

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

2
3 KIRK ROSS HARRISON,

4 Appellant,

5 v.

6 VIVIAN MARIE LEE HARRISON,

7 Respondent.
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9

Supreme Court No. 66157.
District Court Case No. D44361
Electronically Filed
May 14 2015 01:30 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

10 **RESPONDENT'S OPPOSITION TO APPELLANT'S MOTION FOR PERMISSION TO FILE**
11 **REPLY TO FAST TRACK RESPONSE, AND TO FILE SUPPLEMENTAL APPENDIX**

12 Respondent, Vivian Marie Lee Harrison ("Vivian") opposes Appellant Kirk Ross Harrison's
13 ("Kirk") Motion to file a Reply to Respondent's Fast Track Response, and to file a Supplemental
14 Appendix.
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16 **I.**

17 **APPELLANT'S CLAIMED NEED FOR ADDITIONAL BRIEFING SHOULD BE DECIDED BY**
18 **THE FAST TRACK PROCESS**

19 The design of the fast track process is to allow the appellate Court an initial review of custody
20 matters to determine whether those issues could be addressed expeditiously through the fast track
21 briefing process. The Rules grant this Court the option to require further briefing after review of the fast
22 track briefs. NRAP 3(g)(1). Kirk first requested that the matters to be addressed by the Court – his
23 challenge of the stipulated "teenage discretion" provision and the stipulated appointment of a Parenting
24 Coordinator - be removed from the fast track. *See*, Motion to Remove from Fast Track Program filed
25 February 27, 2015. This Court denied that Motion but granted, upon Kirk's second motion, an increase
26 of words from the normal limit in his Fast Track Statement. Respondent Vivian Harrison, filed her
27 response within the word limit prescribed by NRAP 32.
28

1 Kirk's fundamental argument on appeal is that the district court erred by enforcing the terms of a
2 *stipulated* parenting plan. On appeal Kirk requests that this Court find that the appointment of a
3 Parenting Coordinator, and the "teenage discretion" provision contained in the Stipulated Parenting Plan
4 are against public policy. .

6 One of the cornerstones of Kirk's public policy argument on appeal is a report from Dr. Norman
7 Roitman dated January 14, 2014 in which Dr. Roitman opined about the teenage discretion provision
8 even though he has never met the parties' children, or spoken to Vivian (they met for the first time at his
9 deposition). The district court did not request the report, and was inclined to strike it, but, as stated in the
10 district court's order, the parties' stipulated to it and Vivian's Reply brief (which attached evidence of
11 communications between Vivian's and Kirk's counsel confirming Kirk's negotiation and knowledge of
12 the effect of the language in the "teenage discretion" provision), being allowed to remain part of the
13 record. (Appellant's Appendix, Vol. VI, pages 1437-1438). Because upon appeal Kirk has placed so
14 much emphasis on the language of Dr. Roitman's January 14, 2014 report, Vivian's Fast Track
15 Response addressed why the district court was inclined to ignore that report, and gave it little or no
16 credence.

19 All of the information Vivian noted in her brief regarding Dr. Roitman's reports was supported
20 by citations to the record (including excerpts from the deposition transcripts of Dr. Roitman and Kirk),
21 and were known to the district court during its review of Dr. Roitman's January 14, 2014 report. The
22 district court previously, in an Order that Kirk has also appealed found that Dr. Roitman's initial report
23 had no evidentiary value, and that fact is important to an understanding district court did not give weight
24 Dr. Roitman's opinions (which are not supported by *any* citation to treatise, published work, or peer
25 reviewed study) in his second report.

1 Kirk cites "fundamental fairness" as a basis for this Court's order allowing him to file an
2 additional fast track brief on the circumstances surrounding the preparation of Dr. Roitman's report of
3 June 9, 2011. Kirk desires to provide an explanation for his actions toward Dr. Roitman, and his
4 presentation of the initial "diagnosis" of Dr. Roitman, but his request misses the point of Vivian citing
5 those issues in her Fast Track Response. Vivian's citation identified the substantial evidence supporting
6 the district court's decision to not grant weight to Dr. Roitman's January 14, 2014 opinions. Kirk's
7 eternal insistence on presenting his claims about Vivian's fitness as a parent, including justification of
8 Dr. Roitman's diagnosis and child custody recommendation (though he had never met Vivian or the
9 parties' children), is apparent in his Fast Track Statement that includes a plethora of allegations
10 unsupported by any finding of the Court. Kirk's request here is to allow him to do more of the same.

13 Kirk requests that he be permitted to file a supplemental appendix composed of "portions of
14 Kirk's opposition, countermotion, and reply papers dealing with attorney's fees." The approximately
15 attorney's fees granted to Vivian's counsel is the subject of another of Kirk's appeals (and Vivian's
16 cross-appeal) in case number 66072. This Court will be fully apprised of the role of Dr. Roitman's June
17 9, 2011 report in relations to the attorney's fees issue through that appeal. Attorney's fees (other than
18 the \$5000.00 of fees the district court awarded Vivian after Kirk's third motion on the issue teenage
19 discretion provision) are not before this Court in the appeal of custody issues.

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2 Vivian requests this Court utilize the Fast Track Statement and Response to determine whether
3 there is any need for additional briefing. Vivian believes that the briefs fully frame the issues in Kirk's
4 appeal, and permit the Court to issue its rulings without further briefing.
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7 DATED this 14 day of May, 2015.

8 RADFORD J. SMITH, CHARTERED

9 By: 

10 RADFORD J. SMITH, ESQ.

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CERTIFICATE OF SERVICE

I certify that on the 14 day of May, 2015, I served a copy of this Respondent's Opposition to Appellant's Motion for Permission to File Reply to Fast Traci Response, and to File Supplemental Appendix upon all counsel of record by mailing it by first class mail with sufficient postage prepaid to the following address:

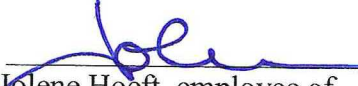
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DATED this 14 day of May, 2015.


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