

IN THE SUPREME COURT OF THE STATE OF NEVADA

\* \* \* \* \*

KIRK ROSS HARRISON,

Appellant,

vs.

VIVIAN MARIE LEE HARRISON,

Respondent.

NO. 66157

Electronically Filed  
Feb 27 2015 01:18 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**MOTION TO REMOVE APPEAL FROM FAST TRACK PROGRAM**

**And**

**MOTION TO SUSPEND TIME FOR FAST TRACK STATEMENT  
PENDING DECISION ON MOTION TO REMOVE APPEAL FROM FAST  
TRACK PROGRAM**

Appellant, Kirk Ross Harrison, hereby moves for leave to remove this appeal from the fast track program and for an order directing full briefing, pursuant to NRAP 3E(g)(2). Appellant also moves to suspend the time for the fast track statement, pending this court's ruling on whether the case will be removed from the fast track program, pursuant to NRAP 2.

**Removal of case from fast track program**

Pursuant to NRAP 3E(g)(2), a party may seek leave of court to remove an appeal from the fast track program if the issues in the appeal are complex and/or too numerous for resolution in the program.

This appeal involves a child custody issue primarily involving a so-called "teenage discretion" provision involving children who are now 12 and 15 years old. This appeal also involves a parenting coordinator provision. This court entered its order reinstating briefing on February 6, 2015. Pursuant to that order, appellant's fast track statement is due on March 18, 2015.

In preparation of the fast track statement, it has become obvious to appellant (who is a Nevada attorney, and who is an attorney of record in this appeal) and to his counsel, Robert Eisenberg, that the issues raised in the appeal are very complex and far too numerous for resolution in the fast track program. In addition, there are important constitutional and public policy issues which deserve direct full briefing. Although subject to refinement and modification, the following are the specific issues appellant intends to raise in the appeal:

1. Whether the district court erred in interpreting the teenage discretion provision to mean a 14 year old is empowered to require her parent to make modifications to the weekly custody schedule, when it is so obviously contrary to the best interests of the child by creating an unstable, emotionally painful, and uncertain living environment for the child, and therefore contrary to state policy.
2. Whether the district court erred in interpreting the teenage discretion provision to mean a 14 year old is empowered to require her parent to make modifications to the weekly custody schedule, when the court was presented with an unrefuted well reasoned expert opinion that under such an interpretation, the teenage discretion provision would be an error and a bad idea, would expose the minor child to significant long term emotional harm, and that such a provision would significantly undermine parental authority.
3. Whether the district court erred in interpreting a teenage discretion provision in favor of the drafter of the provision, when the provision is ambiguous and such ambiguity is also evidenced by the diametrically opposed interpretation of the provision by the opposing parties and their counsel.

4. Whether the district court erred in not ruling the parenting coordinator provision is too indefinite and uncertain to be regarded as a binding agreement and is therefore a nullity and unenforceable.
5. Whether the district court erred in not ruling the parenting coordinator provision is an agreement to agree and therefore too indefinite to enforce as a final agreement.
6. Whether the district court erred in not ruling a valid contract cannot exist in a settlement agreement regarding the appointment of a parenting coordinator when material terms are lacking or are insufficiently certain and definite for there to be an offer and acceptance and a meeting of the minds.
7. Whether the district court's granting judicial authority to a parenting coordinator to make recommendations regarding custody, which for all practical purposes are binding in light of the trial court's deference to such recommendations, violates the due process rights of the parties and is therefore unconstitutional.
8. Whether this court should follow the trend of other states to not grant judicial authority to parenting coordinators in custody matters.
9. Whether this court should enter an order similar to the order entered by the Pennsylvania Supreme Court, holding that only judges may make decisions in child custody cases.
10. Whether this court should determine that it is in the best interests of children after their parents' divorce to minimize third-party intervention and therefore prohibit the use of teenage discretion provisions and parenting coordinators.

It is apparent that these important issues involve matters of first impression and statewide precedent. These issues are far too complex and numerous for the fast track program, in which fast track statements and responses (i.e., the briefs) are extremely

limited in size. In determining these important issues, the parties should be able to provide the court with full, comprehensive briefs.

Because of the age and the present circumstances of the children involved in this appeal, any limited delay caused by removing this case from the fast track program will not cause any harm to the children, and removal will cause no prejudice to respondent.

**Certification/waiver by appellant [required by NRAP 3E(g)(2)]**

By signing this motion, appellant Kirk Harrison hereby certifies that he waives expeditious resolution of the appeal.

**Suspension of time for fast track statement**

As indicated above, appellant's fast track statement is due on March 18, 2015. Pursuant to NRAP 2, this court may suspend its rules, for good cause shown. Appellant respectfully requests the court to suspend the due date for his fast track statement, until the court rules on the motion to remove this appeal from the fast track program.

Dated: 2/27/15

  
ROBERT L. EISENBERG (#950)  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519  
Phone: (775) 786-6868  
rle@lge.net

  
(SEE ATTACHED PAGE)  
KIRK R. HARRISON (Bar #0861)  
1535 Sherri Lane  
Boulder City, Nevada 89005  
Phone: (702) 271-6000  
[kharrison@harrisonresolution.com](mailto:kharrison@harrisonresolution.com)

limited in size. In determining these important issues, the parties should be able to provide the court with full, comprehensive briefs.

Because of the age and the present circumstances of the children involved in this appeal, any limited delay caused by removing this case from the fast track program will not cause any harm to the children, and removal will cause no prejudice to respondent.

**Certification/waiver by appellant [required by NRAP 3E(g)(2)]**

By signing this motion, appellant Kirk Harrison hereby certifies that he waives expeditious resolution of the appeal.

**Suspension of time for fast track statement**

As indicated above, appellant's fast track statement is due on March 18, 2015. Pursuant to NRAP 2, this court may suspend its rules, for good cause shown. Appellant respectfully requests the court to suspend the due date for his fast track statement, until the court rules on the motion to remove this appeal from the fast track program.

Dated: \_\_\_\_\_

ROBERT L. EISENBERG (#950)  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519  
Phone: (775) 786-6868  
rle@lge.net

  
KIRK R. HARRISON (Bar #0861)  
1535 Sherri Lane  
Boulder City, Nevada 89005  
Phone: (702) 271-6000  
[kharrison@harrisonresolution.com](mailto:kharrison@harrisonresolution.com)

CERTIFICATE OF SERVICE

I certify that I am an employee of Lemons, Grundy & Eisenberg and that on this date the foregoing was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

Edward L. Kainen  
Thomas J. Standish  
Radford J. Smith  
Gary R. Silverman  
Mary Anne Decaria

I further certify that on this date I served a copy of this notice, postage prepaid, by U.S. Mail to:

Kirk Harrison  
1535 Sherri Lane  
Boulder City, Nevada 89005

Settlement Judge Lansford Levitt  
4747 Caughlin Parkway  
Suite 6  
Reno, Nevada 89519

DATED: 2/22/15

Vicki Shapiro  
Vicki Shapiro, Assistant to  
ROBERT L. EISENBERG