

IN THE SUPREME COURT OF THE STATE OF NEVADA

Page Elizabeth Petit,

Appellant,

vs.

Kevin Daniel Adrianzen,

Respondent.

Electronically Filed
Dec 14 2015 03:11 p.m.
Tracie K. Lindeman
Clerk of Supreme Court
Supreme Court No. 66565
District Court No. D-13-489540-N
(Consolidated with D-13-489542-D)

MOTION FOR EXTENSION OF TIME TO FILE ANSWERING BRIEF

AND TO STRIKE PORTIONS OF APPELLANT'S APPENDIX

Respondent **Kevin Daniel Adrianzen**, by and through his attorney, **Bruce I. Shapiro, Esq.**, of the law office of Pecos Law Group, respectfully submits this Motion for Extension of Time to File his Answering Brief and to Strike Portions of Appellant's Appendix.

This motion is made and based on the papers and pleadings on file herein and

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the points and authorities submitted herewith, and is made in good faith and not to delay justice.

DATED this 14 day of December, 2015.

PECOS LAW GROUP



Bruce I. Shapiro, Esq.

Nevada Bar No. 004050

PECOS LAW GROUP

8925 South Pecos Road, Suite 14A

Henderson, Nevada 89074

(702) 388-1851

Attorney for Respondent

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF RELEVANT FACTS

This appeal arises from a final Decree of Divorce in which the district court changed the name of an infant child from the mother's surname to a hyphenated surname containing the namesakes of both the father and the mother. The Appellant mother has appealed the district court's ruling.

The appendix which Appellant filed in this appeal is unorganized and incomplete. It contained only the district court pleadings filed by the Appellant and only the trial transcripts of Appellant's case in chief. Respondent's district court pleadings and transcripts for his case in chief are not included. Appellant may be

attempting to mislead this court by only providing one side of the record, or it could have simply been an oversight. Respondent's counsel has attempted to communicate with Appellant's counsel regarding this issue, but there has been no response. *See* letters dated November 19, 2015, and December 7, 2015, attached hereto as exhibits "A" and "B." Further, upon information and belief, Appellant made no attempt with Respondent or Respondent's former counsel to compile a joint appendix. Appellant's failure to include a complete appendix violates the letter and spirit of NRAP 30(a).

Respondent would also like this court to know that Appellant filed a "Motion to Amend Findings or Make Additional Findings Pursuant to NRCP 52(b), or Alternatively Motion to Alter or Amend Judgment Pursuant to NRCP 59" in the district court on September 11, 2014. *See* Appellant's Appendix at 413. Meanwhile, Appellant filed a notice of appeal on September 18, 2014. This motion essentially requested reconsideration of the district court's order changing the infant's surname (which is the issue on appeal) and attempted to modify other issues in the court's initial order.

On October 23, 2014, Appellant filed a "Reply, Notice and Supplement Regarding Motion to Amend or Alter Judgment" but withdrew her request for reconsideration of the order changing the child's surname. With her reply, however, Appellant augmented the district court record with almost 200 pages of text

messages to provide “a fuller record of recent communications between the parties, and among their families, which provides further documentation of the conflict originating from the side of the plaintiff, rather than Page.” *See* Appellant’s Appendix at 182 through 445. The district court found these matters to be “collateral” to the appeal and issued a decision resolving them on November 13, 2014. *See* district court order at Appellant’s Appendix 447. As a result, 263 pages of the 447 page appendix Appellant did file in this appeal relate to a collateral issue in pleadings filed after the final judgment. These pages are not appropriately part of the appendix and not even arguably relevant to the issue being appealed. *See* NRAP 30(b).

II. EXTENSION FOR FILING ANSWERING BRIEF

Nevada Rule of Appellate Procedure, Rule 26(b)(1)(A) provides that, “for good cause, the court may extend the time prescribed by [the Nevada Rules of Appellate Procedure] or by its order to perform any act, or may permit an act to be done after that time expires.”

After reviewing Appellant’s Appendix and the complete record of this case, it appears that Appellant may have been attempting to take advantage of a proper person litigant by only including one side of the record and, thus, depriving this court of a complete record of the case on appeal. Therefore, Respondent’s counsel

had to review the record which the Appellant provided and had to order the missing transcripts and compile Respondent's Appendix. This additional work, coupled with the fact that counsel was not Respondent's trial counsel, has made it difficult to prepare Respondent's Answering Brief in the time frames provided in this court's scheduling orders.

Respondent's Answering Brief is currently due on December 14, 2015. Based on the foregoing, Respondent requests a two week extension to file his Answering Brief, through and including December 28, 2015. Respondent acknowledges that this Court granted Respondent a prior extension on November 18, 2015. At that time, however, Respondent's counsel was not aware of the deficiencies in the Appellant's Appendix and the additional work that would be necessary to properly prepare Respondent's response.

III. THIS COURT SHOULD STRIKE PORTIONS OF APPELLANT'S APPENDIX

Pages 182 through 445 of Appellant's Appendix contain documents relating to matters which either took place after the final judgment or are completely collateral to the sole issue on appeal. These documents are not appropriately part of the record. Moreover, they are not relevant to the issue on appeal and in fact, and are not even cited in Appellant's Opening Brief except noting they relate to a

hearing occurring three months after the evidentiary hearing. *See* Opening Brief at page 6, line 7.

One could speculate that Appellant filed her motion to alter or amend relating to the name issue, only to withdraw it, as a pretext to try to get this irrelevant and/or post-judgment material into the record. NRAP 30(b), however, provides that “all matters not essential to the decision of issues presented by the appeal shall be omitted. Brevity is required; the court may impose costs upon parties or attorneys who unnecessarily enlarge the appendix.”

Undersigned counsel wrote Appellant’s counsel two letters attempting to confirm or refute the allegations contained in this motion. *See* exhibits “A” and “B” attached hereto. Appellant’s counsel, however, did not respond. At this point, Respondent respectfully requests that pages 182 through 445 of Appellant’s Appendix be stricken from the record on appeal.

IV. CONCLUSION

Based upon the foregoing, Respondent respectfully requests that this Court grant him an extension in which to file his Answering Brief up to and through

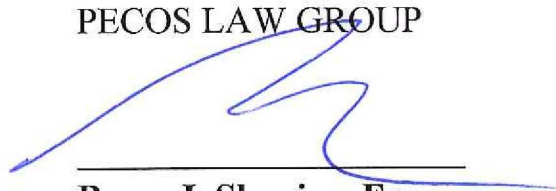
...

...

December 28, 2015, and that pages 182 through 445 of Appellant's Appendix be stricken.

DATED this 14 day of December, 2015.

PECOS LAW GROUP



Bruce I. Shapiro, Esq.

Nevada Bar No. 004050

PECOS LAW GROUP

8925 South Pecos Road, Suite 14A

Henderson, Nevada 89074

(702) 388-1851

Attorney for Respondent

AFFIDAVIT OF BRUCE I. SHAPIRO, ESQ.

STATE OF NEVADA)
 : ss.
COUNTY OF CLARK)

BRUCE I. SHAPIRO, ESQ., first being duly sworn, deposes and says:

1. That he is an attorney licensed to practice in the state of Nevada and attorney for Respondent in the above-referenced action; that by virtue of that fact, he has personal knowledge of the matters contained herein and is competent to testify to the same;

2. That Affiant makes this affidavit in support of the foregoing "Motion Extension of Time to File Answering Brief and to Strike Portions of the Appellant's Appendix;"


3. That Affiant has read the said Motion and hereby certifies that the facts set forth in the Points and Authorities attached thereto are true according to the record herein, and Affiant believes them to be true. Affiant incorporates these facts into this Affidavit as though full set forth herein.

4. Affiant further attests that this motion is made in good faith and not to delay justice.



BRUCE I. SHAPIRO, ESQ.

SUBSCRIBED and SWORN before
me this 14th day of December, 2015.



NOTARY PUBLIC




CERTIFICATE OF MAILING

I hereby certify that the forgoing "Motion for Extension of Time to File Answering Brief and to Strike Portions of the Appellant's Appendix" in the above-captioned matter was served this date by mailing a true and correct via first class mail, postage prepaid and addressed as follows:

Telia U. Williams, Esq.
LAW OFFICES OF TELIA U. WILLIAMS
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145

DATED this 14th day of December 2015.



Janine Shapiro
An Employee of PECOS LAW GROUP

Exhibit "A"

Attorneys

Bruce I. Shapiro, Esq.
Paul A. Lemcke, Esq.
Shann D. Winesett, Esq.*
Stephen R. Minagill, Esq.
Lesley E. Cohen, Esq.**
Jack W. Fleeman, Esq.

*Also Licensed In California
**Also Licensed In Utah

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November 19, 2015

Teila U. Williams, Esq.
LAW FIRM OF TELIA U. WILLIAMS
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145

Teliauwilliams@telialaw.com

Re: Petit v. Adrianzen (Supreme Court Docketing Number 66565)

Dear Ms. Williams:

As you may be aware, I am now representing Kevin Adrianzen in the appeal before the Nevada Supreme Court. I am in the process of attempting to obtain the entire record so that I may properly file an answering brief.

Please correct me if I am wrong, but it appears to me that you only included Ms. Petit's pleadings in the appendix and not include any of Mr. Adrianzen's. Moreover, it appears that you transcribed Ms. Petit's case in chief from the evidentiary hearing, but not Mr. Adrianzen. I have not been able to locate a copy of your requests for transcripts, but "Final Billing of Expedited Transcripts" and the "Certification of Transcripts/Notification of Completion," attached for your convenience, both suggest that the entire hearing from June 10, 2014, was transcribed. I would appreciate if you provide me a copy of your transcript request and confirm that Mr. Adrianzen's case in chief portion of the evidentiary hearing is not represented in the transcripts.

Additionally, I anticipate having to file a second motion for an extension of time to file an answering brief. I have found your appendix to be confusing and am not sure how it was organized. In any event, pursuant to NRAP 30(a), "Counsel have a duty to confer and attempt to reach an agreement concerning a possible joint appendix." Was there any effort to compile a joint appendix? Did you have any communication regarding the

appendix with Mr. Adrianzen or an attorney on his behalf? Moreover, NRAP 30(b) requires "brevity" with the appendix. It appears to me that 182 through 447 of the appendix relate to a collateral issue in pleadings filed after the final judgment, which is not appropriately part of the appendix and not even arguably relevant to the issue being appealed. Can you please explain why Respondent's pleadings were not included in the appendix, but this collateral information, mostly consisting of text messages, was included when the sole issue was the surname?

Please be advised that the purpose of this letter is to comply with NRCP 11 for any pleadings I may subsequently file with the supreme court. Before I request that any portion of the appendix be stricken or set forth any argument that Ms. Petit may have intended to mislead the court by not providing a complete and accurate record, I am attempting to obtain the necessary information from you. I would appreciate your prompt attention.

Sincerely,



BRUCE I. SHAPIRO, ESQ.

BIS/js

Exhibit "B"

Attorneys

Bruce I. Shapiro, Esq.
Paul A. Lemcke, Esq.
Shann D. Winesett, Esq.*
Stephen R. Minagli, Esq.
Lesley E. Cohen, Esq.**
Jack W. Fleeman, Esq.

*Also Licensed in California
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Janine Shapiro
Office Administrator

December 7, 2015

Teila U. Williams, Esq.
LAW FIRM OF TELIA U. WILLIAMS
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145

and

Teliauwilliams@telialaw.com

Re: Petit v. Adrianzen (Supreme Court Docketing Number 66565)

Dear Ms. Williams:

I sent you the attached letter on November 19, 2015, in an attempt to comply with NRCP 11 for any pleadings I may subsequently file with the Nevada Supreme Court. I will assume that if I do not receive any response from you by December 14, 2015, you do not plan on responding to the letter and I will proceed accordingly.

Sincerely,

BRUCE I. SHAPIRO /BJS

BRUCE I. SHAPIRO, ESQ.

BIS/js

CC: Kevin Adrianzen

Attorneys

Bruce I. Shapiro, Esq.
Paul A. Lemcke, Esq.
Shann D. Winesett, Esq.*
Stephen R. Minagli, Esq.
Lesley E. Cohen, Esq.**
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November 19, 2015

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