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 Elizabeth A. Brown  
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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

ALI SHAROKHI	)	
Appellant,	)	CASE NO.: 81978/82245
vs.	)	
	)	District Court Case No.:
KIZZY BURROW,	)	D-18-581208-P
	)	
Respondent.	)	
	)	
	)	

**MOTION TO STRIKE OPENING BRIEF AND TO DISMISS APPEAL, OR  
 IN THE ALTERNATIVE, MOTION TO EXTEND TIME TO FILE AN  
 ANSWERING BRIEF**

Respondent KIZZY BURROW (“Ms. Burrow”) by and through her attorney of record, YVONNE RUIZ, ESQ., MARZOLA & RUIZ LAW GROUP PLLC, hereby submits her Motion to Strike Opening Brief and to Dismiss Appeal, or in the Alternative, Motion to Extend Time to File an Answering Brief. This Motion is made and based upon the papers and pleadings on file herein and the attached Memorandum of Points and Authorities.

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. STATEMENT OF FACTS**

This matter stems from a paternity/custody action. On September 21, 2020, the Eighth Judicial District Court issued its Decision and Order Re: Finding of Domestic Violence, and on October 12, 2020, the Eighth Judicial District Court issued its Final Decision and Order Re: Custody/Relocation. Subsequently, on October 14, 2020, Appellant filed an Amended Notice of Appeal with the Eighth Judicial District Court for the aforementioned final orders. On October 22, 2020, the Nevada Supreme Court processed the first appeal under Supreme Court No. 81978 (determination of child custody). The second appeal was processed on December 20, 2020 under Supreme Court No. 82245 (post-judgment award of attorney fees).

On February 18, 2021, the Nevada Supreme Court issued its Order Consolidating Cases, Denying Motion for Leave to File Stay Motion with Excess Pages, and Granting Motions to File Transcripts Under Seal. The Nevada Supreme Court ordered that Appellant file and serve a single opening brief or an informal brief form addressing the issues in both consolidated cases no later than April 8, 2021.

On March 31, 2021, the Nevada Supreme Court issued its Order Granting Extension Per Telephonic Request. As such, Appellant's opening brief and

appendix were due no later than April 22, 2021. On April 22, 2021, Appellant filed his Motion to Extend Time to File Opening Brief.

On May 11, 2021, Appellant filed his Motion for Order Granting Expansion of Pages for Fast Track Brief (combined appeals). In his motion, Appellant sought authority to file a 93-Page Fast Track Brief. On May 18, 2021, Respondent filed her Response to Appellant's motion to exceed page limit. On May 24, 2021, the Nevada Supreme Court *denied* Appellant's Motion to file a brief in excess of the page limitation. The Nevada Supreme Court ordered that Appellant file an informal brief or an opening brief that complies with NRAP 28(a) and NRAP 32 no later than June 24, 2021.

On June 2, 2021, Appellant filed his Motion to Request for Reconsideration/Review of Denial of Motion for Leave to File a Brief in Excess of the Page Limitation to be Heard by 3 Justice Panel Per NRAP 27(C)(2). Appellant again sought leave to file an opening in excess of the page limit. In his motion, Appellant essentially argued that since this matter pertains to two consolidated appeals each appeal is entitled to the 30-page limitation pursuant to NRAP 32. On June 11, 2021, the Nevada Supreme Court *denied* Appellant's motion for reconsideration for leave to exceed the page limit. However, in violation of the Nevada Supreme Court's order, on June 14, 2021, Appellant filed his 62-Page Combined Opening Brief. Consequently, Appellant has failed to tender a NRAP

rule-compliant brief to Respondent or this Court in timely manner, as this does not meet the requirements set forth in NRAP 28(a) and NRAP 32 nor is this an informal brief.

As such, Appellant's appeal should be stricken because the opening brief is not an informal brief, fails to comply with the NRAP 28(a) and NRAP 32, and Appellant failed to tender and file opening brief with this court by the deadline.

## **II. ARGUMENT**

### **A. Appellant's Opening Brief Should be Stricken and his Appeal should be Dismissed.**

The Nevada Supreme Court has repeatedly stated that it expects all appeals to be "pursued in a manner meeting high standards of diligence, professionalism, and competence." *Cuzdey v. State*, 103 Nev. 575, 578, 747 P.2d 233, 235 (1987); accord *Polk v. State*, 126 Nev. 180, 184, 233 P.3d 357, 359 (2010); *Barry v. Lindner*, 119 Nev. 661, 671, 81 P.3d 537, 543 (2003); *State, Nev. Emp't Sec. Dep't v. Weber*, 100 Nev. 121, 123, 676 P.2d 1318, 1319 (1984). NRAP 31(d) provides that, "[i]f an appellant fails to file an opening *brief* or appendix within the time provided by this Rule, or within the time extended, respondent may move for dismissal of the appeal." Moreover, NRAP 32(a)(7)(A) provides that "opening or answering brief shall not exceed 30 pages . . ." NRAP 32(a)(7)(A)(i).

Here, Appellant's opening brief was due no later than June 24, 2021. However, on June 14, 2021, Appellant filed an opening brief that fails to comply with NRAP 28(a) and NRAP 32. Specifically, he filed a 62-Page opening brief after his motion for leave to exceed pages and motion for reconsideration was denied. This was blatantly filed in violation of the Nevada Supreme Court's order. Consequently, Appellant has failed to file an opening brief in compliant with NRAP and the Nevada Supreme Court's order. Also, the opening brief is not and cannot be considered an informal brief, as it does not follow the informal brief form. Although Appellant is representing himself as in proper person, he is expected to be familiar with the rules. Given his excess filings in this matter and the Nevada Supreme Court's clear order, Appellant was aware of the requirement; yet he chose not to comply with the same.

Additionally, the opening brief is not double spaced, which would suggest that the opening brief is more than 62-pages long. Also, the opening brief fails to comply with NRAP 28(a) because it is missing required components such as a table of contents, a statement of the issues presented for review, etc. The Nevada Supreme Court's order specifically stated that Appellant's brief had to comply with said rules, but Appellant failed to do so.

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B. In the Alternative, Respondent Request an Extension to file her Answering Brief.

NRAP 26(b)(1) states the following:

(1) By Court Order.

(A) For good cause, the court may extend the time prescribed by these Rules or by its order to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time to file a notice of appeal except as provided in Rule 4(c).

(B) Except as otherwise provided in these Rules, a party may, on or before the due date sought to be extended, request by telephone a single 14-day extension of time for performing any act except the filing of a notice of appeal. If good cause is shown, the clerk may grant such a request by telephone or by written order of the clerk. The grant of an extension of time to perform an act under this Rule will bar any further extensions of time to perform the same act unless the party files a written motion for an extension of time demonstrating extraordinary and compelling circumstances why a further extension of time is necessary.

Here, Respondent will need additional time to file her answering brief if she is required to respond to a 62-page opening brief that is in violation of NRAP and the Nevada Supreme Court's orders.

**III. CONCLUSION**

For the foregoing reasons, Respondent request that this Honorable Court grant Respondent's motion. Specifically, Respondent request that this Honorable Court strike Appellant's brief and dismiss his appeal. In the alternative, Respondent request an extension to file her answering brief if she is required to

respond to Appellant's 62-Page opening brief.

DATED this 29<sup>th</sup> day of June, 2021.

**MARZOLA & RUIZ LAW GROUP PLLC**

/s/Yvonne Ruiz

Nevada Bar No. 14111

2920 N. Green Valley Parkway, Bldg. 2, STE 219

Henderson, Nevada 89014

## **CERTIFICATE OF COMPLIANCE**

1. I hereby certify that the 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). This Motion has been prepared in proportionally spaced typeface using Microsoft Word for PC, in 14 point, double-spaces Times New Roman font.
2. I further certify that this Motion complies with the page limitations of NRAP 27(d)(2) in that it does not exceed 10 pages.
3. Finally, I hereby certify that I have read this Motion, 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 27.

I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of Nevada Rules of Appellate Procedure.

DATED this 29<sup>th</sup> day of June, 2021.

**MARZOLA & RUIZ LAW GROUP PLLC**

/s/Yvonne Ruiz

Nevada Bar No. 14111

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Henderson, Nevada 89014

### **CERTIFICATE OF SERVICE**

The undersigned, an employee of Marzola & Ruiz Law Group, PLLC., hereby certifies that on the 29<sup>th</sup> day of June, 2021, I served a true and correct copy of Motion to Strike Opening Brief and to Dismiss Appeal, or in the Alternative, Motion to Extend Time to File An Answering Brief to the Clerk of the Supreme Court, via the Court's electronic filing and service system (eFlex):

Ali Shahrokhi  
10695 Dean Martin Drive, #1214  
Las Vegas, NV 89141  
*Appellant*

By: /s/ Yvonne Ruiz  
Yvonne Ruiz