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Electronically Filed  
Nov 19 2013 09:18 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

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

6 CHRISTINA CALDERON STIPP,  
7 Appellant,

SUPREME COURT CASE NO. 62299

8 vs.

9 MITCHELL DAVID STIPP,  
10 Respondent.

11  
12 **APPELLANT'S REPLY BRIEF**

13 COMES NOW, CHRISTINA CALDERON-STIPP, Appellant, ("CHRISTINA"), by and  
14 through her attorney, PATRICIA L. VACCARINO, ESQ., of the VACCARINO LAW OFFICE, and  
15 pursuant to NRAP 27, hereby submits her Reply Brief to MITCHELL DAVID STIPP's,  
16 ("MITCHELL"), Opposition and Reply.

17 I.

18 **CHRISTINA'S MOTION MUST BE GRANTED**

19 CHRISTINA began forming her "intent" to not pursue her cross-appeal after considering  
20 this Court's most recent order filed in this case and doing a proper cross-benefit analysis.  
21 MITCHELL has not "prevailed" because both parties agreed dismissal was BEST prior to the  
22 Opening Brief being due. See letters attached to CHRISTINA's Response and Motion.  
23 MITCHELL wrongfully claims in his latest, frivolous paper filed in this matter that when  
24 CHRISTINA filed her Motion to Dismiss her Appeal she was conceding the relief sought by  
25 MITCHELL's Motion and that her appeal lacked merit. Such is not the case. As stated clearly  
26 in her Response, CHRISTINA decided not to proceed with this matter because the high cost of  
27 continuing the appellate process compared to the amount of underlying fees at issue in the  
28 District Court action regarding one Motion. CHRISTINA already was highly successful in her first

1 Appeal filed in the Supreme Court Case No. 57327. CHRISTINA decided to focus on pursuing  
2 other pending issues in the District Court action and the fees and costs as prevailing party in  
3 Supreme Court Case No. 57327. CHRISTINA still intends to pursue her entitlement to an award  
4 of attorney's fees through the lower Court.

5 CHRISTINA's decision to seek dismissal of her Cross-Appeal does not mean she is  
6 conceding that she is not entitled to the requested relief. A mutual concession for dismissal  
7 should not automatically make any person a "prevailing party" in a reasonable world. Yet,  
8 MITCHELL operates in a highly dysfunctional, over-litigious world when it comes to CHRISTINA.  
9 As the Court is well aware, the present issues that would have remained in this action stem from  
10 a Cross-Appeal filed by CHRISTINA. MITCHELL's underlying Appeal was frivolous and without  
11 any legal or factual merit as already noted in CHRISTINA's papers on file in this action. Thus, just  
12 as he has done with two other frivolous appellate actions, MITCHELL voluntarily sought dismissal  
13 of his underlying Appeal. CHRISTINA, in good faith, filed her Cross-Appeal to address  
14 MITCHELL's repeated contempt and the troubling, repeated issue of the District Court denying  
15 her rightful request to fees and costs incurred.

16 MITCHELL, in his Reply, further abused process and violated more Rules and Statutes  
17 cited below. MITCHELL's refusal to cooperate in stipulating to dismiss this action (even though  
18 it is clear that both parties do not wish to pursue further issues in this action), supports  
19 CHRISTINA's claim that he continues to abuse the Court process through filing a Reply and  
20 wilfully and defiantly disclosing his bad-faith and privileged offer of settlement in violation of NRS  
21 48.105. Still, MITCHELL does not deny the most important fact that he has not incurred any fees  
22 and costs representing himself. In filing his latest "opposition", MITCHELL has caused more  
23 unnecessary legal costs.

## 24 II.

### 25 LEGAL AUTHORITY AND ARGUMENT

26 MITCHELL failed to follow the Nevada Rules of Professional Conduct when he failed to  
27 notify CHRISTINA and her counsel of his true intent to seek dismissal. Still MITCHELL does not  
28 deny the most important fact that he has not incurred any fees and costs representing himself.



1       NRPC 3.5(A) states:

2               **Relations with Opposing Counsel.**

3               When a lawyer knows or reasonably should know the identity  
4               of a lawyer representing an opposing party, he or she should  
5               not take advantage of the lawyer by causing any default or  
             dismissal to be entered without first inquiring about the  
             opposing lawyer's intention to proceed.

6               As this Court is already aware, CHRISTINA and her counsel made good faith efforts prior  
7               to the Opening Brief deadline to stipulate to dismiss this action. MITCHELL did not make the  
8               proper decisions; he again manipulated CHRISTINA and her counsel, rushing to file his bogus  
9               and unnecessary Motion to Dismiss. Just days prior, MITCHELL wrote CHRISTINA's counsel  
10              ordering her to file a Motion to Dismiss because he could not simply execute a Stipulation to  
11              Dismiss with an agreement for CHRISTINA to pay her own costs on Cross-appeal. Not only did  
12              MITCHELL lie by inviting CHRISTINA to file a Motion to Dismiss when he was prepared to file his  
13              own, MITCHELL also violated the above rule that requires notice to opposing counsel before  
14              seeking dismissal of a cause. CHRISTINA and her counsel are no longer shocked, nor surprised  
15              by MITCHELL's overbearing and frivolous, litigious practices. Yet, CHRISTINA and her counsel  
16              are curious as to when one or some judges will finally send MITCHELL a strong order, with  
17              sanctions being imposed, that his abuse of CHRISTINA, her family and the Court process MUST  
18              STOP!

19              MITCHELL wrongfully proceeded with filing his bogus Motion clearly understanding  
20              CHRISTINA's intention to dismiss her appeal. MITCHELL's purpose was solely to further harass  
21              CHRISTINA, abuse the Court process and force CHRISTINA to risk sanctions or further defend  
22              her good faith position. In defending his position, MITCHELL has violated more rules.

23              In Rowland v. Lapper, 95 Nev. 639, 600 P.2d 237 (1979), this Supreme Court overturned  
24              a judgment, and remanded a matter back to the lower Court, based upon the attorney's violation  
25              of NRPC 3.5(A). Thus, this Court has already indicated the serious nature of the strict  
26              enforcement of such rule.

27              As an attorney licensed to practice law in the State of Nevada, MITCHELL has a duty to  
28              abide by the Nevada Rules of Professional Conduct. MITCHELL rushed to file his bogus and

unnecessary Motion to Dismiss. MITCHELL failed to write CHRISTINA's counsel to further discuss a stipulated dismissal or warn of the filing of a motion to dismiss with which he intended to proceed. Further, MITCHELL's claim that the 24 hours CHRISTINA's counsel gave him to confirm whether or not he would stipulate to dismissing CHRISTINA's appeal was not sufficient time is further evidence of MITCHELL's underlying need to over-litigate matters. If someone is seeking relief from you, and wants to stop seeking the relief, a person of sound mind would not oppose such action. This litigation concept is the "no brainer". Yet, MITCHELL somehow finds a way to unnecessarily continue litigation, abusing the Court process, ridiculously claiming CHRISTINA's action in dismissing her appeal makes him a "prevailing party". Yet, again, MITCHELL has incurred zero attorney's fees.

MITCHELL also FALSELY claims that CHRISTINA violated N.S. 48.105 which states as follows:

**Compromise; offers to compromise.**

1. Evidence of:(a) Furnishing or offering or promising to furnish; or

(b) Accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible.

2. This section does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or

In her Reply, CHRISTINA stated MITCHELL requested compensation via an award of attorney's fees in exchange for his cooperation in allowing CHRISTINA to dismiss her appeal. MITCHELL now wrongfully claims that CHRISTINA violated N.S. 48.105 in making this truthful and relevant statement of fact. However, MITCHELL is the party who violated NRS 48.105 when he attached a copy of his disingenuous and bad faith E-mail correspondence where he agrees to execute the Stipulation for Dismissal in exchange for a payment of \$1,500.00 which is not his "actual costs and expenses". Again, MITCHELL has minimal costs related to the appeal which



1 long ago was dismissed.

2 MITCHELL also appears insulted that CHRISTINA's counsel chose the word "stolen" money  
3 and that he looks like a "bank robber". See MITCHELL's Opposition and Reply filed November 8,  
4 2013 at page 6. It is a publicly documented fact that MITCHELL and others have been accused  
5 of and are being investigated by Federal Investigators and the Federal Bankruptcy Trustee for  
6 conspiracy to defraud banks and convert funds to themselves. Conversion is another term for  
7 "steal". Yet, CHRISTINA and her counsel have not violated any rules, and have an absolute  
8 defense of truth to any frivolous claim of defamation MITCHELL may make. The public record in  
9 Bankr. D. Nev. 12-14724-LBR speaks the truth. Unfortunately that public record does impugn  
10 MITCHELL's character and reputation because of MITCHELL's alleged bad acts alleged by  
11 others. CHRISTINA and her counsel note the relevant issues of concern with such criminal  
12 investigations because MITCHELL, upon information and belief, has seriously abused process  
13 again and again!

14 **III.**

15 **CONCLUSION**

16 CHRISTINA, in good faith, first sought a simple, stipulated dismissal from MITCHELL.  
17 MITCHELL, in his usual, controlling, dictatorial and abusive manner has unnecessarily caused  
18 CHRISTINA further fees and costs. MITCHELL, as his own attorney, has incurred zero attorney's  
19 fees, as his Financial Disclosure Form filed with CHRISTINA's Docketing Statement reveals.  
20 MITCHELL admitted paying his former counsel, Redford J. Smith, Esq., **zero** dollars as well.  
21 CHRISTINA is represented by counsel and was forced to incur unnecessary attorney's fees  
22 responding to MITCHELL's frivolous Motions, Response and Reply. CHRISTINA's request for

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1 dismissal must be granted, and MITCHELL's Motion must be denied. CHRISTINA requests that  
2 MITCHELL be sanctioned for his abuse of this Court's process and violations of Nevada Rules of  
3 Professional Conduct.

4 DATED this 18<sup>th</sup> day of November, 2013.

5 VACCARINO LAW OFFICE

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CERTIFICATE OF SERVICE

I certify that on November 18, 2013, I served a copy of this completed Notice of Appellant's Reply 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 18<sup>th</sup> day of November, 2013.

  
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Signature