

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

2 RICHARD KILGORE,
3 Appellant/Respondent,
4 vs.
5 ELENI KILGORE,
6 Respondent/Cross-
7 Appellant.

Case No.: 73977

District Court Case No. 17-0000000-0000000
Electronically Filed
Dec 21 2017 04:09 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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9 **RESPONDENT/CROSS-APPELLANT'S MOTION TO EXTEND TIME IN**
10 **WHICH TO SUBMIT DOCKETING STATEMENT**
11 **OR**
12 **IN THE ALTERNATIVE TO ACCEPT A LATE FILING**

13 Respondent/Cross-Appellant, ELENI KILGORE, by and through her
14 counsel, Fred Page, Esq. hereby submits her Motion to Extend Time in Which to
15 Submit Docketing Statement or in the Alternative to Accept a Late Filing.

16 DATED this 21st day of December 2017

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18 PAGE LAW OFFICE

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20 _____
21 FRED PAGE, ESQ.
22 Nevada Bar No. 6080
23 6145 Spring Mountain Rd. #201
24 Las Vegas, Nevada 89146
25 (702) 469-3278
26 Attorney for Respondent/Cross-Appellant
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1 **I. Respondent/Cross-Appellant Should Receive An Extension of Time In**
2 **Which to File Her Answering Brief**

3 Respondent/Cross-Appellant, Eleni Kilgore, respectfully requests that she
4 receive an extension of time in which to file her Docketing Statement. The case
5 was originally in the settlement program. Appellant, Richard Kilgore, advises that
6 the settlement judge that the case was not appropriate for the appellate settlement
7 program.
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10 On November 27, 2017, the Early Case Assessment Report was filed and the
11 case was removed from the settlement program.
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13 On December 1, 2017, the Order reinstating the briefing schedule was filed.

14 On December 4, 2017, the Order to file the Docketing Statement was filed
15 and was mailed to counsel for Respondent/Cross-Appellant.
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17 On December 21, 2017, Respondent/Cross-Appellant filed her Docketing
18 Statement but the filing was rejected.
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20 There was simply an insufficient amount of time and resources to be able to
21 appropriately draft Respondent/Cross Appellant's Docketing Statement. Counsel
22 for Respondent/Cross-Appellant is a sole practitioner with an extremely busy
23 litigation practice. Counsel for Respondent/Cross-Appellant was in trial
24 preparation and in trial on December 4, and December 14, 2017.
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Respondent/Cross-Appellant's Docketing Statement is completed. There is no undue prejudice to anyone. The Opening Brief is not due until approximately March 1, 2018.

II. GOVERNING LAW AND ARGUMENT

NRAP 31 provides for extensions of time. Under NRAP 31, the Court will grant an initial motion for extension of time for filing a brief only upon a clear showing of good cause. No prior Motion has been filed. No prior requests for an extension have been made.

NRAP 26 provides for calculations of time. The Rule states,

(a) Computing Time. The following rules apply in computing any period of time specified in these Rules, a court order, or an applicable statute:

(1) Exclude the day of the act, event, or default that begins the period.

(2) Exclude intermediate Saturdays, Sundays, and nonjudicial days when the period is less than 11 days, unless the period is stated as a specific date.

(3) Include the last day of the period unless it is a Saturday, Sunday, or a nonjudicial day, or—if the act to be done is filing a paper in court—a day on which the weather or other conditions make the clerk's office inaccessible, in which event the period extends until the end of the next day that is not a Saturday, Sunday, or a nonjudicial day.

NRAP 26, does not permit an additional three days for electronic service which varies from what is stated in NRCP 4(e). If NRCP 4(e) was taken into consideration, the filing of the Docketing Statement was timely. If NRAP 26 is taken into consideration, the Docketing Statement was due December 18, 2017.

1 The Nevada Supreme Court has held repeatedly that matters should be
2 decided on their merits. There are a wealth of cases that stand for this proposition,
3 particularly for a domestic relations case such as this one. *See Price v. Dunn*, 106
4 Nev. 100, 787 P.2d 785, (1990) (1990) (Nevada's policy favoring decisions on the
5 merits is heightened in cases involving domestic relations matters); *Dagher v.*
6 *Dagher*, 103, Nev. 26, 28, 731 P.2d 1329, 1330 (1997) (same). *See also, Leslie v.*
7 *Leslie*, 113 Nev. 727, 941 P.2d 451 (1997); *Kahn v. Orme*, 108, Nev. 510, 516,
8 835 P.2d 790, 794 (1992)); *Hotel Last Frontier v. Frontier Prop.*, 79 Nev. 150,
9 155, 380 P.2d 295 (1963).

13 As indicated, Respondent/Cross-Appelleant's Docketing Statement is
14 completed. There is no undue prejudice to anyone. The Opening Brief is not due
15 until approximately March 1, 2018.

17 Based upon the foregoing, Respondent respectfully requests that Respondent
18 be granted an extension *nunc pro tunc* to December 21, 2017, a date the Court

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1 believes is just and equitable, or in the alternative to accept a late filing.

2 DATED this 21st day of December 2017

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6 FRED PAGE, ESQ.

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11 Attorney for Respondent/Cross-Appellant

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Page Law Office and that on December 21, 2017, I electronically filed with the Supreme Court a true and correct copy of the above and foregoing **RESPONDENT/CROSS-APPELLANT'S MOTION TO EXTEND TIME OR IN THE ALTERNATIVE TO ACCEPT A LATE FILING.**

I further certify that on December 21, 2017, I served a true and correct copy of the above and foregoing **RESPONDENT/CROSS-APPELLANT'S MOTION TO EXTEND TIME OR IN THE ALTERNATIVE TO ACCEPT A LATE FILNG** via e-service and U.S. Mail, postage prepaid, to the following:

Betsy Allen, Esq.
P.O. Box 46991
Las Vegas, Nevada 89114
Attorney for Appellant



An employee of Page Law Office