must be  
9 assessed with CHRISTINA's attorney's fees and costs for all of the reasons noted above and as  
10 noted in CHRISTINA's Response to Order to Show Cause filed on May 29, 2013.

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III.

**CONCLUSION**

Based upon the foregoing verifiable facts, pursuant to the attached Exhibits and per the legal authority cited as well as CHRISTINA's desire for this Appeal to be dismissed, CHRISTINA respectfully requests that the Court allow her to withdraw her Appeal, and dismiss this action. MITCHELL's requests for any monetary award, fees and/or costs must be denied because CHRISTINA's Appeal and her conduct in this case is NOT frivolous. If any party is entitled to a large monetary award in the form of an assessment of fees and costs it must be CHRISTINA. MITCHELL's refusal to cooperate in allowing CHRISTINA to withdraw her appeal, his refusal to abide by the Nevada Rules of Professional Conduct, and his filing of his bogus Motion which lacked candor was only meant to cause CHRISTINA to incur unnecessary attorney's fees. MITCHELL's conduct is a clear basis for an award of attorney's fees to CHRISTINA pursuant to NRAP 38. CHRISTINA prays for this Court to dismiss her appeal, and send MITCHELL a strong message via an award of attorney's fees to CHRISTINA of no less than \$10,000.00.

DATED this 6<sup>th</sup> day of November, 2013.

VACCARINO LAW OFFICE



PATRICIA L. VACCARINO, ESQ.  
Nevada Bar No. 005157  
8861 W. Sahara Ave., Suite 210  
Las Vegas, Nevada 891176  
Attorney for Respondent/Cross-Appellant,  
CHRISTINA CALDERON-STIPP

1 **CERTIFICATE OF SERVICE**

2 I certify that on the 6<sup>th</sup> day of November, 2013, I served a copy of this completed Notice  
3 of Withdrawal of Cross-Appeal upon all counsel of record:

4 [ ] By personally serving it upon him/her; or

5 [x] By mailing it by first class mail with sufficient postage prepaid to the following address(es):

6 Mitchell D. Stipp  
7 10120 W. Flamingo Rd., Suite 4-124  
8 Las Vegas, Nevada 89147

9 Dated this 6<sup>th</sup> day of November, 2013.

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12 Signature  
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**EXHIBIT "1"**

**From:** plvlaw <plvlaw@aol.com>

**To:** mitchell.stipp <mitchell.stipp@yahoo.com>

**Cc:** ccstipp <ccstipp@gmail.com>

**Subject:** Stipp v. Stipp - Letter dated October 22, 2013, with enclosure

**Date:** Tue, Oct 22, 2013 3:27 pm

**Attachments:** SCAN8371\_000.pdf (1192K)

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Please see attached. Thank you.

# VACCARINO LAW OFFICE

ALSO ADMITTED IN  
NEW YORK & NEW JERSEY

8861 W. SAHARA AVE.  
SUITE 210  
LAS VEGAS, NEVADA 89117

TELEPHONE (702) 258-8007  
FACSIMILE (702) 258-8840  
E-MAIL PLVlaw@aol.com

A PROFESSIONAL CORPORATION

October 22, 2013

VIA FACSIMILE AND ELECTRONIC TRANSMISSION

Mitchell D. Stipp, Esq.  
10120 W. Flamingo Rd., Suite 4-124  
Las Vegas, Nevada 89147

RE: Stipp v. Stipp  
Case Nos. D-389203 and T-13-148772-T


Dear Mr. Stipp,

Enclosed, for your review and approval, please find the Notice of Withdrawal of Cross-Appeal and Dismissal Agreement. The Rules require such notice include reference to an agreement regarding Christina's costs on appeal.

Please contact my office, in writing, by no later than noon, tomorrow, October 23, 2013, if you are unwilling to execute the Notice. If you approve, please execute and scan and E-mail my office an executed agreement. You can mail the original back, or my runner can retrieve the original at your office. Please advise accordingly. Thank you, in advance, for your time and prompt attention.

Sincerely yours,

VACCARINO LAW OFFICE



Patricia L. Vaccarino, Esq.

PLV/ml

cc: Christina Calderon

Enclosures - Notice of Withdrawal of Cross-Appeal and Dismissal Agreement



1 PATRICIA L. VACCARINO, ESQ.  
Nevada Bar No. 005157  
2 VACCARINO LAW OFFICE  
8861 W. Sahara Ave., Suite 210  
3 Las Vegas, Nevada 89117  
(702) 258-8007  
4 Attorney for Respondent/Cross-Appellant

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

6 MITCHELL DAVID STIPP, )  
7 Appellant/Cross-Respondent, )

SUPREME COURT CASE NO. 62299

8 vs. )

9 CHRISTINA CALDERON-STIPP, )  
10 Respondent/Cross-Appellant. )  
11 \_\_\_\_\_ )

12 **NOTICE OF WITHDRAWAL OF CROSS-APPEAL AND DISMISSAL AGREEMENT**

13 COMES NOW, CHRISTINA CALDERON-STIPP, Appellant/Cross-Respondent,  
14 ("CHRISTINA"), by and through her attorney, PATRICIA L. VACCARINO, ESQ., of the  
15 VACCARINO LAW OFFICE, and pursuant to NRAP 42, hereby moves to voluntarily withdraw her  
16 Cross-appeal filed in this matter. CHRISTINA cannot afford further costs and fees related to this  
17 appeal, and shall attempt to negotiate continuing and pending attorney's fees and costs requests  
18 in the District Court action.

19 Undersigned counsel for Cross-appellant has explained and informed CHRISTINA of the  
20 legal effects and consequences of this voluntary withdrawal of this Cross-appeal, including that  
21 CHRISTINA cannot hereafter seek to reinstate this Cross-appeal and that any issues that were  
22 or could have been brought in this Cross-appeal are forever waived.

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1 CHRISTINA fully understands that she cannot hereafter seek to reinstate this Cross-  
2 appeal, and that any issues that were or could have been brought in this Cross-Appeal are forever  
3 waived. Having been so informed, CHRISTINA consents to and requests voluntary withdrawal  
4 of her Cross-appeal.

5 CHRISTINA and Cross-respondent, MITCHELL DAVID STIPP, agree that CHRISTINA's  
6 costs on appeal and filing fees that were tendered shall be paid by CHRISTINA.

7 DATED this \_\_\_\_ day of October, 2013.

8 VACCARINO LAW OFFICE  
9

10 PATRICIA L. VACCARINO, ESQ.  
11 Nevada Bar No. 005157  
12 8861 W. Sahara Ave., Suite 210  
13 Las Vegas, Nevada 891176  
Attorney for Respondent/Cross-Appellant,  
CHRISTINA CALDERON-STIPP

MITCHELL DAVID STIPP, ESQ.  
Nevada Bar No. 007531  
10120 W. Flamingo Rd., Suite 4-124  
Las Vegas, Nevada 89147  
Cross-Respondent, in proper person

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DATED this \_\_\_\_ day of October, 2013.

PATRICIA L. VACCARINO, ESQ.  
Nevada Bar No. 005157  
8861 W. Sahara Ave., Suite 210  
Las Vegas, Nevada 891176  
Attorney for Respondent/Cross-Appellant,  
CHRISTINA CALDERON-STIPP



**CERTIFICATE OF SERVICE**

I certify that on the \_\_\_\_ day of October, 2013, I served a copy of this completed Notice of  
Withdrawal of Cross-Appeal upon all counsel of record:

☐ By personally serving it upon him/her; or

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

Mitchell D. Stipp  
10120 W. Flamingo Rd., Suite 4-124  
Las Vegas, Nevada 89147

Dated this \_\_\_\_ day of October, 2013.

\_\_\_\_\_  
Signature

PATRICIA L. VACCARINO, ESQ.  
Nevada Bar No. 005157  
VACCARINO LAW OFFICE  
8861 W. Sahara Ave., Suite 210  
Las Vegas, Nevada 89117  
(702) 258-8007  
Attorney for Appellant

Electronically Filed  
Nov 06 2013 03:44 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

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

CHRISTINA CALDERON STIPP,  
  
Appellant,  
  
vs.  
  
MITCHELL DAVID STIPP,  
  
Respondent.

SUPREME COURT CASE NO. 62299

**APPELLANT'S RESPONSE TO MOTION TO DISMISS APPEAL AND MOTION TO DISMISS  
AND FOR ATTORNEY'S FEES AND COSTS**

COMES NOW, CHRISTINA CALDERON-STIPP, Appellant, ("CHRISTINA"), by and through her attorney, PATRICIA L. VACCARINO, ESQ., of the VACCARINO LAW OFFICE, and pursuant to NRAP 27, hereby submits her Response to Respondent's, MITCHELL DAVID STIPP, ("MITCHELL"), Motion to Dismiss Appeal and her Motion to Dismiss for Attorney's Fees and Costs to which she should be entitled pursuant to NRAP 38(b).

**I.**

**MITCHELL IS ABUSING COURT PROCESS AND HAS NOT BEEN HONEST WITH THE  
COURT, HIMSELF, CHRISTINA AND HER COUNSEL**

As the Court is well aware, the present Appeal that remains stems from a Cross-Appeal filed by CHRISTINA. MITCHELL's underlying Appeal was frivolous and without any legal or factual merit as already noted in CHRISTINA's papers on file. Thus, just as he has done with two other frivolous appellate actions, MITCHELL voluntarily sought dismissal of his underlying Appeal. As this Court is also well aware from a review of the EXTENSIVE District Court record filed in Supreme Court Case No. 57327, MITCHELL has frivolously abused process in the District Court action and appellate actions for MANY years. MITCHELL refuses to follow the simplest of Orders



1 and filing frivolous Motions. MITCHELL's conduct has cost CHRISTINA hundreds of thousands  
2 of dollars in fees and costs as her Financial Disclosure Form filed with the Docketing Statement  
3 in this action verifies. CHRISTINA, in good faith, filed her Cross-Appeal to address MITCHELL's  
4 repeated contempt and the troubling, repeated issue of the District Court denying her rightful  
5 request to fees and costs incurred.

6 This Court issued a clear Order on August 26, 2013 that this appeal would proceed only  
7 as to the portion of the District Court's November 9, 2012 order that denied CHRISTINA's request  
8 for attorney's fees. CHRISTINA understands she may pursue the District Court's failure to issue  
9 and enforce an Order to Show Cause against MITCHELL for numerous violations of Court Orders  
10 by way of Writ. Yet, the legal process is costly. CHRISTINA wants the finality and cessation of  
11 all litigation in all Courts so she and the children can move forward with peace and try to recover  
12 from the emotional and financial crises of the years of post-divorce litigation and violation of  
13 Orders MITCHELL has levied against CHRISTINA since divorce.

14 Upon receipt of this Court's August 26, 2013 Order, CHRISTINA fully and carefully  
15 considered all factors and conducted the proper cost/benefit analysis of whether to invest more  
16 funds into this specific case. CHRISTINA has, again in good faith, decided to withdraw/dismiss  
17 her Appeal due to financial considerations of the high cost of any further litigation, especially when  
18 dealing with a litigant/attorney such as MITCHELL. After all, CHRISTINA is still entitled to an  
19 award of much more in fees and costs pursuant to her Marital Settlement Agreement and NRAP  
20 39 for her Appeal in Case No. 57327. CHRISTINA prevailed in said action, and this Court  
21 reversed the District Court Order from which CHRISTINA appealed. CHRISTINA decided, after  
22 completing a reasonable-minded cost/benefit analysis, that it would not be financially beneficial  
23 for her and her children to proceed with the amount of fees and costs at issue related to only this  
24 Appeal. Indeed, CHRISTINA's recent request first made of MITCHELL to withdraw her Appeal  
25 has no bearing on her and counsel's belief that this Appeal is meritorious.

26 PRIOR TO MITCHELL FILING HIS FRIVOLOUS MOTION, on October 22, 2013,  
27 undersigned counsel sent a letter to MITCHELL who is an attorney licensed to practice in the  
28 State of Nevada, and is now the only attorney of record in this Appeal. As CHRISTINA's



1 counsel's letter attached as Exhibit "1" reveals, the letter contained a proposed Notice of  
2 Dismissal of Cross Appeal and Dismissal Agreement. A Dismissal Agreement as to costs is  
3 required pursuant to NRAP 42, so MITCHELL needed to execute the document in order for a  
4 simple, low-cost dismissal to be accomplished.

5 On October 22, 2013, after business hours, MITCHELL forwarded his response to Ms.  
6 Vaccarino's letter. See Exhibit "2". MITCHELL acted in bad faith and refused to cooperate in  
7 dismissing this action without costing CHRISTINA more financial and emotional distress.  
8 MITCHELL never warned anyone that he would file a Motion to Dismiss. In fact, MITCHELL's  
9 letter dated October 22, 2013 stated CHRISTINA should file such a Motion. MITCHELL pretends  
10 to not understand the law and pretends there exists law or facts which somehow justify his receipt  
11 of fees and costs. Shortly thereafter, on Wednesday, October 30, 2013, MITCHELL after  
12 RUSHING TO FILE HIS FRIVOLOUS MOTION, sent further correspondence to CHRISTINA's  
13 counsel in an attempt to further have CHRISTINA unnecessarily billed by the hour for  
14 MITCHELL's nonsense and unfair legal practices. CHRISTINA's counsel has not responded to  
15 MITCHELL because he is not being reasonable, and he only wants to waste time and money.

16 MITCHELL boldly, yet erroneously, affirms that CHRISTINA's Appeal is "frivolous on its  
17 face". MITCHELL then wrongfully claims he is entitled to fees and costs in this matter without  
18 citing to any verifiable facts and law. In fact, MITCHELL's Motion is insulting to this Court.  
19 CHRISTINA and her counsel are confident that if this Court deemed her Cross-Appeal "frivolous  
20 on its face," an Order would have long ago issued for dismissal.

21 MITCHELL told CHRISTINA, her counsel and now this Court that he only wants dismissal  
22 if he gets some money with the dismissal. Yet, there is no legal nor factual basis which supports  
23 an award of fees and costs to be awarded to MITCHELL whatsoever.

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II.

**MITCHELL MUST FINALLY BE SANCTIONED BY THIS COURT**

NRPC (Nevada Rules of Professional Conduct) Rule 3.1 states:

**Meritorious Claims and Contentions.**

**A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous,** which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

MITCHELL voluntarily dismissed his originating Appeal on April 29, 2013. MITCHELL has now dismissed at least two frivolous Appeals of record with this Court. MITCHELL clearly understands that all of his Appeals lacked merit. MITCHELL's goal has ALWAYS been to financially and emotionally torture CHRISTINA by having her be forced to hire attorneys to fend off his legal maneuvering. MITCHELL has used the legal process in the District Court action and in the Supreme Court as leverage to attempt to have her modify custody. CHRISTINA is the primary physical custodian of the children, and MITCHELL has been desperate to receive an award of joint physical custody for many years. CHRISTINA has grown weary of MITCHELL's abuse of the Court process in the District and Supreme Court. MITCHELL vowed to CHRISTINA he would take her property settlement back with excessive, post-divorce litigation shortly after the parties divorce was entered. These affirmations are verified in CHRISTINA's Appendix filed in Supreme Court Case No. 57327.

MITCHELL is so abusive that he will not even agree to simply let CHRISTINA pay for her own costs on Appeal and dismiss this action without requiring her to pay counsel for further, unnecessary work. See Exhibits "1" and "2" attached.

**Advocate Rule 3.3 states:**

**Candor Toward the Tribunal.**

(a) A lawyer shall not knowingly:

(1) Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously



made to the tribunal by the lawyer;

(2) Fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or

(3) Offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraphs (a) and (b) continue to conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

MITCHELL had and has a duty to adhere to the Nevada Rules of Professional Conduct. MITCHELL has BLATANTLY ignored his duty as his own, "UNOBJECTIVE" attorney in this matter. MITCHELL REFUSED AND FAILED TO ADVISE THIS COURT IN HIS MOTION THAT ONLY SEVEN DAYS PRIOR, CHRISTINA, IN ADVANCE OF THE OPENING BRIEF BEING DUE SOUGHT AN AGREEMENT FOR DISMISSAL. MITCHELL's failure to be truthful with this Court was done intentionally to make it appear as if CHRISTINA was ignoring the deadline to file her Opening Brief. Of course, in MITCHELL's mind, he believed this Court would immediately jump to his wrongful conclusion that CHRISTINA should be sanctioned and be punished with the harsh remedy of dismissal by order with an admonishment and/or sanctions. This Court must now be confident regarding the extent of MITCHELL's devious plotting which is behind every legal maneuver he employs.

...



1 The District Court record and the Appellate Court records reveal MITCHELL's true motive  
2 for his frivolous filings and contemptuous conduct is to cause CHRISTINA emotional and financial  
3 distress. MITCHELL seeks to wear CHRISTINA down, having her incur more and more  
4 unnecessary attorney's fees. MITCHELL's actions are sanctionable.

5 More importantly, MITCHELL, a practicing attorney clearly has the ability to understand and  
6 properly interpret Court Rules as they apply to the TRUE facts. Yet, MITCHELL chooses to ignore  
7 TRUE facts, Court rules and statutes, time after time, especially if it will cause CHRISTINA to  
8 incur further attorney's fees and costs.

9 **NRAP 38** states as follows:

10 **FRIVOLOUS CIVIL APPEALS—DAMAGES AND COSTS**

11 (a) Frivolous Appeals; Costs. If the Supreme Court determines  
12 that an appeal is frivolous, it may impose monetary sanctions.

13 **(b) Frivolous Appeals; Attorney Fees as Costs.** When an  
14 appeal has frivolously been taken or been processed in a  
15 frivolous manner; when circumstances indicate that an appeal  
16 has been taken or processed solely for purposes of delay,  
17 when an appeal has been occasioned through respondent's  
18 imposition on the court below; **or whenever the appellate  
processes of the court have otherwise been misused, the  
court may, on its own motion, require the offending party  
to pay, as costs on appeal, such attorney fees as it deems  
appropriate to discourage like conduct in the future.**  
[Emphasis added.]

19 Pursuant to NRAP, MITCHELL must be assessed with all of CHRISTINA's attorney's fees  
20 and costs for being forced to respond to his frivolous Motion, plus an additional monetary sanction,  
21 hopefully to deter MITCHELL. MITCHELL rushed to file his frivolous Motion to Dismiss on October  
22 29, 2013 which document was purposely filed to mislead this Court. MITCHELL wilfully and  
23 intentionally failed to advise this Court in his bogus Motion that one week earlier, CHRISTINA  
24 made a good faith effort to withdraw her Appeal and bear the costs. CHRISTINA never intended  
25 upon filing her Opening Brief and wanted to avoid the further costs associated with more legal  
26 process. CHRISTINA considered that, especially because she did not have to defend MITCHELL's  
27 frivolous Appeal which he withdrew, it would simply cost her too much to brief for the underlying,  
28 more minimal fees she could possibly recoup if she prevailed upon appeal. Yet, MITCHELL has



1 forced CHRISTINA to incur further, unnecessary attorney's fees and costs even to receive a simple  
2 dismissal, just as he has historically abused process for the past seven, plus years in the District  
3 and Supreme Court actions on file.

4 **NRAP 39** states as follows:

5 **COSTS**

6 **(a) Against Whom Assessed.** The following rules apply in  
7 civil appeals unless the law provides or the court orders  
8 otherwise:

9 (1) if an appeal is dismissed, costs are taxed against the  
10 appellant, unless the parties agree otherwise;

11 (2) if a judgment is affirmed, costs are taxed against the  
12 appellant;

13 (3) if a judgment is reversed, costs are taxed against the  
14 respondent;

15 (4) if a judgment is affirmed in part, reversed in part, modified,  
16 or vacated, costs are taxed only as the court orders.

17 (b) Reserved.

18 (c) Costs of Briefs, Appendices, Counsel's Transportation;  
19 Limitation.

20 (1) Costs of Copies. The cost of producing necessary copies  
21 of briefs or appendices shall be taxable in the Supreme Court  
22 at rates not higher than those generally charged for such work  
23 in the area where the district court is located.

24 (2) Costs of Counsel's Transportation. The actual costs of  
25 round trip transportation for one attorney, actually attending  
26 arguments before the Supreme Court, between the place  
27 where the district court is located and the place where the  
28 appeal is argued shall be taxable. For the purpose of this Rule,  
"actual costs" for private automobile travel shall be deemed to  
be 15 cents per mile, but where commercial air transportation  
is available at a cost less than private automobile travel, only  
the cost of the air transportation shall be taxable.

**(3) Bill of Costs.** A party who wants such costs taxed  
shall—within 14 days after entry of judgment—file an itemized  
and verified bill of costs with the clerk, with proof of service.

**(4) Objections.** Objections to a bill of costs shall be filed  
within 5 days after service of the bill of costs, unless the court  
extends the time.

**(5) Limit on Costs.** The maximum amount of costs taxable  
under this section shall be \$500.

1           **(d) Clerk to Insert Costs in Remittitur.** The clerk shall  
2           prepare and certify an itemized statement of costs taxed in the  
3           Supreme Court for insertion in the remittitur, but issuance of  
4           the remittitur must not be delayed for taxing costs. If the  
5           remittitur issues before costs are finally determined, the district  
6           court clerk must—upon the Supreme Court clerk's  
7           request—add the statement of costs, or any amendment of it,  
8           to the remittitur.

9           **(e) Costs on Appeal Taxable in the District Courts.** The  
10          following costs on appeal are taxable in the district court for the  
11          benefit of the party entitled to costs under this Rule:

- 12          (1) the preparation and transmission of the record;
- 13          (2) the reporter's transcript, if needed to determine the appeal;
- 14          (3) preparation of the appendix;
- 15          (4) premiums paid for a supersedeas bond or other bond to  
16          preserve rights pending appeal; and
- 17          (5) the fee for filing the notice of appeal.

18          The above-referenced law is clear. MITCHELL should clearly understand CHRISTINA has  
19          not acted frivolously as required to have a Motion for NRAP 38 sanctions granted by this Court.  
20          If MITCHELL bothered to be fair and honest and read the relevant law, he would understand his  
21          alleged (but not true because he does his own inferior, legal documents) costs which could EVER  
22          be recovered are limited to only \$500.00. Yet, MITCHELL would have to prevail upon his Appeal  
23          to even ask for recovery of costs. Also, it is the District Court, not this Court, that can tax fees and  
24          costs.

25          CHRISTINA already addressed MITCHELL's frivolous, underlying Appeal in her response  
26          filed on May 29, 2013 in this action to the Order to Show Cause which was issued. It was  
27          CHRISTINA who argued that MITCHELL's conduct and Appeal was frivolous and that NRAP 38  
28          warranted that MITCHELL be sanctioned.

29          Thus, the first opportunity MITCHELL received to cut and paste CHRISTINA's argument to  
30          his faulty set of facts, MITCHELL decided to misuse the process of this Court by filing his Motion  
31          to Dismiss and for Fees and Costs. CHRISTINA is respectfully urging this Court to FINALLY  
32          sanction MITCHELL with fees and costs of no less than \$10,000.00 to be forthwith paid to  
33          CHRISTINA.



1 CHRISTINA fears no monetary sanction will change MITCHELL. MITCHELL has, upon  
2 information and belief, conspired to and has been involved in fraudulent transfers in a five hundred  
3 million dollar Bankruptcy case involving one of the alleged co-conspirators, Bill Plise. Some of  
4 these verifiable Court filings from MITCHELL's partners' Bankruptcy case are filed in the Supreme  
5 Court actions between these parties. MITCHELL and his co-conspirators have been alleged to  
6 have borrowed the money under the guise of using same to develop properties, only to  
7 misappropriate the funds to themselves. Regardless, a sanction of no less than \$10,000.00 to be  
8 paid by MITCHELL to CHRISTINA may discourage his abuse of Court process in the future, as  
9 NRAP 38 is intended to protect litigants such as CHRISTINA who suffers with MITCHELL's abuse  
10 of process.

11 MITCHELL, acting as his own attorney, has not incurred any attorney's fees. In fact,  
12 MITCHELL's Financial Disclosure Form filed with the Docketing Statements in this action reveal  
13 he swore in the District Court action that he paid ZERO attorney's fees and costs to Radford Smith,  
14 Esq. Also, any costs MITCHELL had incurred in filing his frivolous, underlying Appeal, he already  
15 agreed to bear on his own when he filed his Motion to dismiss and an Order was entered.  
16 MITCHELL has no basis to seek and/or be granted an award of attorney's fees.

17 In his Argument, in his Motion, at page two, Line 10 1/2 MITCHELL confirms "Christina's  
18 appeal should be dismissed" pursuant to NRAP 31(d). It is MITCHELL's argument that  
19 CHRISTINA failed to file an Opening Brief and Appendix as required by NRAP 31(d). MITCHELL  
20 was well aware that CHRISTINA wanted to dismiss this appeal when he filed his Motion on  
21 October 29, 2013, but he lied to the Court indicating CHRISTINA did not file her brief, nor request  
22 an extension. MITCHELL made material misrepresentations to this Court. MITCHELL later wrote  
23 another ridiculous E-mail dated October 30, 2013 to CHRISTINA's counsel trying to extort money  
24 from CHRISTINA and her counsel and he would then stipulate to dismiss.

25 CHRISTINA's appeal was clearly not frivolous, and that is precisely one reason why this  
26 Court recently ordered CHRISTINA's Appeal to proceed. CHRISTINA decided not to pursue her  
27 relief through the Appellant process because such pursuit was cost prohibitive. Once MITCHELL  
28 filed his wrongful, frivolous Appeal, to which CHRISTINA, pursuant to NRAP 27, must respond



1 within seven days, CHRISTINA was forced to provide the truth to the Court and properly seek the  
2 fees and costs to which she is entitled. Of course, MITCHELL would not concede he has no legal  
3 argument and would not cooperate in correcting any form errors he deemed were required to  
4 CHRISTINA's proposed Stipulation and Order. See Exhibit "1", CHRISTINA's counsel's letter and  
5 proposed Stipulation and Order, and Exhibit "2", MITCHELL's unreasonable response. Instead,  
6 MITCHELL decided to force CHRISTINA's counsel to do more unnecessary work in this Appeal.  
7 Once again, MITCHELL is using the Court process to financially harm CHRISTINA. CHRISTINA  
8 is required to file a response to MITCHELL's most frivolous filing to protect her interest and the  
9 Court record. CHRISTINA cannot risk this Court or the District Court believing her conduct was  
10 frivolous or that she intentionally ignored an Order. In fact, CHRISTINA's attorney had already  
11 prepared a draft Motion to Dismiss once MITCHELL refused to cooperate. MITCHELL rushed to  
12 file his Motion the first day possible without warning to CHRISTINA's counsel. Thus, CHRISTINA  
13 had her counsel convert the Motion to Dismiss to this Response and Motion. AGAIN, MITCHELL  
14 PERJURED HIMSELF IN HIS FILING BY OMITTING THE MOST IMPORTANT FACT THAT  
15 CHRISTINA RECENTLY ATTEMPTED TO DISMISS BY AGREEMENT. It was prudent of  
16 CHRISTINA to seek appellate review of the district Court's failure to issue and enforce Orders to  
17 show cause and regarding CHRISTINA's pursuit of attorney's fees. Moreover, MITCHELL has  
18 acted contemptuously time and time again, with ZERO consequences being ordered.

19 CHRISTINA's counsel's October 22, 2013 letter to MITCHELL (Exhibit "1") reveals that  
20 CHRISTINA is seeking to voluntarily dismiss her appeal pursuant to NRAP 42 which states:

21 **VOLUNTARY DISMISSAL**

22 (a) Reserved.

23 (b) Dismissal in the Supreme Court. The clerk of the Supreme  
24 Court may dismiss an appeal or other proceeding if the parties  
25 file a signed dismissal agreement specifying how costs are to be  
26 paid and pay any fees that are due. But no remittitur or other  
process shall issue without a court order. An appeal may be  
dismissed on the appellant's motion on terms agreed to by the  
parties or fixed by the court.

27 As the Exhibit's attached reveal, MITCHELL could have simply executed the Agreement  
28 attached as Exhibit "1", and no further action would be necessary. Instead, MITCHELL chose to