

# EXHIBIT A

1 **AFFIDAVIT OF MICHAEL BEEDE, ESQ.**

2 COUNTY OF CLARK)


3 :SS  
4 STATE OF NEVADA )

5 Michael Beede, Esq. being duly sworn deposes and says as follows:

- 6 1. That I am fully competent to testify to the facts contained in this Affidavit in a court of  
7 law.  
8  
9 2. That I am the managing attorney at the Law Office of Mike Beede, PLLC.  
10  
11 3. I prepared Petitioner's docketing statement in advance, obtained client approval to file,  
12 and instructed my staff to timely file the Brief on or about June 8, 2015.  
13  
14 4. My staff attempted to file the docketing statement on June 8, 2015, but was  
15 unsuccessful in completing the electronic transaction. This office had not previously  
16 used the eFlex system and was unfamiliar with its functions.  
17  
18 5. On June 19, 2015, three days after the Docketing Statement had been due, it was  
19 discovered that the docketing statement had not been filed. Upon discovering the  
20 error, Petitioner's Counsel attempted to resubmit the document. Upon receiving the  
21 rejection notice from the Supreme Court, plaintiff drafted the instant motion to be filed  
22 with the docketing statement.

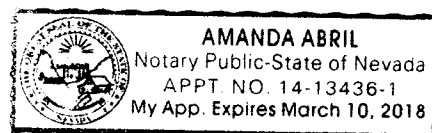
23 FURTHER AFFIANT SAYETH NAUGHT.

24 Dated this 19th day of June, 2015.

25   
26 Michael N. Beede, Esq.

27 SUBSCRIBED and SWORN to before me  
28 this 19<sup>th</sup> day of June, 2008. 2015

29   
30 NOTARY PUBLIC in and for said  
31 County and State



MOT  
MICHAEL N. BEEDE, ESQ.  
Nevada State Bar No. 13068  
**THE LAW OFFICE OF MIKE BEEDE, PLLC**  
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*Attorney for Petitioner, Stephen Brock*

Electronically Filed  
Jun 19 2015 03:41 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

DISTRICT COURT  
CLARK COUNTY, NEVADA

In the Matter of )  
FREI IRREVOCABLE TRUST dated ) SUPREME COURT DOCKET NO. 68029  
October 29, 1996. ) DIST. COURT CASE NO.: P-09-065257-T  
DEPT. NO.: XXVI

APPEAL

From the Eighth Judicial District Court  
The Honorable Gloria J. Sturman, District Judge

**MOTION TO ACCEPT LATE FILING OF DOCKETING STATEMENT**

Michael N. Beede, Esq.  
Nevada Bar No. 13068  
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Email: [mike@legally.com](mailto:mike@legally.com)  
*Attorney for Petitioner, Steven Brock*

1  
2 Petitioner, Stephen Brock, by and through his counsel of record, The Law Office of Mike  
3 Beede, PLLC hereby moves to accept late filing of his Docketing Statement. This motion is  
4 based upon the following Memorandum of Points and Authorities and the papers and pleadings  
5 on file.

6 **I. Introduction.**

7 This motion concerns the timeliness of Petitioner's Docketing Statement. Pursuant to the  
8 Nevada Supreme Court Rules, the Docketing Statement was to be filed by Tuesday, June 16,  
9 2015. Petitioner's attorney had believed that his staff had filed the Docketing Statement  
10 electronically well-before the deadline on or about June 8, 2015. Instead, through simple but  
11 unfortunate inadvertence, The Law Office of Mike Beede, PLLC did not complete the  
12 transaction on the Supreme Court's website (<https://efile.nvsupremecourt.us/>) . When the error  
13 was discovered, Petitioner's counsel immediately attempted to resubmit Docketing Statement on  
14 June 19, 2015 where it was rejected for untimeliness.

15 Regretting the error, Petitioner respectfully requests that the Court accept his Docketing  
16 Statement for filing.

17 **II. This Court Should Permit Petitioner To File His Docketing Statement, An Error That**  
18 **Arose Through Inadvertence and For Which He Should Not Be Penalized.**

19 Petitioner asks that the Court decide this appeal on its merits by accepting his Docketing  
20 Statement for filing. This Court prefers to hear disputes on the merits. *See e.g., Moon v.*  
21 *McDonald, Carano & Wilson, LLP*, 126 Nev. Adv. Rep. 47, 245 P.3d 1138, 1144 (2011). In  
22 dealing with a request to set aside default judgments on the basis of excusable neglect, this Court  
23 has emphasized that persuasive factors include "[p]rompt application to remove the judgment."  
24

1 as well as "absence of an intent to delay," and "[g]ood faith." *Lentz v. Boles*, 84 Nev. 197, 200-  
2 01, 438 P.2d 254, 256-57 (1968). Those factors are all present in abundance here, as the  
3 Affidavit of Michael Beede demonstrates. Petitioner's counsel prepared his Docketing Statement  
4 in advance, obtained client approval prior to its filing, and attempted to file the document  
5 electronically but did not complete the transaction. (.See Exhibit A, Beede Aff.) When that error  
6 was discovered – today, June 19, 2015- counsel immediately filed the brief. When the docketing  
7 statement was rejected as untimely, Counsel immediately filed the instant motion and  
8 resubmitted the docketing statement. There is thus good faith, no motive to delay, and  
9 immediate action was taken once the problem was known.

10 Moreover, the short delay in filing Petitioner's Answering Brief will not prejudice  
11 Respondent. Petitioner does not seek delay, and indeed welcomes a timely resolution of this  
12 appeal, but the inadvertent and short delay in filing his Docketing Statement will not appreciably  
13 prolong this matter.

14 Declining to accept Petitioner's Docketing Statement would be an unduly harsh sanction  
15 for an inadvertent and relatively minor delay. Petitioner understands that the Rules require timely  
16 filing, but request leave here for this filing, as the failure to file the Brief correctly on June 16,  
17 2015 was a matter of oversight, and not any intentional or knowing failure to conform to the  
18 Rules. Striking or otherwise not accepting the docketing statement would be a harsh result for  
19 Petitioner's first procedural error in this matter.

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5 electronically but did not complete the transaction. (See Exhibit A, Beede Aff.) When that error  
6 was discovered -- today, June 19, 2015- counsel immediately filed the docketing statement.  
7 When the docketing statement was rejected as untimely, Counsel immediately filed the instant  
8 motion and resubmitted the docketing statement. There is thus good faith, no motive to delay,  
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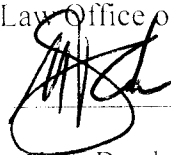
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1           WHEREFORE, based upon the foregoing, Petitioner respectfully requests that the Court  
2 accept his Docketing Statement for filing.

3  
4 Dated this 19<sup>th</sup> of June, 2015

5           The Law Office of Mike Beede, PLLC

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14 *Attorney for Petitioner, Steven Brock*