

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

2 LYUDMYLA ABID,

3
4 Appellant,

5
6 v.

7 SEAN ABID,

8
9 Respondent.

Supreme Court No. 69995
District Court Case No. D-19-424830-7
Mar 13 2017 01:39 p.m.
Electronically Filed
Elizabeth A. Brown
Clerk of Supreme Court

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12 **MOTION TO SECURE APRIL 4, 2017 AT 1:30 PM AS THE DATE FOR THE *EN***
13 ***BANC* HEARING, ALTERNATIVELY, MOTION FOR AN EXPEDITED**
14 **HEARING**

15 Appellant, LYUDMYLA ABID (“Lyuda”) hereby moves the Court to secure the
16 date of April 4, 2017 at 1:30 p.m. in Las Vegas, Nevada as the date for the *En Banc*
17 Hearing in this case.

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19 This is an appeal of the district court’s order permitting a court appointed expert to
20 admit a report and testify about audio tapes the district court found inadmissible and
21 illegally obtained and the trial court’s subsequent order, after the evidentiary hearing,
22 changing joint physical custody to primary physical custody based exclusively on the
23 contents of that report and testimony. As set forth in briefs before this Court, this appeal
24 presents two issues of first impression that could greatly affect the actions of parents in
25 custody actions by encouraging the surreptitious and otherwise illegal taping of
26 conversations between third parties and a child.
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1 Pursuant to NRAP 3E, this appeal is in the child custody fast track program. NRAP
2 3E(g)(4), states in relevant part,
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4 (4) Subject to extensions, and if the court does not order full briefing, the
5 court shall dispose of all fast track child custody appeals **within 90 days** of
6 the date the fast track response is filed.
7 [Emphasis added]

8 Respondent filed his fast track response on **August 19, 2016**. As of the date of this
9 Motion, it has been **206 days** since the fast track response was filed. The Court has set the
10 matter for an *En Banc* hearing but the date has not yet been assigned. Upon information
11 and belief, an *En Banc* hearing to be held in Las Vegas, previously scheduled in another
12 case on April 4, 2017 at 1:30 p.m. has been postponed. Appellant seeks an order granting
13 that date and time for the *En Banc* Hearing in this case.
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16 Appellant sought Respondent's consent to secure the April 4th date and time.
17 Respondent refused. Arguably, since Respondent has primary physical custody of the
18 child due to the district court's erroneous ruling, Respondent has no interest in having this
19 matter heard sooner. Any further delays in holding the *En Banc* hearing is prejudicial to
20 the Appellant as the Appellant continues to have visitations with the child on a limited
21 basis.
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1 For reasons set forth herein, Appellant requests that the *En Banc* hearing be
2 scheduled for April 4, 2017 at 1:30 p.m. or at an earlier time if available.
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4 Dated this 13th day of March, 2017.

5 RADFORD J. SMITH, CHARTERED

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7 
8 RADFORD J. SMITH, ESQ.

9 Nevada State Bar No. 002791

10 GARIMA VARSHNEY, ESQ.

11 Nevada State Bar No. 011878

12 2470 St. Rose Parkway, Suite 206

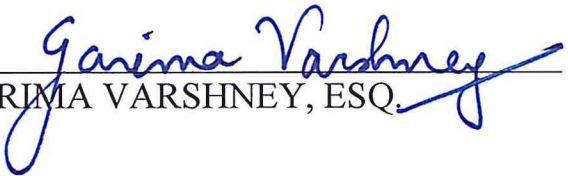
13 Henderson, Nevada 89074

14 *Attorney for Appellant*

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2 **CERTIFICATE OF SERVICE**

3 I certify that on the 13th day of March, 2017, I served a copy of this **MOTION TO**
4 **SECURE APRIL 4, 2017 AT 1:30 PM AS THE DATE FOR THE EN BANC**
5 **HEARING, ALTERNATIVELY, MOTION FOR AN EXPEDITED HEARING** upon
6
7 all counsel of record by mailing it by first class mail with sufficient postage prepaid to the
8 following address:

9
10 John Jones, Esq.
11 10777 W. Twain Ave., #300
12 Las Vegas, Nevada 89135
13 Attorney for Respondent

14 
15 GARIMA VARSHNEY, ESQ.