

Electronically Filed
Apr 18 2019 09:52 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF THE STATE OF NEVADA

ANTHONY JACOB MONAHAN,

Appellant,

CASE NO. 78489

v.

AMANDA KAITLYN HOGAN, fka
AMANDA KAITLYN KING,,

Respondent.

REPLY TO MOTION TO DISMISS APPEAL

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REPLY TO MOTION TO DISMISS

MEMORANDUM OF POINTS AND AUTHORITIES

The legal basis for Appellant, Anthony Monahan's ("Father") opposition to Respondent, Amanda Hogan's ("Mother") motion to dismiss is difficult to discern from his pleading.

1. Respondent, Amanda Hogan, agrees that the time constraint associated with a right to appeal to the Nevada Supreme Court is jurisdictional and cannot be waived. NRAP 4. It is 30 days from service of the Notice of Entry of Order. There is no dispute here.

2. Mother agrees that Father timely filed his notice of appeal in this matter. There is no dispute here.

3. Father affirmatively represents in his opposition that the District Court's Order from which he appeals, did not include a visitation schedule and that the District Court clearly intended for the parties to meet, confer, and attempt to arrive at a visitation schedule that worked for them. Should the parties have been unable to reach arrive at a visitation schedule, then Father correctly represents that the Court expressed an intent to hold a further hearing to finalize the matter. "The only unresolved issue was a visitation schedule which the Parties were directed to meet and confer on." [Opp. page 7, line 16]

NRS 125C.0045(5) states in relevant part:

5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As use in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.

Father acknowledges in his opposition to Mother's motion to dismiss

1 that the Court's Order of March 1, 2019, did not comply with these statutory
2 requirements. Thus, the Court's Order could not have been a final determi-
3 nation susceptible to appeal under NRAP 3A. Father's appeal is not a final
4 appealable determination and the appeal must be dismissed.

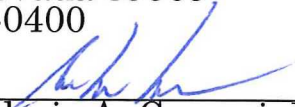
5
6 **AFFIRMATION PURSUANT TO NRS 239B.030**

7 The undersigned hereby affirms this document does not contain a social
8 security number pursuant to NRS 239B.030.

9 DATED: April 18, 2019

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14 By:

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16 Roderic A. Carucci, Esq.
17 Kelly A. VandeBurgt, Esq.
18 Attorneys for Amanda Hogan
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ATTORNEY'S CERTIFICATE OF COMPLIANCE (NRAP 28.2)

1. I hereby certify that this motion complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this pleading has been prepared in a proportionally spaced typeface using MS Word in 14 point type and Century Schoolbook type style.

2. I further certify that this pleading complies with the page or type volume limitations of NRAP 27 because it is proportionately spaced, has a typeface of 14 points or more, contains 351 words, and does not exceed 5 pages.

3. Finally, I hereby certify that I have read this appellate pleading, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this motion complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED: April 18, 2019

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By:


Roderic A. Carucci, Esq. (#4233)
Counsel for Respondent
Amanda Hogan

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and NRAP 25, I certify that I am an employee of Carucci and Associates and on April 18, 2019, I served a true and correct copy of:

Reply to Motion to Dismiss Appeal

by:

☐ Placing an original or true copy thereof in a sealed envelope, postage prepaid for collection and mailing in the United States Mail at Reno, Nevada

☐ Personal Delivery

☐ Facsimile to the following number: _____

☐ Reno Carson Messenger Service

☐ Certified Mail, Return Receipt Requested

☒ E-Flex filing system

☒ Electronic mail addressed to: aaronbushurlaw@yahoo.com

addressed to:

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Bryttanie McNeff
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