IN THE SUPREME COURT OF THE STATE OF NEVADA

KIRK ROSS HARRISON, Appellant, vs. VIVIAN MARIE LEE HARRISON Respondent.	)	No. 72880

RESPONSE TO MOTION FOR EXPANDED FAST TRACK RESPONSE

On November 21, 2017, Respondent filed a "Motion for Extension of Time to File Response to Fast Track Statement and Appendix, Motion for Expanded Fast Track Response." Appellant has no opposition to Respondent's motion for an extension of time. However, Appellant opposes Respondent's motion for an expanded response of up to 10,000 words.

Pursuant to NRAP 3E(e)(2), a fast track statement is acceptable if it contains no more than 7,267 words. Appellant prepared a fast track statement draft that originally contained 16,268 words. The draft was significantly edited, it was shortened by more than 6,000 words, and the final version was less than 10,000 words. This was accomplished, in large part, by deleting an analysis of Dr. Paglini's January 25, 2016 report. On October 12, 2017, while the editing was still being completed, Appellant filed a Motion to Expand Fast Track Statement to 10,000 words. The Court granted the motion, thereby allowing Appellant to file a fast track

statement of up to 10,000 words, which was only 2,733 words more than the usual word limit for a fast track statement.

Respondent's motion argues that she should be treated the same as Appellant, and she should be allowed to file a response "with the same type-volume expansion as granted to Appellant," namely, 10,000 words. (Resp. Motion, p. 2) The motion is misleading, however, because the motion suggests that fast track statements and responses have the same word-count limits. But the rule governing child custody appeals does not contemplate the same size for fast track statements and responses. Instead, pursuant to NRAP 3E(e)(2), a fast track response is limited to "no more than **two-thirds** the type-volume specified for a fast track statement . . ." (Emphasis added.)

Therefore, according to NRAP 3E(e)(2), Respondent's response should be limited to 6,667 words [2/3 of 10,000]. Appellant does not oppose a fast track response limited to 6,667 words, which is contemplated by the rule after calculating the additional words allowed by the Court for Appellant's fast track statement. This would result in equal treatment for both parties under the rule.

If not for the Court's expansion allowed to Appellant, Respondent would have been limited to 4,845 words. NRAP 3E(e)(2). Yet her motion seeks an additional 5,155 words, which is more than double the usual word limit for a fast track response.

And even using the 6,667 word limit allowed by Rule 3E(e)(2), which is based upon the expanded size that the Court allowed for the fast track statement, Respondent's motion still seeks 3,333 words more than she should be allowed. Accordingly, Respondent should be allowed no more than 6,667 words for her response.

After Respondent files her response, Appellant intends to file a fast track reply, which is contemplated by NRAP 3E(e)(2). Under this rule, a fast track reply "is acceptable if it contains no more than 2,333 words . . ." Consistent with the above, in the event the Court allows Respondent to file a response of up to 6,667 words, Appellant respectfully requests he be allowed to file a reply of up to 3,210 words, which is the same proportional increase that will have been granted to Respondent [increase from 4,845 to 6,667 for the response is an increase of 37.6%; consistently, an increase of 2,333 to 3,210 words for the reply is an increase of 37.6%].

In the event the Court allows Respondent to file a response of up to 10,000 words, Appellant requests he be allowed to file a reply of up to 4,815 words, which is the same proportional increase that will have been granted to Respondent [increase from 4,845 to 10,000 for the response is an increase of 106.4%; consistently, an increase of 2,333 to 4,815 words for the reply is an increase of 106.4%].

As a partial basis for requesting the expansion for the fast track response, Respondent's motion noted her purported need to provide "an analysis of Dr.

Paglini's report." (Resp. Motion, p. 2) Respectfully, Dr. Paglini's testimony during the evidentiary hearing on February 1, 2017 is much more relevant, probative, and current than the outdated and stale report of January 25, 2016, because his testimony at the hearing constitutes his most recent opinions. When Dr. Paglini testified, he had the benefit of knowing the events which occurred during the year subsequent to the date of the report. These events included Brooke's refusal to attend the joint sessions with Dr. Ali and Kirk – joint sessions to which Brooke had previously told Dr. Paglini she was willing to attend, as noted in the old report, as well as Brooke's continuing refusal to comply with the 50/50 joint physical custody order. In the event that Respondent is allowed to provide "an analysis of Dr. Paglini's report," Appellant should be afforded the opportunity to reply, *inter alia*, to that analysis.

DATED this 29th day of November, 2017.

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CERTIFICATE OF SERVICE

I certify that I am an employee of Lemons, Grundy & Eisenberg and that on this date the foregoing was filed electronically with the Clerk of the Nevada Supreme Court,and therefore electronic service was made in accordance with the master service list as follows:

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DATED: 11/28/17

Vicki Shapiro, Assistant to
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