

1 LAW OFFICE OF DANIEL MARKS
2 DANIEL MARKS, ESQ.
3 Nevada State Bar No. 002003
4 NICOLE M. YOUNG, ESQ.
5 Nevada State Bar No. 12659
6 610 South Ninth Street
7 Las Vegas, Nevada 89101
8 (702) 386-0536; FAX (702) 386-6812
9 Attorneys for Appellant

Electronically Filed
Jun 14 2017 03:43 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPREME COURT OF THE STATE OF NEVADA

DENNIS KOGOD,
Appellant,

Case No. 71147
71994

vs.

GABRIELLE CIOFFI-KOGOD,
Respondent.

OPPOSITION TO MOTION FOR EXTENSION OF TIME TO FILE THE
ANSWERING BRIEF AND OPENING BRIEF ON CROSS-APPEAL AND
THE RESPONDENT/CROSS-APPELLANT'S APPENDIX AND
COUNTERMOTION TO STRIKE

COMES NOW the Appellant DENNIS KOGOD, by and through his
counsel, Daniel Marks, Esq., and Nicole M. Young, Esq., of the Law Office of
Daniel Marks, and submits his Opposition to Motion for Extension of Time to File
the Answering Brief and Opening Brief on Cross-Appeal and the
Respondent/Cross-Appellant's Appendix and Countermotion to Strike.

////

////

////

////

////

////

////

1 The grounds for Appellant's opposition and countermotion are set forth in the
2 following memorandum of points and authorities.

3 DATED this 14 day of June, 2017.

4
5 LAW OFFICE OF DANIEL MARKS

6
7 DANIEL MARKS, ESQ.
8 Nevada State Bar No. 002003
9 NICOLE M. YOUNG, ESQ.
10 Nevada State Bar No. 12659
610 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Appellant

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I. FACTUAL BACKGROUND**

13 On April 7, 2017, Appellant Dennis Kogod (hereinafter "Dennis") filed his
14 Opening Brief in this appeal. (See Docket 71147, Document 2017-11681.) On
15 May 5, 2017, this Court approved the parties' stipulation to extend Respondent
16 Gabrielle Cioffi-Kogod's (hereinafter "Gabrielle") Answering/Opening Brief for
17 30 days. (See Document 17-14952.) Based on that stipulation, Gabrielle's brief
18 was due on June 7, 2017.

19 **II. LEGAL ARGUMENT**

20 Obtaining an extension of time to file an Answering/Opening Brief is a
21 fairly straight-forward process. The party seeking the extension of time may obtain
22 a stipulation from the opposing party extending the time up to 30 days, or the
23 request may be made by motion pursuant to NRAP 31 and NRAP 27. NRAP
24 31(b)(2) & (3). Further, NRAP 31 specifically states what should be included in
25 the motion to extend time, which includes:

- 26 (i) The date when the brief is due;
27 (ii) The number of extensions of time previously
28 (iii) granted . . . , and if extensions were granted, the
original date when the brief was due;
Whether any previous requests for extensions of

- 1 time have been denied or denied in part;
2 (iv) The reasons or grounds why an extension is
3 necessary; and
4 (v) The length of the extension requested and the date
5 on which the brief would become due.

6 NRAP 31(b)(3)(A).

7 Additionally, motions to extend time beyond the 30 days permitted for parties to
8 stipulate are not favored and will only be granted “upon a clear showing of good
9 cause.” NRAP 31(b)(3)(B).

10 This Court should strike any and all references to the merits of this appeal
11 from Gabrielle’s instant motion. In her motion, she includes many details relating
12 to the merits of this appeal in an attempt to color this Court’s opinion of Dennis.
13 This is improper and fails to comply with the requirements of NRAP 31. While it
14 is true that rule requires a party to set forth “good cause” for an extension, “good
15 cause” is not based on the merits of the case. It is based on why an extension is
16 necessary from a procedural point of view. As such, this Court should strike pages
17 2:5 through 6:13 of Gabrielle’s instant motion as that information is only meant to
18 improperly bias this Court against Dennis based on the merits of the instant
19 appeal.

20 In this case, Gabrielle has failed to make a “clear showing of good cause,”
21 which is necessary before an extension may be granted. Gabrielle has already
22 received a 30 day extension, via the parties’ stipulation, so this Court must look at
23 the instant request with disfavor. Additionally, Gabrielle has failed to comply with
24 NRAP 31. Her instant motion fails to advise this Court that she has already
25 received an extension, and she also fails to advise this Court that her brief was
26 originally due on May 8, 2017. Gabrielle was required to include these facts in her
27 instant motion pursuant to NRAP 31(b)(3)(B).

28 Further, Gabrielle has not provided this Court with sufficient “reasons or
grounds why an extension is necessary.” Instead, Gabrielle includes facts relating
to the underlying divorce in an attempt to bias this Court against Dennis before it

1 even reaches the merits of this appeal. At the end of the day, this is an appeal from
2 a divorce. While the facts and circumstances of this divorce are unique, the issues
3 on appeal are fairly straight-forward. The main issues on appeal are based on
4 community waste and alimony. These legal issues are not complex. While Dennis
5 agrees that the facts of this case present issues of first impression relating to the
6 above issues, it is still an appeal from the family court. The original appeal in this
7 action was noticed in August of 2016. Gabrielle has been aware of this appeal
8 since then. In addition, since this case was highly contested at trial, both parties
9 extensively briefed this case at the trial level. That briefing makes the briefing of
10 the instant appeal considerably easier, especially when taking into account that the
11 trial counsel are also the appellate counsel.

12 Finally, when Dennis filed his Opening Brief, he also filed an extensive
13 appendix. That appendix totaled over 40 volumes. As such, Gabrielle does not
14 need an additional 60 days to file her appendix because Dennis already filed the
15 appendix in this action. It must be noted that Gabrielle refused to confer with
16 Dennis regarding preparing a joint appendix. *See* NRAP 30(a). She also refused to
17 equally share the cost of that appendix despite the fact that she filed a cross-
18 appeal. *See* NRAP 30(h).

19 Despite the fact that Gabrielle failed to set forth “good cause” for the instant
20 extension, Dennis does not oppose this Court granting Gabrielle a 30 day
21 extension to file her Answering/Opening Brief. As such, this Court should order
22 that her brief be due on July 7, 2017.

23 ////

24 ////

25 ////

26 ////

27 ////

28 ////

1 **III. CONCLUSION**

2 Based on the foregoing, this Court should deny Gabrielle's request to
3 extend her time to file her Answering/Opening Brief and Appendix by 60 days and
4 order that her brief is due on July 7, 2017. Further, this Court should strike pages
5 2:5 through 6:13 of Gabrielle's instant motion because the information contained
6 on those pages is not related to the instant motion but rather the substantive issues
7 on appeal.

8 DATED this 14 day of June, 2017.

9
10 LAW OFFICE OF DANIEL MARKS

11 

12 DANIEL MARKS, ESQ.
13 Nevada State Bar No. 002003
14 NICOLE M. YOUNG, ESQ.
15 Nevada State Bar No. 12659
16 610 South Ninth Street
17 Las Vegas, Nevada 89101
18 Attorneys for Appellant
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

Radford J. Smith, Esq.
Garima Varshney, Esq.
Radford J. Smith, Chartered
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Counsel for Respondent

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28