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

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| YOAV EGOSI,<br><br>Appellant,<br><br>vs.<br><br>PATRICIA EGOSI,<br><br>Respondent. | Docket No.: 76144<br><br>**RESPONDENT'S MOTION TO DISMISS APPEALS AND STAY RESPONDENT'S RESPONDING BRIEF DEADLINE PENDING THIS COURT'S DECISION ON THIS HERE MOTION** |

Electronically Filed
Mar 06 2019 09:25 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Respondent Patricia Egosi hereby files her Motion to Dismiss this appeal as the underlying matter is not final as contemplated by NRAP 3A because not all claims have been resolved in the district court. The only appropriate action this Court may take is to remand the matter back to the district court. Should this Court disagree with Respondent, she requests a 30-day extension from the date of the decision to file her prospective Answering Brief.

**A. NRAP 3A Requires No future District Court Decisions for the future Prior to the Commencement of an Appeal.**

NRAP 3A requires that the following judgments are appealable in civil cases: "(1) A final judgment entered in an action or proceeding commenced in the court



Docket 76144 Document 2019-09977

in which the final judgment is rendered." "A final judgment is one that disposes of the issues presented in the case, determines the costs, and leaves nothing for the future consideration of the court, except post-judgment issues . . ." *Lee v. GNLV Corp*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000) (citations and internal quotations omitted). When determining whether an order is final, the Supreme Court looks to what the order "substantively accomplishes," not what label the district court decided to place on it. *Id.* "Orders that dispose of fewer than all of the parties, or claims in a case, [sic] are not appealable, absent a finality certification under NRCP 54(b)." *Id.* at 428 n.4, 996 P.2d at 418, n.4; *Rae v. All Am. Life & Cas. Co*, 95 Nev. 920, 922, 605 P.2d 196, 197 (1979)("[W]hen multiple parties are involved in an action, a judgment is not final unless the rights and liabilities of all parties are adjudicated.")

**B. Underlying case has never been finalized under NRAP 3A.**

This case below is not final. The underlying matter is a divorce case, which action contains numerous claims. A non-exhaustive list of pending claims, which no decision has been rendered, are listed as follows: the parties are not yet divorced, no division of assets and debts has been rendered, a child support award has not been entered, medical costs for the child has not yet been decided, and, but not limited to, marital waste have not been decided by the district court. All these orders must be entered prior to the commencement of any appeal. While Appellant has

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argued that the issues relative to the prenuptial agreement and relocation are final because the district court indicated that the child custody decision it had previously made was intended to be final, such a label is not dispositive, especially given the numerous issues still presented before the lower Court.

Additionally, none of these matters were certified for appeal. Appellant filed a motion pursuant to NRCP 54(b) in the district court to certify the judgments of the district Court as final. The district court declined to certify the matter as final because it recognized that there were pending claims before that Court. *See Notice of Entry of Order*, filed October 15, 2018.

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### C. This Court should Dismiss the Pending Appeals in Favor of Adjudicating an Appeal from a Final Order Under NRAP 3A.

Given that the judgments in this matter is not yet final, and the district court did not certify this matter to this Court, there is no appealable determination. Thus, this matter must be remanded to the district court until a final judgment on all pending claims may be rendered. However, should this Court believe this matter is indeed final, Respondent would request thirty (30) days from that decision to file her Answering Brief.

Respectfully Submitted this 5th day of March 2019.

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## CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of March, 2019, a true and correct copy of the above and foregoing **Respondent's Motion To Dismiss Appeal And Stay Respondent's Responding Brief Pending This Court's Decision On This Here Motion To Dismiss** was served electronically to the following address:

Alex Ghibaudo, Esq.
alex@abgpc.com
*Attorney for Defendant*

Bailey Donnell
An Employee of Blackmon Law Group

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**AFFIDAVIT OF JOHN R. BLACKMON, ESQ. IN SUPPORT OF RESPONDENT'S MOTION TO DISMISS APPEALS AND STAY RESPONDENT'S RESPONDING BRIEF DEADLINE PENDING THIS COURT'S DECISION ON THIS HERE MOTION**

STATE OF NEVADA )
) ss.
COUNTY OF CLARK )

I, JOHN R. BLACKMON ESQ., being first duly sworn, deposes and says:

That I am the Respondent's counsel in the appeal identified by the docket no.: 76144, that I have read the foregoing Respondent's Motion, and all exhibits filed herein and know the contents thereof, and that the same are true and correct of my own knowledge, except for those matters stated upon information and belief and, as to those matters, I believe them to be true.

JOHN R. BLACKMON, ESQ.

SUBSCRIBED and SWORN to before me this 5th day of March, 2019.

NOTARY PUBLIC in and for said County and State.

BAILEY DONNELL
Notary Public, State of Nevada
Appointment No. 18-2656-1
My Appt. Expires Jun 29, 2022