

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

2 DENNIS KOGOD,

3 Appellant/Cross-Respondent,

4
5
6 v.

7 GABRIELLE CIOFFI-KOGOD,

8 Respondent/Cross-Appellant.

Supreme Court No. 71147
Electronically Filed
7/19/17
Aug 08 2017 09:43 a.m.
District Court Case No. D-13-489442-D
Elizabeth A. Brown
Clerk of Supreme Court

9
10
11 **MOTION FOR EXTENSION OF TIME TO FILE**
12 **THE ANSWERING BRIEF AND OPENING BRIEF ON CROSS-APPEAL**

13
14 Respondent/Cross-Appellant, GABRIELLE CIOFFI-KOGOD (“Gabrielle”) hereby
15 moves for a one-week extension of time under NRAP 26 for filing the Answering Brief
16 and Opening Brief on Cross-Appeal (“Answering Brief”) to the Appellant/Cross-
17 Respondent’s Opening Brief. The Answering Brief is presently due by August 7, 2017.
18 With a one-week extension, the Answering Brief will be due by August 14, 2017. This is
19 the third extension for the Answering Brief. The Answering Brief was first due by May 8,
20 2017 and then by June 7, 2017.

21
22 This is a divorce action after a twenty-four (24) year marriage. The case involved
23 the division of a substantial community estate, and alimony. There were three primary
24
25
26
27
28

1 contested issues in the case: 1) community waste;¹ 2) alimony; and, 3) the valuation of
2 the residences secretly acquired by Appellant/Cross-Respondent, DENNIS KOGOD
3 (“Dennis”).
4

5 In its 114 page Findings of Fact, Conclusions of Law, and Decree of Divorce, the
6 trial court, Judge Bryce Duckworth, addressed the effect of Dennis’s transfer of millions
7 of dollars of community funds by to third parties without Gabrielle’s knowledge or
8 consent. Both parties have filed appeals on the issue of community waste. Most of those
9 issues are issues of first impression and are complex. Both parties have also appealed the
10 court’s order regarding Gabrielle’s award of alimony. The bulk of the lawyers’ time and
11 litigation costs (appraisers and forensic accountants), were necessary to value the assets
12 and account for the spending of a very clever and secretive spouse. Dennis promised the
13 trial court to provide an accounting, but did not. Gabrielle, the “out” spouse with no
14 knowledge of the parties’ finances, had to pay her lawyers and their experts to learn what
15 Dennis knew but would not reveal and thus perform those investigative accounting tasks.
16
17
18
19
20

21 On August 22, 2016, the district court entered the Findings of Fact, Conclusions of
22 Law and Decree of Divorce (hereinafter “Decree”). On September 13, 2016, Gabrielle
23 timely moved for Attorney’s Fees and Costs (“Motion”) pursuant to NRCP 54(d) and
24 based upon the Decree entered on August 22, 2016. By that Motion, Gabrielle requested
25 that the district court enter an order directing Dennis to pay all of the fees Gabrielle
26
27

28 ¹ The moniker “community waste” is used here as a form of shorthand to represent the complicated issue
of a “compelling reason” for an unequal division of property carefully analyzed in great detail in the
Decree.

1 incurred in discovering and trying what was, in effect, an on-going fraud of great scale.
2 Gabrielle also requested an order directing Dennis to pay all or some reasonable portion of
3 the expert fees and attorney's fees incurred by Gabrielle. By an Order entered on
4 December 5, 2016, the district court denied Gabrielle's request for attorney's fees of
5 \$418,511.04. The court directed Dennis to pay one-half, or \$75,650.00, of Gabrielle's
6 expert, Anthem Forensics' fees. That amount was stayed to allow Dennis an opportunity
7 to request a stay from the Supreme Court. Dennis appealed the Order entered on
8 December 5. Gabrielle filed a cross-appeal.

12 **1) Gabrielle's Request for an Extension of Time to File Answering Brief and**
13 **Opening Brief on Cross-Appeal**

14 NRAP 31(b)(3) states in relevant part as follows:
15

16 **(3) Motions for Extensions of Time.** A motion for extension of time for
17 filing a brief may be made no later than the due date for the brief and must
18 comply with the provisions of this Rule and Rule 27.

19 **(A) Contents of Motion.** A motion for extension of time for
20 filing a brief shall include the following:

- 21 (i) The date when the brief is due;
- 22 (ii) The number of extensions of time previously granted (including
23 a 5-day telephonic extension), and if extensions were granted, the original
24 date when the brief was due;
- 25 (iii) Whether any previous requests for extensions of time have
26 been denied or denied in part;
- 27 (iv) The reasons or grounds why an extension is necessary; and
- 28 (v) The length of the extension requested and the date on which the
brief would become due.

26 **(B) Motions in All Appeals Except Child Custody, Visitation, or**
27 **Capital Cases.** Applications for extensions of time beyond that to which
28 the parties are permitted to stipulate under Rule 31(b)(2) are not favored.
The court will grant an initial motion for extension of time for filing a brief
only upon a clear showing of good cause. The court shall not grant

1 additional extensions of time except upon a showing of extraordinary
2 circumstances and extreme need.

3 Gabrielle's counsel has been working diligently on the brief and it is near
4 completion. The case, however, is complicated and requires extensive research and review
5 of the lengthy transcripts from the proceedings that lasted for four (4) full days. Indeed,
6 the Order that is being appealed by both parties is itself 114 pages long due to the
7 numerous issues that were litigated and ruled and due to the several years of evidence that
8 was presented by the parties in support of each of their positions. The Trial also included
9 testimony from numerous witnesses and experts, including the submission of various
10 deposition transcripts into evidence. This case was highly contentious and involved
11 considerable research, numerous motions and multiple judgments from those motions that
12 caused the district court to enter the Order that is being appealed. The issues raised on
13 cross-appeal are primarily legal issues as applied to the facts of this case. While the
14 attorneys for the Respondent are diligently working on the Answering Brief, due to the
15 complexity of this case, the time it has taken to go through the research on some very
16 complex law involving alimony, unequal division of assets and fees as set forth above,
17 and the time it has taken to review and identify the relevant portions of the trial
18 transcripts, it is extremely difficult to meet the present deadline of August 7, 2017.
19
20
21
22
23
24
25

26 Therefore, Gabrielle, through her counsel, requests a one week extension, until
27 August 14, 2017 for filing the Answering Brief and Opening Brief on Cross-Appeal. This
28

1 motion is being submitted in good faith, and without the intent to cause undue delay in
2 the appeal.

3
4 Dated this 7th day of August, 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 Respondent/Cross-Appellant*
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that on the 7th day of August, 2017, I served a copy of this Motion for Extension of to file the Answering Brief upon all counsel of record by mailing it by first class mail with sufficient postage prepaid to the following address:

Daniel Marks, Esq.
Law Office of Daniel Marks
610 South Ninth Street
Las Vegas NV 89101
Attorney for Dennis Kogod



GARIMA VARSHNEY, ESQ.