

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIRK HARRISON,

Appellant/Cross-Respondent,

v.

VIVIAN HARRISON,

Respondent/Cross-Appellant.

Electronically Filed
Supreme Court No. 66157
District Court Case No. 14-00000000-00000
Sep 10 2014 03:33 p.m.
Tracie R. Lindeman
Clerk of Supreme Court

DOCKETING STATEMENT
CIVIL APPEALS

1. Judicial District Nevada Department Q
County Clark Judge BRYCE DUCKWORTH
District Ct. Case No. D-11-443611-D

2. **Attorney filing this docketing statement:**

Attorney Radford J. Smith, Esq. Telephone (702) 990-6448
Firm Radford J. Smith, Chartered
Address 64 N. Pecos Road, Suite 700
Henderson, Nevada 89074
Client: Vivian Harrison

3. **Attorney representing Respondent:**

Attorney Robert L. Eisenberg, Esq. Telephone (775) 786-6868
Firm Lemons, Grundy & Eisenberg
Address 6005 Plumas Street, Suite 300
Reno, Nevada 89519
Client: Kirk Harrison

1 4. **Nature of Deposition below (check all that apply):**

- 2 ___ Judgment after bench trial ___ Grant/denial of NRCP 60(b) relief
- 3 ___ Judgment after jury verdict ___ Grant/denial of injunction
- 4 ___ Summary Judgment ___ Grant/denial of declaratory relief
- 5 ___ Default judgment ___ Review of agency determination
- 6 ___ Dismissal ___X Divorce decree:
- 7 ___ Lack of Jurisdiction ___X Original ___ Modification
- 8 ___ Failure to state a claim ___X Other disposition (specify)
- 9 ___ Failure to prosecute ___Orders on Post Decree Motions
- 10 ___ Other (specify) _____
- 11
- 12
- 13

14 5. **Does this appeal raise issues concerning any of the following: No**

- 15 ___X Child custody ___ Termination of parental rights
- 16 ___ Venue ___ Grant/denial of injunction or TRO
- 17 ___ Adoption ___ Juvenile matters
- 18

19 6. **Pending and prior proceedings in this Court.** List the case name and docket number of

20 all appeals or original proceedings presently or previously pending before this Court that

21 are related to this appeal.

22 Kirk Ross Harrison v. Vivian Marie Lee Harrison, Supreme Court No. 66072.

23 Vivian Marie Lee Harrison v. Norton A. Roitman, M.D., Supreme Court No. 64569.

24 7. **Pending and prior proceedings in other courts.** List the case name, number and court

25 of all pending and prior proceedings in other courts that are related to this appeal (e.g.,

26 bankruptcy, consolidated or bifurcated proceedings and their dates of disposition.

27 *Harrison v. Harrison*, D-11-443611-D; District Court, Family Division, Clark County,

28 Nevada

Harrison v. Roitman, A-13-687300-C; District Court, Civil Division, Clark County,

 Nevada

- 1 8. **Nature of the action.** Briefly describe the nature of the action, including a list of the
2 causes of action pleaded and the result below.

3 This was a divorce action involving, in part, the custody of two minor children. The parties
4 entered a comprehensive Stipulation and Order Resolving Parent/Child Issues, filed on July
5 11, 2012 resolving all issues pertaining the care and custody of the minor children. A
6 Decree of Divorce was entered by the District Court on October 31, 2013. Several post-
7 divorce motions followed. This cross-appeal involves issues pertaining to custody orders
8 and the attorney's fees and sanctions requests made by cross-appellant.

- 9 9. **Issues on appeal.** State concisely the principal issue(s) in this appeal:

- 10 • Whether the district court erred in not awarding Vivian additional and substantial fees and
11 costs she incurred in the case arising from Kirk's multiple motions seeking to amend or
12 eliminate teenage discretion and parenting coordinator provisions he had agreed to in the
13 parties Stipulation and Order Resolving Parent/Child Issues, filed on July 11, 2012.
14 • Whether the district court erred in not sanctioning Kirk for stalling the process of
15 appointment of a therapist for the minor children and a parenting coordinator by filing
16 multiple, repeated motions seeking essentially the same relief even though all the previous
17 motions were denied.

- 18 10. **Pending proceedings in this Court raising the same or similar issues.** If you are aware
19 of any proceedings presently pending before this Court that raises the same or similar issues
20 raised in this appeal, list the case number and docket number and identify the same or
21 similar issues raised:

22 None.

- 23 11. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the
24 state, any state agency, or any officer or employee thereof is not a party to this appeal, have
25 you notified the Clerk of this Court and the Attorney General in accordance with NRCPC 44
26 and NRS 30.130?

27 N/A X Yes _____ No _____

- 28 12. **Other issues.** Does this appeal involve any of the following issues?

- _____ Reversal of well-settled Nevada precedent (on an attachment, identify the case(s))
_____ An issue arising under the United States and/or Nevada Constitutions
_____ A substantial issue of first impression
_____ An issue of public policy
_____ An issue where *en banc* consideration is necessary to maintain uniformity of this Court's
decisions
_____ A ballot question

1 If so, explain: _____
2

3 13. **Trial.** If this action proceeded to trial, how many days did the trial last? N/A.

4 14. **Judicial disqualification.** Do you intend to file a motion to disqualify or have a justice
5 recuse him/herself from participation in this appeal? If so, which Justice? No.
6

7 **TIMELINESS OF NOTICE OF APPEAL**

8 15. **Date of entry of written judgment or order appealed from:** June 16, 2014

9 Attach a copy. If more than one judgment or order is appealed from, attach copies of each
10 judgment or order from which an appeal is taken.

11 Exhibit "A" - Stipulation and Order Resolving Parent/Child Issues, filed on July 11, 2012

12 Exhibit "B" - Notice of Entry of Stipulation and Order Resolving Parent/Child Issues, filed
13 on July 12, 2012

14 Exhibit "C" - Order for Appointment of Parenting Coordinator, filed on October 29, 2013

15 Exhibit "D" - Decree of Divorce, filed on October 31, 2013 (re: Custody matters only)

16 Exhibit "E" - Order Regarding Parent/Child Issues, filed December 17, 2013

17 Exhibit "F" - Order on Tolling Motion and Motion Regarding Teenage Discretion
18 (appealed; Notice of Entry served on June 16, 2014)

19 Exhibit "G" - Notice of Appeal filed on July 7, 2014

20 Exhibit "H" - Notice of Cross Appeal, filed on August 12, 2014

21 16. **Date written notice of entry of judgment or order served:** June 16, 2014.

22 Was service by delivery _____ or by mail ☒ regular _____. (Specify)

23 17. **If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP**
24 **50(b), 52(b), or 59) specify the type of motion, and the date and method of service of the**
25 **motion, and date of filing, and attach copies of all post-trial tolling motions:** On November
26 14, 2013, Kirk filed his Motion under NRCP 52 styled Motion to Alter, Amend, Correct
27 and Clarify Judgment. The order adjudicating that Motion in its entirety was filed on or
28 about June 13, 2014, Notice of Entry served on June 16, 2014.

18. **Date Notice of Appeal was filed:** July 7, 2014. If more than one party has appealed from
the judgment or order, list date each notice of appeal was filed and identify by name the
party filing the notice of appeal: On August 12, 2014, Vivian filed her Notice of Cross-
Appeal.

- 1
2 19. Specify statute or rule governing the time limit for filing the Notice of Appeal, *e.g.*,
3 NRAP 4(a), NRS 155.190, or other: NRAP 4(a)

4
5 **SUBSTANTIVE APPEALABILITY**

- 6 20. Specify the statute or other authority granting this Court jurisdiction to review the judgment
7 or order appealed from:

8 NRAP 3A(b)(1) X NRS 155.190 _____ (specify subsection)

9 NRAP 3A(b)(2) _____ NRS 38.205 _____ (specify subsection)

10 NRAP 3A(b)(3) _____ NRS 703.376 _____

11 Other (specify) NRAP 3A(b)(7) and NRAP 3A(b)(8)

12 NRAP 3A(b)(1) permits an appeal from: "A final judgment entered in an action or
13 proceeding commenced in the court in which the judgment is rendered." Here, the divorce
14 decree is a final judgment; the subsequent orders are either orders dealing with child
15 custody) NRAP 3A(b)(7)) or special orders after final judgment (NRAP 3A(b)(8)).

- 16 21. List all parties involved in the action in the District Court:

17 KIRK HARRISON

18 VIVIAN HARRISON

19 If all parties in the District Court are not parties to this appeal, explain in detail why those
20 parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other: Not
21 applicable.

- 22 22. Give a brief description (3 to 5 words) of each party's separate claims, counter-claims,
23 cross-claims or third-party claims, and the trial court's disposition of each claim, and
24 how each claim was resolved (*i.e.*, judgment, stipulation), and the date of disposition
25 of each claim. Attach a copy of each disposition.

26 This was a divorce action involving, in part, the custody of two minor children. The parties
27 entered a comprehensive Stipulation and Order Resolving Parent/Child Issues, filed on July
28 11, 2012 resolving all issues pertaining the care and custody of the minor children. A Decree
of Divorce was entered by the District Court on October 31, 2013. Several post-divorce
motions followed. This cross-appeal involves issues pertaining to custody orders and the
attorney's fees and sanctions requests made by cross-appellant.

- 29 23. Did the judgment or order appealed from adjudicate ALL the claims alleged below
and the rights and liabilities of ALL the parties to the action below?

30 No X Yes

1
2 24. If you answered "No" to the immediately previous question, complete the following:

3 (a) Specify the claims remaining pending below:

4 (b) Specify the parties remaining below:

5 (c) Did the District Court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

6 ☐ No ☐ Yes If Yes, attach a copy of the certification or order, including any notice of entry and proof of service.

7
8 (d) Did the District Court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment:

9 ☐ No ☐ Yes

10
11 25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)): Not
12 Applicable

13
14 26. Attach file-stamped copies of the following documents:

- 15 • The latest-filed complaint, counterclaims, cross-claims, and third party claims
16 • Any tolling motion(s) and order(s) resolving tolling motion(s)
17 • Orders of NRCP 41(a) dismissals formally resolving each claim, countermotions, cross-claims and/or third party claims asserted in the action or consolidated action below, even if not at issue on appeal
18 • Any other order challenged on appeal
19 • Notices of entry for each attached order

20 Exhibit "A" - Stipulation and Order Resolving Parent/Child Issues, filed on July 11, 2012

21 Exhibit "B" - Notice of Entry of Stipulation and Order Resolving Parent/Child Issues, filed on July 12, 2012

22 Exhibit "I" - Complaint for Divorce filed on March 18, 2011

23 Exhibit "J" - Answer/Counterclaim filed November 23, 2011

24 Exhibit "C" - Order for Appointment of Parenting Coordinator, filed on October 29, 2013

25 Exhibit "D" - Decree of Divorce, filed on October 31, 2013 (re: Custody matters only)

26 Exhibit "K" - Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief filed on October 1, 2013

27 Exhibit "L" - Defendant's Amended Opposition to Plaintiff's Motion to Modify Order Resolving Parent-Child Issues to Delete "Teenage Discretion" provision and Other
28

1 Equitable Relief and Countermotion to Resolve Parent/Child Issues, to Continue Hearing
2 on Custody Issues, for an Interview of the Minor Children and for Attorney's Fees and
Sanctions filed on October 17, 2013

3 Exhibit "M" - Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving
4 Parent/Child Issues and For Other Equitable Relief and Plaintiff's Opposition to
5 Defendant's Countermotions to Resolve Parent/Child Issues, to continue Hearing on
Custody Issues, for an Interview of the minor children, and or Attorney's Fees and
Sanctions filed on or about October 23, 2014

6 Exhibit "N" - Defendant's Reply to Plaintiff's Countermotions to Resolve Parent/Child
7 Issues, to continue Hearing on Custody Issues, for an Interview of the minor children, and
or Attorney's Fees and Sanctions filed on or about October 28, 2014

8 Exhibit "O" - Plaintiff's Motion for a Judicial Determination of the Teenage Discretion
9 Provision filed on November 18, 2013

10 Exhibit "P" - Motion to Alter, Amend, Correct and Clarify Judgment filed on November
14, 2013

11 Exhibit "Q" - Opposition to Motion for Judicial Determination of the Teenage Discretion
12 Provision; Countermotion for Attorney's Fees filed on December 6, 2013

13 Exhibit "R" - Plaintiff's Reply in Support of Plaintiff's Motion for a Judicial Determination
14 of the Teenage Discretion Provision and Plaintiff's Opposition to Defendant's
Countermotion for Attorney's Fees filed on December 13, 2013

15 Exhibit "S" - Plaintiff's Reply in Support of Plaintiff's Motion to Alter, Amend, Correct
16 and Clarify Judgment and Plaintiff's Opposition to Defendant's Countermotion to Clarify
Orders filed on December 16, 2013

17 Exhibit "E" - Order Regarding Parent/Child Issues, filed December 17, 2013

18 Exhibit "T" - Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for
Other Equitable Relief filed on April 21, 2014

19 Exhibit "U" - Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving
20 Parent/Child Issues, etc., Countermotion for Attorney's Fees and Sanctions filed on May
9, 2014

21 Exhibit "V" - Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving
22 Parent/Child Issues and for Other Equitable Relief and Opposition to Defendant's
Countermotion for Attorney's Fees and Sanctions filed on May 14, 2014

23 Exhibit "W" - Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's
24 Fees and Sanctions filed on May 20, 2014

25 Exhibit "F" - Order on Tolling Motion and Motion Regarding Teenage Discretion
(appealed; Notice of Entry served on June 16, 2014)

26 Exhibit "G" - Notice of Appeal filed on July 7, 2014

27 Exhibit "H" - Notice of Cross Appeal, filed on August 12, 2014
28

VERIFICATION

I declare under penalty of perjury that I have read this Docketing Statement, and that the information provided in this Docketing Statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this Docketing Statement.

Vivian Harrison

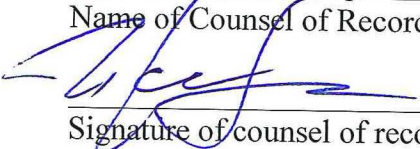
Name of Appellant

9-10-2014

Date

Radford J. Smith, Esq.

Name of Counsel of Record


Signature of counsel of record

State of Nevada, County of Clark

State and County where signed

CERTIFICATE OF SERVICE

I certify that on the 10 day of September, 2014, I served a copy of this Docketing Statement upon all counsel of record by mailing it by first class mail with sufficient postage prepaid to the following address:

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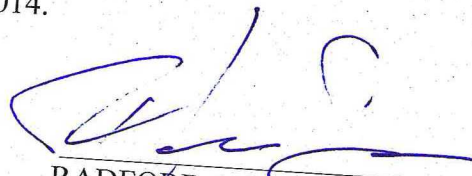
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Settlement Judge

DATED this 10 day of September, 2014.


RADFORD J. SMITH, ESQ.