

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

2 LYUDMYLA ABID,

3 Appellant,

4 v.

5 SEAN ABID,

6 Respondent.

Supreme Court No. 69995
District Court Case No. D-10-424830-2
Mar 14 2017 10:46 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

7 **SUPPLEMENT TO MOTION TO SECURE APRIL 4, 2017 AT 1:30 PM AS THE**
8 **DATE FOR THE *EN BANC* HEARING, ALTERNATIVELY, MOTION FOR AN**
9 **EXPEDITED HEARING**

10 On March 13, 2017, Appellant, LYUDMYLA ABID (“Lyuda”) through her
11 undersigned counsel filed the Motion to Secure April 4, 2017 at 1:30 p.m. as the Date for
12 the En Banc Hearing, Alternatively, Motion for an Expedited hearing (“Motion”). In that
13 Motion, Lyuda advised the Court that Respondent, SEAN ABID’s (“Sean”) counsel
14 refused to consent to secure the April 4 date. Lyuda’s counsel files this Supplement to
15 clarify any misrepresentations or misunderstandings that statement may have caused.

16 When Lyuda’s counsel asked Mr. Jones’ consent, Mr. Jones simply indicated that
17 he has two hearings on that date and is therefore unable to do the oral argument in this
18 case on that date. *See* Email from Mr. Jones attached hereto as Exhibit “1.” Lyuda’s
19 counsel presumed that the two hearings were merely motion hearings that could be moved
20 and thereafter filed the motion.

1 As indicated in the Motion, this case has at least two issues of first impression that
2 need the Court's immediate attention. Lyuda appeals the district court's decision that
3 erroneously modifies joint physical custody between the parties and grants Sean primary
4 physical custody of the child based exclusively upon expert report and testimony that
5 relied on inadmissible and illegally obtained audio tapes. The case is under the Child
6 Custody Fast Track program, yet it has been one year since the appeal was filed.
7

8
9 Therefore, when Lyuda's counsel became aware that a hearing date is available for
10 the En Banc argument, Lyuda promptly filed the Motion to secure the date. Mr. Jones
11 subsequently advised Lyuda's counsel that he is engaged in a two-day trial on April 6 and
12 7 preparing for which will occupy most of his time. See Email from Mr. Jones attached
13 hereto as Exhibit "2."
14

15
16 While Lyuda and her counsel appreciate Mr. Jones' schedule and understand the
17 demands of preparing for a contentious trial, this Appeal has been extensively briefed by
18 both parties and is not likely to require extensive preparation by either counsel.
19 Moreover, the oral argument should last not more than an hour. The case has already been
20 delayed for a long time with Respondent having primary custody of the child while the
21 Appellant is deprived of precious time with the child.
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28

1 Based on the foregoing, it is requested that the oral arguments in this case be held
2 on an expedited basis, even if they are not set for April 4.
3

4 Dated this 14th day of March, 2017.

5 RADFORD J. SMITH, CHARTERED

6
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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1
2 **CERTIFICATE OF SERVICE**

3 I certify that on the 14th 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

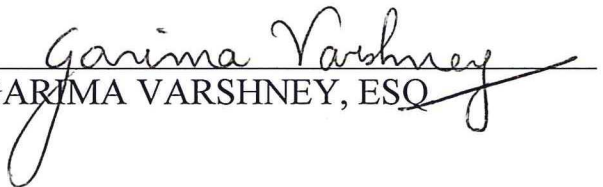
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15 GARIMA VARSHNEY, ESQ
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EXHIBIT “1”

Garima Varshney

From: John Jones <jjones@blacklobello.law>
Sent: Monday, March 13, 2017 10:59 AM
To: Garima Varshney
Subject: RE: Abid

TimeMattersID: MDF19A7504C9F776
TM Contact: John D. Jones
TM Matter No: 69995
TM Matter Reference: Abid Appeal

Not that it is any of your business, but I have two other court appearances and its my wife's birthday.

John D. Jones, Esq.

Partner



p: (702)869-8801
f: (702)869-2669
a: 10777 W. Twain Avenue, Suite 300
Las Vegas, NV 89135

w: www.blacklobello.law e: jjones@blacklobello.law



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From: Garima Varshney [mailto:gvarshney@radfordsmith.com]
Sent: Monday, March 13, 2017 10:58 AM
To: John Jones <jjones@blacklobello.law>
Subject: RE: Abid

Could you tell us why that date does not work for you?

Garima Varshney, Esq.
Radford J. Smith, Chartered
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Phone (702) 990-6448
Facsimile (702) 990-6456

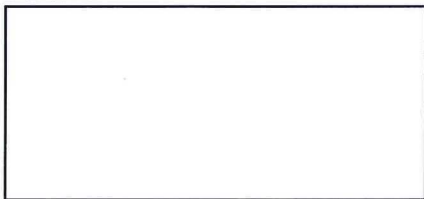
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From: John Jones [mailto:jjones@blacklobello.law]
Sent: Monday, March 13, 2017 10:54 AM
To: Garima Varshney <gvarshney@radfordsmith.com>
Cc: sean A <seanabid@gmail.com>; Sean R. Abid <abidsr@interact.ccsd.net>
Subject: RE: Abid

I was thrilled at the possibility, but I just checked my calendar and unfortunately the 4th does not work for me.

John D. Jones, Esq.
Partner



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From: Garima Varshney [<mailto:gvarshney@radfordsmith.com>]
Sent: Monday, March 13, 2017 10:51 AM
To: John Jones <jjones@blacklobello.law>
Cc: Cheryl Berdahl <cberdahl@blacklobello.law>; 'Lyuda Pyankovska' <Lyuda.Pyankovska@freemanco.com>; Radford Smith <rsmith@radfordsmith.com>
Subject: Abid

Dear John:

It has come to our attention that an En Banc argument previously scheduled for April 4 at 1:30 p.m. before the Supreme Court to be held in Las Vegas has now been postponed. That date has, as a result, become available. We called the Supreme Court to ask what they need from us to book that date and time for our oral arguments in the Abid case. They advised that we can do a joint Motion seeking that date. We should also consider grabbing that slot because the En Banc hearing then will be held in Las Vegas and we won't have to take the chance that the hearing that the Court sets may be in Carson City.

Please let me know if you are amenable to that date and time and I will prepare a draft motion for your review. Since time is of the essence and we don't want to lose that spot, please let me hear from you by **2:00 p.m. today.**

Thank you.

Garima Varshney, Esq.
Radford J. Smith, Chartered
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Phone (702) 990-6448
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EXHIBIT “2”

Garima Varshney

From: Garima Varshney
Sent: Monday, March 13, 2017 5:28 PM
To: 'John Jones'
Cc: Radford Smith; 'Lyuda Pyankovska'
Subject: RE: Abid

TimeMattersID: MDBDDA751D61A626
TM Contact: Lyudmyla A. Abid - Appeal
TM Matter No: 69995
TM Matter Reference: Abid Appeal

Dear John:

I apologize if it appears that I have misrepresented anything in the motion that we just filed. That was certainly not my intent. In your earlier email, when you said that you have two hearings on that date, I presumed that they were just motion hearings that could be moved. We believed that this case should take priority since it is a custody action wherein one party is losing her time with the child. Moreover, this case has been delayed for so long that we moved quickly when we became aware that a date has become available. As you can understand, as advocates for our client, it is our duty to represent her zealously. I was not aware that you are actually in Trial during that week. I apologize for my misunderstanding. I will file a supplement to the motion first thing tomorrow morning correcting the record and I will include your emails to the supplement to advise the Court of the error in the motion.

Garima

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From: John Jones [mailto:jjones@blacklobello.law]
Sent: Monday, March 13, 2017 5:10 PM
To: Garima Varshney <gvarshney@radfordsmith.com>
Cc: Radford Smith <rsmith@radfordsmith.com>
Subject: RE: Abid

Not only do I have two hearings, but one of them is a calendar call for a trial that starts on the 6th. It is a two day trial on a significant case tha Radford mediated. I will be preparing for the entire week of the trial. I cannot believe your unprofessionalism. Yes, I would love for this case to be decided but I cannot compromise my other cases and trial prep on a significant case to accommodate the opening. Please withdraw your motion with the supreme court.

John D. Jones, Esq.

Partner



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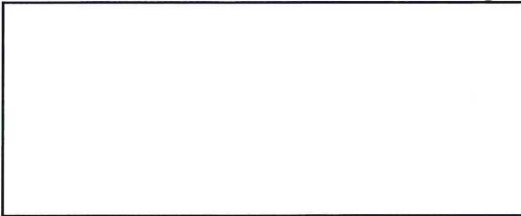
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