

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

ELIZABETH C. HOWARD,
an individual,

Appellant,

vs.

SHAUGHNAN L. HUGHES,

Respondent.

ELIZABETH C. HOWARD,
an individual,

Appellant,

vs.

SHAUGHNAN L. HUGHES,

Respondent.

Case No. 72965

**RESPONDENT, SHAUGHNAN L. HUGHES'
MOTION TO BIFURCATE APPEALS AND TO REINSTITUTE BRIEFING
SCHEDULE IN DOCKET NO. 72685**

COMES NOW, Respondent, SHAUGHNAN L. HUGHES, by and through his counsel, ALLISON MacKENZIE, LTD., and hereby moves this Court for an order to bifurcate these appeals and to reinstitute the briefing schedule in Docket Number 72685. This Motion is made and based on the following points and authorities together with all papers and pleadings on file herein.

MEMORANDUM OF POINTS AND AUTHORITIES

On July 19, 2017, this Court consolidated these appeals "in the interest of judicial economy." See July 19, 2017 Order Consolidating Appeals and Reinstating Briefing, p. 1. On July 26, 2017, this Court entered an Order to Show Cause in which Appellant was required to show cause why she has standing to appeal an order of

1 sanctions entered against her attorney, Charles R. Kozak, Esq, which is the basis of
2 the appeal in Docket Number 72965. The Order to Show Cause also suspended the
3 briefing of these consolidated appeals.

4 Appellant failed to timely file a response to the Order to Show Cause and
5 Respondent thereafter filed a Request for Dismissal of Docket Number 72965.
6 Appellant subsequently filed several pleadings, including two motions to extend time
7 to file pleadings, both of which were filed after the respective deadlines to file the
8 underlying documents. She has also apparently submitted a response to the Order to
9 Show Cause; however, the Court has not yet accepted or filed that document in the
10 record and Respondent has not received a copy of that pleading.

11 Appellant's motions as well as Respondent's Request for Dismissal of Docket
12 Number 72965 have been fully briefed to the Court as of September 25, 2017, but no
13 orders on any of those pleadings have been entered as of this writing. All of the
14 pending pleadings concern only Docket Number 72965, the appeal of the sanctions
15 order entered against Mr. Kozak.

16 On the other hand, the appeal in Docket Number 72685 concerns an order for
17 partition of real property from the district court in which the parties are to divide their
18 respective interests in certain real property they own in joint tenancy, either by
19 Appellant's buyout of Respondent's interest or by sale and division of the proceeds.
20 Appellant continues to reside in and enjoy the benefits of her ownership of the jointly
21 held property to the exclusion of Respondent. Respondent's interest therein, on the
22 other hand, is useless to him and is encumbered until Docket Number 72685 is
23 resolved by this Court.

24 While the nominal parties to these consolidated appeals are identical, the appeal
25 of the sanctions order entered against Mr. Kozak has no bearing whatsoever on the
26 appeal of the partition order. Therefore, in the interest of fairness and justice,
27
28

Respondent respectfully requests an order bifurcating these appeals and reinstating the briefing schedule in Docket Number 72685.¹

Respectfully submitted this 12th day of October, 2017.

ALLISON MacKENZIE, LTD.
402 North Division Street
Carson City, NV 89703
Telephone: (775) 687-0202
Facsimile: (775) 882-7918
Email: jtownsend@allisonmackenzie.com

By: /s/ Justin M. Townsend
JUSTIN M. TOWNSEND, ESQ.
Nevada State Bar No. 12293

Attorneys for Respondent,
SHAUGHNAN L. HUGHES

¹ There is a substantial body of Nevada criminal jurisprudence that holds that consolidation of trials involving co-defendants and/or multiple charges against the same defendant serves the public interest in judicial economy, but that such interest may be outweighed by prejudice to the defendants from such consolidation. *See e.g., Tabish v. State*, 119 Nev. 293, 306, 72 P.2d 584, 592 (2003). A similar principle should be applied here, where resolution of the parties' property interests is stalled by the Court's consideration of motions pertaining solely to an appeal of issues that is wholly unrelated to the property interests, but is, nevertheless, consolidated therewith.

CERTIFICATE OF SERVICE

Pursuant to NRAP Rule 25(c), I hereby certify that I am an employee of ALLISON MacKENZIE, LTD., Attorneys at Law, and that on this date I caused the foregoing document to be served to all parties to this action by:

✓ Placing a true copy thereof in a sealed postage prepaid envelope, first class mail, in the United States Mail in Carson City, Nevada [NRAP 25(c)(1)(B)]

✓ Court's E-flex system

 Electronic Transmission

Via Court's E-flex System:

Charles R. Kozak, Esq.
R. Craig Luisani, Esq.

Via First Class Mail:

JONATHAN L. ANDREWS
SETTLEMENT JUDGE
14300 POLELINE ROAD
RENO, NV 89511

DATED this 12th day of October, 2017.

/s/ Nancy Fontenot
NANCY FONTENOT