

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
ADMINISTRATION OF THE SSJ'S
ISSUE TRUST,

IN THE MATTER OF THE
ADMINISTRATION OF THE
SAMUEL S. JAKSICK, JR. FAMILY
TRUST.

TODD B. JAKSICK, INDIVIDUALLY
AND AS CO-TRUSTEE OF THE
SAMUEL S. JAKSICK, JR. FAMILY
TRUST, AND AS TRUSTEE OF THE
SSJ'S ISSUE TRUST; MICHAEL S.
KIMMEL, INDIVIDUALLY AND AS
CO-TRUSTEE OF THE SAMUEL S.
JAKSICK, JR. FAMILY TRUST;
KEVIN RILEY, INDIVIDUALLY
AND AS FORMER TRUSTEE OF
THE SAMUEL S. JAKSICK, JR.
FAMILY TRUST, AND AS TRUSTEE
OF THE WENDY A. JAKSICK 2012
BHC FAMILY TRUST; AND
STANLEY JAKSICK,
INDIVIDUALLY AND AS CO-
TRUSTEE OF THE SAMUEL S.
JAKSICK, JR. FAMILY TRUST,

Appellants/Cross-Respondents,
vs.

WENDY JAKSICK,
Respondent/Cross-Appellant.

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Jul 26 2021 03:43 p.m.
Supreme Court Case No. 81470
Elizabeth A. Brown
Clerk of Supreme Court

**REPLY IN SUPPORT OF MOTION
TO STRIKE AND RESPONSE TO
REQUEST FOR EXTENSION OR
FOR LEAVE**

Appellants TODD B. JAKSICK, Co-Trustee of the Samuel S. Jaksick Jr.
Family Trust; TODD B. JAKSICK, Trustee of the SSJ's Issue Trust; MICHAEL S.
KIMMEL, individually and as Co-Trustee of the Samuel S. Jaksick Jr. Family Trust;

KEVIN RILEY, individually, as Former Trustee of the Samuel S. Jaksick Jr. Family Trust, and as Trustee of the Wendy A. Jaksick 2012 BHC Family Trust (collectively, “Appellant Trustees”), by and through their undersigned counsel, hereby file this Reply in support of their Motion to Strike and respond to Respondent/Cross Appellant Wendy Jaksick’s (referred to herein as “Wendy”) Request for Extension or for Leave.

A. Wendy does not deny that her Answering and Opening Brief violated NRAP 28.1.

Wendy does not deny that her Answering and Opening Brief (“Wendy’s Brief”) contains 93 pages—more than twice the length allowed under Nevada Rules of Appellate Procedure (“NRAP”) 28.1(e). Wendy further does not deny that the word count, certified by her counsel as within the 18,500 limit of the Rule, was in excess of that limit.

Rather, Wendy attempts to deny any wrongdoing by stating that the image boxes were merely placed in the context of Wendy’s Brief for the Court’s benefit. That is, they are superfluous and were only included so the Court could read and access the information easily. That is a misrepresentation. The information included in the text boxes consists of quotes and/or references to text that are necessary to

understand the argument in Wendy’s Brief. If those text boxes were removed from Wendy’s Brief, her argument would contain several incomprehensible holes. The text boxes are therefore an integral part of the content of Wendy’s Brief and including them was an attempt to skirt the word limitation imposed by this Court. *See* NRAP 32(a)(7)(C), “[t]he page-or type-volume limitation applies to . . . quotations.” (emphasis added). Such a blatant disregard for this Court’s rules should not be allowed, and Wendy’s Brief should be struck.

B. Wendy’s belated request for an extension of the word count or for leave to revise her brief should be denied.

NRAP 32(a)(7)(D) expressly states that, “[t]he court looks with disfavor on motions to exceed the applicable page limit or type-volume limitation” The Rule further states that such motions, “will be granted only upon a showing of diligence and good cause,” and supported by a declaration. *See id.* Notably, and most significantly, the Rule requires that such request, “*shall be filed on or before the brief’s due date.*” *Id.* (emphasis added).

Wendy’s counsel submitted a declaration in support of her argument that good cause exists to exceed the applicable page limit or type-volume limitation. However, Wendy was certainly not diligent as she failed to request an extension of the page or

type-volume limitation *on or before the brief's due date*. The Court requires that such a request be made timely in that the Rule states that any such request “*shall*” be filed on or before the brief’s due date. Here, Wendy made no such request and her belated request for an extension of the type-volume limitation or the applicable page limit shows a blatant lack of diligence.

NRAP 32(a)(7)(D) also requires a showing of “good cause” to extend the page or word limit. Wendy’s good cause arguments are all based on facts known to Wendy since the commencement of this appeal, or certainly since the filing of the opening briefs on April 13, 2021. The parties stipulated to an extension of time within which Wendy had to file her brief. Wendy’s Brief was not due for two months after the opening briefs were filed. If Wendy had concerns regarding her ability to comply with the page and type-volume limitations, she was required to timely request relief. She did not do so. She provides absolutely no reason why her arguments were not timely made *on or before the brief's due date*. Moreover, that this case is “complex” and has a copious record is not good cause for an extension. Her lack of diligence should not be ignored, and this Court should disregard and/or strike Wendy’s Brief.

C. Wendy's blatant disregard for the procedural rules of this Court warrants sanctions.

This Court expressly stated in *Miller v. Wilfong*,

[T]his court expects all appeals to be pursued with high standards of diligence, professionalism, and competence and may impose sanctions against appellate counsel for failing to comply with the [NRAP]. We intend to impress upon the members of the bar our resolve to end the lackadaisical practices of the past and to enforce the [NRAP]. We again must impress upon the practitioners ... that we will not permit flagrant [NRAP] violations . . .

121 Nev. 619, 625, 119 P.3d 727, 731 (2005) (internal citations omitted).

Here, Wendy not only violated the type-volume limits and exceeded the page limitation under NRAP, but her counsel certified to this Court that Wendy's Brief was within the limits imposed by NRAP. This Court should exercise its authority to impose sanctions for such disregard of the Court's procedures.

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D. Request to Vacate Current Briefing Schedule

Appellant Trustees' original Motion included a request to vacate the current briefing schedule. This request is rendered moot by this Court's Order filed on July 9, 2021, in which the current briefing schedule was vacated, and the briefing suspended pending further order of the Court.

DATED this 26th day of July, 2021.

MAUPIN, COX & LeGOY

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(b), I hereby certify that I am an employee of Maupin, Cox & LeGoy, and that on this day, I served, or caused to be served, a true and correct copy of the foregoing document by electronic service, via the Court's electronic notification system, to:

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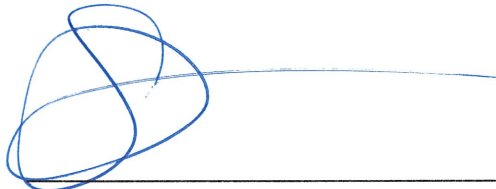
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DATED this 26th day of July, 2021.



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