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V.

Supreme Court No. 70227  
District Court Case No. D-11-14361-D

Appellant hereby moves for a 60-day extension of time for filing the Fast Track Statement and Appendix, thereby making it due by February 17, 2017. This is the second requested extension for the Fast Track Statement and Appendix. The first extension was a one week telephonic extension. The Fast Track Statement and Appendix are currently due by December 20, 2016.

1

1 ordered parenting plan. This case presents the question: What actions constitute  
2 interference with the ordered plan that would be subject the parent to contempt, and what  
3 responsibility does each parent have to facilitate the plan when a child refuses to abide by  
4 it? Appellant requests that this court set forth a standard to guide parents to ensure some  
5 uniformity in the district court's determination of actions that constitute adequate  
6 compliance with the ordered plan, and those actions that would constitute contempt.  
7

8  
9 Here, the minor child was sixteen (16) years old and is now seventeen (17) years  
10 old. The parties entered into a stipulated parenting plan granting the parties joint physical  
11 custody (equal timeshare) that became the order of the district court. After her sixteenth  
12 birthday, the parties' daughter Brooke refused to abide by the order directing her to spend  
13 equal time with her father, Respondent / Plaintiff. The father filed three separate motions  
14 to hold mother in contempt of the district court's order, and the district court issued two  
15 orders directing the mother to show cause why she should not be held in contempt. The  
16 court did not articulate the standard upon which it based the order to show cause.  
17

18  
19 The father claimed Brooke's behavior was due to the alienation by the mother; the  
20 mother, not permitted to speak to the child about the child's preference of custody under  
21 EDCR 5.03, requested a child interview. The Court granted that request. After reviewing  
22 the report that suggested that it was father's attempts to alienate the mother, the court  
23 vacated Respondent / Plaintiff's Motions for Order to Show Cause. Nevertheless, the  
24 district court denied Defendant / Appellant's request for a modification of custody.  
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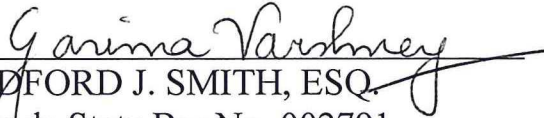
1 For months both before and after the filing of the motions at issue in this appeal, the  
2 daughter resided with mother for a number of days consistent with mother having primary  
3 physical custody. Thus, the second issue of first impression raised by this case is whether  
4 the Court must hold an evidentiary hearing on the issue of custody where a *de facto*  
5 modification occurred. Appellant submits that the failure to adjudicate custody under that  
6 circumstance constitutes a derogation of the court's duty to determine custody under  
7 *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009) and other precedent of the Court.  
8

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10  
11 While the attorneys for the Appellant are diligently working on the Fast Track  
12 Statement and Appendix, due to the complexity of this case, it is extremely difficult to  
13 meet the present deadline of December 20.  
14

15 Therefore, Appellant requests a 60-day extension until February 17, 2017 for filing  
16 the Fast Track Statement and the Appendix. This motion is being submitted in good faith,  
17 and without the intent to cause undue delay in the appeal.  
18

19 Dated this 13<sup>th</sup> day of December, 2016.  
20

21 RADFORD J. SMITH, CHARTERED

22   
23 RADFORD J. SMITH, ESQ.  
24 Nevada State Bar No. 002791  
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**CERTIFICATE OF SERVICE**

I certify that on the 13<sup>th</sup> day of December, 2016, I served a copy of this Motion for Extension of Time to File Fast Track Statement and Appendix upon all counsel of record by electronic service:

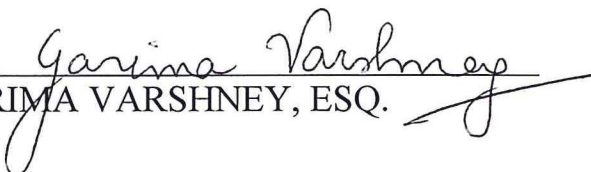
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DATED this 13<sup>th</sup> day of December, 2016.

  
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