

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

RICHARD KILGORE,

Appellant/Cross-Respondent,

v.

ELENI KILGORE,

Respondent/Cross-Appellant.

Electronically Filed  
Aug 27 2019 01:32 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court No.: 73977

District Court No.: D-12-459171-D

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

Robert Cerceo, Esq. of Naimi & Cerceo and Emily McFarling, Esq. of McFarling Law Group, pursuant to NRAP 29(c), hereby move this Court for permission to file the attached Amicus Curiae Brief on behalf of the Nevada Chapter of the American Academy of Matrimonial Lawyers outside the time prescribed in NRAP 29(f).

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. Proposed Amicus Curiae**

The American Academy of Matrimonial Lawyers was founded in 1962, by highly regarded domestic relations attorneys “To provide leadership that promotes the highest degree of professionalism and excellence in the practice of family law.” There are currently more than 1650 Fellows in 50 states.

Academy Fellows are highly skilled negotiators and litigators who represent individuals in all facets of family law. These areas include divorce, annulment,

prenuptial agreements, postnuptial agreements, marital settlement agreements, child custody and visitation, business valuations, property valuations and division, alimony, child support and other family law issues. AAML Fellows are generally recognized as preeminent family law practitioners with a high level of knowledge, skill and integrity.

The Nevada AAML Chapter has chosen to be more visible in matters affecting family law state-wide, including matters touching on judicial education, statutory enactments, and appellate cases.

## **II. Interest of Amici Curiae**

This case implicates issues about which the family law Bar of Nevada has been interested in some time. The Nevada Chapter of the American Academy of Matrimonial Lawyers (“AAML”) requests permission to submit a *Amicus Curiae* brief in accordance with NRAP 29.

## **III. Reasons why an amicus brief is desirable**

There apparent discrepancy between NRS 125.155(2) and Nevada case law on the issue of PERS retirement payments needs to be rectified and this Case is a clear example of the issues caused by that discrepancy. Further, we have no clear authority in Nevada that addresses whether vacation/sick pay is a community asset divisible in divorce. Finally, this Court should provide direction as to the definition

of or situations that constitute an asset omitted by mistake in order to be entitled to division under NRS 125.150(3).

#### **IV. Time for filing**

Briefing was completed as of May 26, 2019; therefore, we request leave to file the attached amicus brief outside of the time specified in NRAP 29(f). Based on the above-stated reasons, we believe such request is warranted.

#### **CONCLUSION**

Based on the foregoing, the Court should enter an Order granting The Nevada AAML Chapter leave to file the attached Amicus Curiae Brief.

DATED this 27<sup>th</sup> day of August, 2019.

/s/Emily McFarling

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*On behalf of NV AAML*  
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## **CERTIFICATE OF SERVICE**

I, an employee of McFarling Law Group, hereby certify that on the 27<sup>th</sup> day of August, 2019, I served a true and correct copy of Motion for Leave to File Amicus Curiae Brief via the Supreme Court's electronic filing and service system (eFlex):

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/s/Maria Rios Landin

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