1 IN THE SUPREME COURT OF THE STATE OF NEVADA 2 3 Electronically Filed 4 Supreme Court Case NM. 2019 03:32 p.m. IGNACIO C. AVILA, JR., Elizabeth A. Brown 5 District Court No. D-15-515892 Supreme Court Appellant, 6 VS. 7 ROSIE ELENA MARTINEZ; AND 8 HENRY OLIVA, 9 Respondents. 10 NOTICE OF NON-OPPOSITION 11 COMES NOW, IGNACIO C. AVILA, JR., by and through his attorney, Arezou 12 13 H. Piroozi, Esq., and respectfully submits the following Notice of Non-Opposition, 14 and submits as follows: 15 **FACTS IN SUPPORT OF NON-OPPOSITION** 16 17 Appellant timely filed and served his Opening Brief and Appendix on April 3, 18 2019. As of today's date of May 13, 2019, neither Respondent has submitted an 19 Answering Brief. Based upon the failure to file an Answering Brief, this appeal 20 should be granted. 21 22 **ARGUMENT** 23 Nev. R. App. P. 31 states as follows: 24 (a) Time for Serving and Filing Briefs. Unless a different briefing schedule 25 is provided by a court order in a particular case or by these or any other

court rules, parties shall observe the briefing schedule set forth in this Rule.

(1) All Appeals Except Child Custody, Visitation, or Capital Cases.

(A) The appellant shall serve and file the opening brief within 120 days after the date on which the appeal is docketed in the Supreme Court.

(B) The respondent shall serve and file the answering brief within 30 days after the appellant's brief is served.

The Respondents, therefore, had until May 7, 2019, to file and serve their Answering Brief (s). No Answering Brief has been filed by either party. Pursuant to NRCP 31, if a respondent fails to file an Answering Brief, Respondent will not be heard at oral argument except by permission of the court. The failure of Respondent to file a brief may be treated by the court as a confession of error and appropriate disposition of the appeal thereafter made. Unless the court has ordered the Respondent to file an answering brief as provided in Rule 46A(c), this Rule does not apply to appeals in which the appellant is *not* represented by counsel. Rule 46A (c) states as follows:

(c) Response Not Required. An opposing party is not required to respond to documents, including briefs, filed by a party appearing <u>without</u> counsel unless ordered to do so by the Supreme Court or Court of Appeals. Except for motions described in Rule 27(b) and 46(d), the court generally will not grant relief without providing an opportunity to file a response.

Appellant is represented by counsel; therefore, Rules 31 and 46A(c) do not provide a safe harbor for the respondents to be able to evade the requirement of filing an Answering Brief. The failure to file an Answering Brief should be treated as a confession of error. see *Las Vegas Sun, Inc. v. Nelson*, 96 Nev. 825, 619 P.2d 534 (1980). *Knapp v. Lemieux*, 634 P.2d 454, 454 (Nev. 1981)

	Ш
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
	П

24

WHEREFORE, the Appellant prays that this Court treat the failures to timely file and serve their respective Reply Briefs as confession of error, and that the relief prayed for in his Opening Brief be granted.

Dated this 13th day of May, 2019. Respectfully submitted by,

/s/ Arezou H. Piroozi, Esq.
AREZOU H. PIROOZI, ESQ.
NEVADA BAR# 10187
PIROOZI LAW GROUP, PLLC.
509 SOUTH SIXTH STREET
LAS VEGAS, NV 89101
TEL: (702) 260-1010
FAX: (702) 364-2010
apiroozi@piroozilawgroup.com
Attorney for Appellant
Ignacio Avila, Jr.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Appellant's Notice of Non-Opposition was sent by first class mail, postage prepaid, and/or via electronic service to the following parties on the 13th day of May, 2019:

Rosie Elena Martinez. 5005 Losee Rd. Apt. 3019 North Las Vegas, Nevada 89081 Respondent in Proper Person

Henry Oliva 5729 Awakening St. North Las Vegas, Nevada 89081 Respondent in Proper Person

/s/ Arezou H. Piroozi, Esq. Arezou H. Piroozi, Esq.