

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

ERICH M. MARTIN,

Appellant,

vs.

RAINA MARTIN,

Respondent.

S.C. No.:

D.C. Case No.:

81810/82517

Electronically Filed
Apr 19 2021 04:53 p.m.
E-15-509045-D
Elizabeth A. Brown
Clerk of Supreme Court

RESPONSE TO MOTION TO CONSOLIDATE APPEALS

I. INTRODUCTION

Respondent, Raina Martin, by and through her attorneys of the Willick Law Group, and pursuant to NRAP 27(a)(3), submits this *Response to Motion to Consolidate Appeals*.

II. FACTS

Erich Martin (Erich) filed a *Notice of Appeal* (81810) on September 9, 2020, from the *Order Regarding Enforcement of Military Retirement Benefits* filed on August 11, 2020, and the *Notice of Entry of Order* filed the same date.

On September 20, 2020, Raina Martin (Raina) filed a *Motion for Attorney's Fees Pendente Lite and Related Relief*.

Erich filed an *Opposition* to her *Motion* on October 12, 2020, and district court Judge Rebecca Burton held a hearing on November 3 and issued an *Order* from that hearing which was filed on December 31. The *Order* was properly noticed on January 28, 2021. This *Order* included an award of Attorney's Fees *Pendente Lite* for \$5,000.¹

¹ See Exhibit A, copy of the *Order* and Exhibit B, copy of the *Notice of Entry of Order*.

At the first of the year, the case was administratively reassigned from Judge Burton to Judge Duckworth, as part of the re-assignment of cases attendant to the establishment of six new departments of family court.

The parties were also litigating potential modifications of child support, separate from the retirement issues on appeal. On January 12, 2021, district court Judge Bryce Duckworth held a hearing on Raina's *Motion to Modify Child Support*. The *Order* from that hearing was filed January 26, 2021, and the *Notice of Entry* was filed on January 28, 2021. That *Order* had nothing to do with the appeal and did not mention the *Pendente Lite* award.

On February 12, 2021, Erich filed a *Notice of Appeal* of the *Order* from the January 12 child support order (82517).

The same day (February 12), Erich filed a *Case Appeal Statement*, which indicated (incorrectly) that he had appealed from the \$5,000 *Pendente Lite* fee award. He hadn't.

We filed a *Motion to Dismiss* on March 29, 2021.

Erich filed his *Motion to Consolidate Appeals* on March 29, 2021.

On April 1, 2021, Erich filed a *Response* to our *Motion to Dismiss*.

This *Response* to Erich's *Motion to Consolidate Appeals* follows.

III. Response to Motion

A. Appeals Should Not Be Consolidated at this Time

The appeals should not be consolidated as the *Motion to Dismiss* is still pending before the Court. If the Appeal is dismissed, as we believe that it should be, then consolidation would only confuse the record.

Should this Court decide *not* to dismiss this appeal, then consolidation could be considered at that time. As such, we believe that the request is untimely, being premature, and was filed for the actual purpose of generating confusion, as a means of avoiding dismissal.

IV. CONCLUSION

Based on the foregoing, Raina requests this Court to:

1. Deny Erich's Motion to Consolidate at this time finding that the request is premature based on the existing *Motion to Dismiss*.

2. Grant any other relief this court may deem appropriate.

Dated this 19th day of April, 2021.

Respectfully submitted,
WILLICK LAW GROUP

// s // Richard L. Crane, Esq.

Richard L. Crane, Esq.
Attorney for Respondent

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WILLICK LAW GROUP and that on this 19th day of April, 2021, a document entitled *Response to Motion to Consolidate Appeals* was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows, to the attorneys listed below at the address, email address, and/or facsimile number indicated below:

Chad F. Clement, Esq.
Kathleen A. Wilde, Esq.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff

//s//Justin K. Johnson

An Employee of WILLICK LAW GROUP

EXHIBIT “A”

EXHIBIT “A”

EXHIBIT “A”

1 **ORDER**
2 WILICK LAW GROUP
3 MARSHAL S. WILICK, ESQ.
4 Nevada Bar No. 2515
5 3591 E. Bonanza Road, Suite 200
6 Las Vegas, NV 89110-2101
7 Phone (702) 438-4100; Fax (702) 438-5311
8 email@willicklawgroup.com
9 Attorney for Defendant

10 **DISTRICT COURT**
11 **FAMILY DIVISION**
12 **CLARK COUNTY, NEVADA**

13 ERICH MARTIN,
14 Plaintiff,

15 vs.

16 RAINA MARTIN,
17 Defendant.

CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING: 11/3/2020
TIME OF HEARING: 9:00 am

18 **ORDER FROM THE NOVEMBER 3, 2020, HEARING**

19 This matter came on for a hearing at the above date and time before the
20 Honorable Rebecca Burton, District Court Judge, Family Division. Defendant,
21 Raina Martin, was present by video and was represented by and through her attorney,
22 Richard L. Crane, Esq., of the WILICK LAW GROUP, and Plaintiff, Erich Martin, was
23 present by video and represented by and through his attorney, Kathleen A. Wilde of
24 MARQUIS AURBACH COFFING.

25 The Court, having reviewed the pleadings and papers and filed herein and
26 entertaining argument from both sides, made the following findings and orders as
27 follows:
28

1 **THE COURT HEREBY FINDS:**

- 2 1. The Court has subject matter jurisdiction over this case, personal jurisdiction
3 over the parties and child custody subject matter jurisdiction.¹
- 4 2. If a Stay is to preserve the *Status Quo* then it would be not needed because
5 Erich would still be making the monthly payments to Raina. That is the *Status*
6 *Quo*, that is the Order of the Court.²
- 7 3. The *Decree of Divorce* is the *Status Quo* that Erich is trying to change. The
8 Court enforced the *Decree of Divorce* and Erich has appealed the Court’s
9 enforcement.³
- 10 4. The Court has reviewed NRAP 8(c) and went through the factors and the object
11 of the appeal. The Court finds that the object of the appeal for a few months
12 might be defeated, but, the Court is not persuaded that the value of the appeal
13 would be significantly reduced if Erich continued to make a few months of
14 payments. In the big picture what we’re looking at is the possibility of forty
15 years or more of these payments.⁴
- 16 5. That real object of this appeal is that these payments will go on for many
17 years.⁵
- 18 6. Neither party is going to suffer irreparable or serious injury if the stay is denied
19 or the stay is granted.⁶
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23 ¹Time Stamp 9:03:06 - 9:03:17

24 ²Time Stamp 9:03:23 - 9:03:39

25 ³Time Stamp 9:03:40 - 9:03:49

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27 ⁵Time Stamp 9:04:54 - 9:05:10

28 ⁶Time Stamp 9:05:12 - 9:05:31

- 1 7. \$20,000 is not an unreasonable estimate as to the benefits payable during the
2 pendency of the appeal.⁷ She will -(RLB)
- 3 8. The consequences to Raina are greater because her income is smaller. ~~They~~¹¹
4 have to pay out funds to maintain her position while paying attorney's fees.
5 She'll have to pay out funds to obtain her judgment.⁸
- 6 9. Erich can better afford to pay out funds to obtain his judgment after the fact,
7 if we're looking to collect monies after the fact.⁹
- 8 10. Covid has really made everybody's income uncertain. There is a lot less
9 predictability. Erich recently lost his job in March of 2020, I know Raina's
10 income has been reduced because of her ~~production~~^{reduction} -(RLB) of hours caused by Covid
11 so, there are some collection issues there, in that regard.¹⁰
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13 reasoning is sound, of course, recognizing that the issue is unresolved. Again,
14 the Court did expect that this appeal would occur.¹¹
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16 considerable amount of time doing legal research and reviewing the law. The
17 last cases that the Court cited were from a couple of months ago or less.¹²
- 18 13. NRCP 62(d)(2) states a party in entitled to a stay by providing a bond.¹³

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24 ⁹Time Stamp 9:06:16 - 9:06:23
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- 1 14. The Court is inclined to grant the stay, but require Erich to pay however he
2 wishes to do that.¹⁴
- 3 15. The Court likes Raina's idea of Erich continuing to pay the monthly payments
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- 8 17. The Court would like confirmation going from Ms. Wilde to Mr. Crane that
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- 10 18. The Court did go through the factors about a bond and will put its thoughts
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- 12 19. The Collection Process is not complex but it would be easier for Erich than it
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14 ~~Court involved when there was the spousal support issue.~~¹⁹
- 15 20. The time to obtain collection is going to depend on how cooperative everybody
16 is. If it would be enforced, then of course there will be a motion and there's
17 going to be a hearing and there's going to be a potential trial and arguments
18 about how much the money is going to be, although that's probably not likely
19 and there's not likely to be an appeal from that but that's always possible.²⁰
- 20

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22 ¹⁴Time Stamp 9:16:51 - 9:16:58

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28 ²⁰Time Stamp 9:18:07 - 9:18:28

- 1 21. Again, collections might be difficult on both sides just because of Covid.²¹
- 2 22. We have two professionals here. A dental hygienist and a retired military
3 member who is in a management position now. We have two professionals
4 who make very nice incomes and neither party is destitute by any means. They
5 are fortunate to have the jobs that they do and to make the incomes that they
6 are in light of Covid right now when a lot of people are hurting.²²
- 7 23. The Court is going to require the monthly payment be made. That will avoid
8 any additional costs. The monthly payment makes sense and will be sitting
9 there, then there will be no collection issues at the end of the day.²³
- 10 24. Erich needs to go ahead and pay the arrearages already reduced to judgment.²⁴
- 11 25. The Court really wants Erich to begin making payments toward that judgment.
12 Counsel is to talk about that and come up with a reasonable payment in
13 addition to the regular monthly payment to start paying on that judgment. The
14 Court would like it paid in no less than a year. You can use that as a kind of
15 rule of thumb there but I want counsel to talk about it.²⁵
- 16 26. If he wants to pay for a bond he can but it will be the \$20,000 that's been
17 requested because that is a reasonable amount.²⁶
- 18 27. In considering the *Motion* for attorney's fees, the Court takes into
19 consideration both parties financial circumstances. Even though Nevada
20 follows the American rule which means everyone pays their own legal fees, the
21 Court recognizes that Erich's income currently is about three times as high as

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Raina’s income but Raina’s expenses are reduced by her domestic partner and his very large income.²⁷

28. When you balance out the household incomes, they are fairly equivalent. They are not wildly apart. The Court realizes that Raina’s domestic partner is not obligated to pay anything for these proceeding.²⁸

29. The Court is granting the stay and it would be appropriate because of the very large disparity of incomes between the two parties who are part of this process to have Erich contribute something toward Raina’s attorney’s fees because this is all, at the end of the day, going to effect her greater financially, who makes less money then Erich does. She has been effected by Covid more than Erich who is still making his full time income. Raina has reduced income.²⁹

30. The Court is not inclined to grant all of the attorney fees.³⁰ The Court does not want anybody being destitute by this, but Erich should pay something so he will contribute \$5,000 to her attorney’s fees.³¹

31. The Court does want him to pay the \$5,000. He has 30 days to get that done.³²

²⁷Time Stamp 9:25:31 - 9:26:00
²⁸Time Stamp 9:26:19 - 9:26:32
²⁹Time Stamp 9:26:39 - 9:27:29
³⁰Time Stamp 28:16 - 9:28:22
³¹Time Stamp 9:28:53 - 9:29:05
³²Time Stamp 9:30:35 - 9:30:44

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IT IS HEREBY ORDERED:

1. The Stay is granted as long as Erich either makes the ordered monthly payments of \$845.43, plus any applicable cost of living adjustment, during the pendency of the appellate proceedings to an Attorney’s Trust Fund or if he purchases a supersedeas bond of \$20,000.
2. Erich’s attorney is to provide the monthly account statement to Raina’s attorney within five days of the payment where the monies were deposited.
3. If Erich decides to make the monthly payments as described above, the \$5,918.01 in arrears already reduced to judgment shall also be deposited into the same account as the monthly payments. This amount will continue to accumulate statutory interest until deposited.
4. If Erich purchases a supersedeas bond of \$20,000, the \$5,918.01 in arrears already reduced to judgment is still due and will continue to accumulate statutory interest.
5. Raina’s request for attorney’s fees is granted. Erich is to contribute \$5,000 to her attorney’s fees.

1 6. The \$5,000 is due within 30 days from the date of the hearing.

2 **DATED** this _____ day of _____, 2020.

3 Dated this 31st day of December, 2020

4 *Rebecca L. Burton*

5 9FA 342 8532 734 **DISTRICT COURT JUDGE**
6 Rebecca L. Burton
7 District Court Judge

8 Dated this 21 day of December, 2020
9 Respectfully Submitted By:

10 Dated this ___ day of _____, 2020
11 Approved as to Form and Content
12 By:

13 WILLICK LAW GROUP

14 MARQUIS AURBACH COFFING

15 //s//Richard L. Crane, Esq.

16 ****SIGNATURE REFUSED****

17 **MARSHAL S. WILLICK, ESQ.**
18 Nevada Bar No. 2515
19 **RICHARD L. CRANE, ESQ.**
20 Nevada Bar No. 9536
21 3591 E. Bonanza Rd., Suite 200
22 Las Vegas, Nevada 89110
23 (702) 438-4100; Fax (702) 438-5311
24 Attorneys for Defendant

25 **CHAD F. CLEMENT, ESQ.**
26 Nevada Bar No. 12192
27 **KATHLEEN A. WILDE, ESQ.**
28 Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711; Fax (702) 382-5816
Attorneys for Plaintiff

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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Erich M Martin, Plaintiff

CASE NO: D-15-509045-D

7 vs.

DEPT. NO. Department C

8 Raina L Martin, Defendant.

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/31/2020

15 "Samira C. Knight, Esq. " .

Samira@tklawgroupnv.com

16 Chad Clement

cclement@maclaw.com

17 Reception Reception

email@willicklawgroup.com

18 Samira Knight

Samira@TKLawgroupnv.com

19 Tarkanian Knight

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20 Matthew Friedman, Esq.

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21 Justin Johnson

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22 Tracy McAuliff

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23 Kathleen Wilde

kwilde@maclaw.com

24 Gary Segal, Esq.

gsegal@fordfriedmanlaw.com

25
26 Javie-Anne Bauer

27 jbauer@maclaw.com

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Richard Crane

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Erich Martin

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Lennie Fraga

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Christopher Phillips, Esq.

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Rachel Tygret

rtygret@maclaw.com

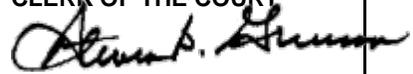
Cally Hatfield

chatfield@maclaw.com

EXHIBIT “B”

EXHIBIT “B”

EXHIBIT “B”



1 **NEOJ**
2 WILICK LAW GROUP
3 MARSHAL S. WILICK, ESQ.
4 Nevada Bar No. 2515
5 3591 E. Bonanza Road, Suite 200
6 Las Vegas, NV 89110-2101
7 Phone (702) 438-4100; Fax (702) 438-5311
8 email@willicklawgroup.com
9 Attorney for Defendant

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**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: Q

**NOTICE OF ENTRY OF ORDER FROM THE NOVEMBER 3, 2020,
HEARING**

TO: ERICH MARTIN, Plaintiff.

TO: KATHLEEN A. WILDE, ESQ., Attorney for Plaintiff.

PLEASE TAKE NOTICE that an *Order from the November 3, 2020, Hearing*
was duly entered in the above action on the 31st day of December, 2020, a true and

1 correct copy of which is attached herein.

2 **DATED** this 28th day of January, 2021.

3 WILLYCK LAW GROUP

4 // s // Richard L. Crane, Esq.

5 MARSHAL S. WILLYCK, ESQ.
6 Nevada Bar No. 2515
7 RICHARD L. CRANE, ESQ.
8 Nevada Bar No. 9536
9 3591 East Bonanza Road, Suite 200
10 Las Vegas, Nevada 89110-2101
11 Attorneys for Defendant

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCp 5(b), I certify that I am an employee of the WILLICK LAW
3 GROUP and that on this 28th day of January, 2021, I caused the above and foregoing
4 document to be served as follows:

5 Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCp 5(b)(2)(D) and
6 Administrative Order 14-2 captioned "In the Administrative Matter of
7 Mandatory Electronic Service in the Eighth Judicial District Court," by
8 mandatory electronic service through the Eighth Judicial District Court's
9 electronic filing system.

10 by placing same to be deposited for mailing in the United States Mail,
11 in a sealed envelope upon which first class postage was prepaid in Las
12 Vegas, Nevada.

13 pursuant to EDCR 7.26, to be sent via facsimile, by duly executed
14 consent for service by electronic means.

15 by hand delivery with signed Receipt of Copy.

16 by First Class, Certified U.S. Mail.

17 To the person(s) listed below at the address, email address, and/or facsimile
18 number indicated:

19 CHAD F. CLEMENT, ESQ.
20 KATHLEEN A. WILDE, ESQ.
21 Marquis Aurbach Coffing
22 10001 Park Run Drive
23 Las Vegas, Nevada 89145
24 Attorney for Plaintiff

25 /s/Justin K. Johnson

26 An Employee of the WILLICK LAW GROUP

27 P:\wp19\MARTIN,R\DRAFTS\00479643.WPD\jj

1 **ORDER**
2 WILICK LAW GROUP
3 MARSHAL S. WILLICK, ESQ.
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5 3591 E. Bonanza Road, Suite 200
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10 **DISTRICT COURT**
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13 ERICH MARTIN,
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15 vs.

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CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING: 11/3/2020
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23 ¹⁵Time Stamp 9:17:00 - 9:17:10

24 ¹⁶Time Stamp 9:17:20 - 9:17:33

25 ¹⁷Time Stamp 9:17:11 - 9:17:20

26 ¹⁸Time Stamp 9:17:33 - 9:17:45

27 ¹⁹Time Stamp 9:17:47 - 9:18:07

28 ²⁰Time Stamp 9:18:07 - 9:18:28

- 1 21. Again, collections might be difficult on both sides just because of Covid.²¹
- 2 22. We have two professionals here. A dental hygienist and a retired military
3 member who is in a management position now. We have two professionals
4 who make very nice incomes and neither party is destitute by any means. They
5 are fortunate to have the jobs that they do and to make the incomes that they
6 are in light of Covid right now when a lot of people are hurting.²²
- 7 23. The Court is going to require the monthly payment be made. That will avoid
8 any additional costs. The monthly payment makes sense and will be sitting
9 there, then there will be no collection issues at the end of the day.²³
- 10 24. Erich needs to go ahead and pay the arrearages already reduced to judgment.²⁴
- 11 25. The Court really wants Erich to begin making payments toward that judgment.
12 Counsel is to talk about that and come up with a reasonable payment in
13 addition to the regular monthly payment to start paying on that judgment. The
14 Court would like it paid in no less than a year. You can use that as a kind of
15 rule of thumb there but I want counsel to talk about it.²⁵
- 16 26. If he wants to pay for a bond he can but it will be the \$20,000 that's been
17 requested because that is a reasonable amount.²⁶
- 18 27. In considering the *Motion* for attorney's fees, the Court takes into
19 consideration both parties financial circumstances. Even though Nevada
20 follows the American rule which means everyone pays their own legal fees, the
21 Court recognizes that Erich's income currently is about three times as high as

22
23 ²¹Time Stamp 9:18:28 - 9:18:37

24 ²²Time Stamp 9:18:36 - 9:19:05

25 ²³Time Stamp 9:19:05 - 9:19:28

26 ²⁴Time Stamp 9:20:17 - 9:20:42

27 ²⁵Time Stamp 9:22:26-9:22:56

28 ²⁶Time Stamp 9:22:56 - :9:23:11

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Raina’s income but Raina’s expenses are reduced by her domestic partner and his very large income.²⁷

28. When you balance out the household incomes, they are fairly equivalent. They are not wildly apart. The Court realizes that Raina’s domestic partner is not obligated to pay anything for these proceeding.²⁸

29. The Court is granting the stay and it would be appropriate because of the very large disparity of incomes between the two parties who are part of this process to have Erich contribute something toward Raina’s attorney’s fees because this is all, at the end of the day, going to effect her greater financially, who makes less money then Erich does. She has been effected by Covid more than Erich who is still making his full time income. Raina has reduced income.²⁹

30. The Court is not inclined to grant all of the attorney fees.³⁰ The Court does not want anybody being destitute by this, but Erich should pay something so he will contribute \$5,000 to her attorney’s fees.³¹

31. The Court does want him to pay the \$5,000. He has 30 days to get that done.³²

²⁷Time Stamp 9:25:31 - 9:26:00
²⁸Time Stamp 9:26:19 - 9:26:32
²⁹Time Stamp 9:26:39 - 9:27:29
³⁰Time Stamp 28:16 - 9:28:22
³¹Time Stamp 9:28:53 - 9:29:05
³²Time Stamp 9:30:35 - 9:30:44

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IT IS HEREBY ORDERED:

1. The Stay is granted as long as Erich either makes the ordered monthly payments of \$845.43, plus any applicable cost of living adjustment, during the pendency of the appellate proceedings to an Attorney’s Trust Fund or if he purchases a supersedeas bond of \$20,000.
2. Erich’s attorney is to provide the monthly account statement to Raina’s attorney within five days of the payment where the monies were deposited.
3. If Erich decides to make the monthly payments as described above, the \$5,918.01 in arrears already reduced to judgment shall also be deposited into the same account as the monthly payments. This amount will continue to accumulate statutory interest until deposited.
4. If Erich purchases a supersedeas bond of \$20,000, the \$5,918.01 in arrears already reduced to judgment is still due and will continue to accumulate statutory interest.
5. Raina’s request for attorney’s fees is granted. Erich is to contribute \$5,000 to her attorney’s fees.

1 6. The \$5,000 is due within 30 days from the date of the hearing.

2 **DATED** this _____ day of _____, 2020.

3 Dated this 31st day of December, 2020

4 *Rebecca L. Burton*

5 9FA 342 8532 734 **DISTRICT COURT JUDGE**
6 Rebecca L. Burton
7 District Court Judge

8 Dated this 21 day of December, 2020
9 Respectfully Submitted By:

10 Dated this ___ day of _____, 2020
11 Approved as to Form and Content
12 By:

13 **WILLICK LAW GROUP**

14 **MARQUIS AURBACH COFFING**

15 //s//Richard L. Crane, Esq.

16 ****SIGNATURE REFUSED****

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Erich M Martin, Plaintiff

CASE NO: D-15-509045-D

7 vs.

DEPT. NO. Department C

8 Raina L Martin, Defendant.

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Order was served via the court's electronic eFile system to all
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 12/31/2020

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