

1 The parties were scheduled to attend an Evidentiary Hearing on October 29, 2020.
2 The court, however, rescheduled the Evidentiary Hearing to December 3, 2020. The court
3 mailed a Notice of Rescheduling Hearing on September 17, 2020 to Bart's former
4 counsel, Attorney Aaron Grigsby. Undersigned realized that the Notice was not sent
5 directly to Mr. Mahoney. Thus, on September 28, 2020, Defendant's counsel sent Mr.
6 Mahoney the Notice of Rescheduling of Hearing. *See* Amended Certificate of Service,
7 filed September 28, 2020. This mail was never Returned to undersigned counsel.
8 Moreover, Bart continues to blatantly misrepresent the record by claiming he did not
9 receive notice. Instead, he ostensibly blames Bonnie because **Bart** moved, and **Bart** failed
10 to update the court with his current residence. His claims are nonsensical and illogical.
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12 Pursuant to Administrative Order 20-17, Mr. Mahoney was required to sign up for
13 electronic service. Though he failed to do so, this office ensured that he was sent
14 documents both in the mail and electronically.
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16 Additionally, this office emailed Mr. Mahoney to his correct email address at
17 bmmlv27@gmail.com on the following days:
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- 19 - November 23rd
 - 20 ○ This email included trial exhibits and the trial date and time. The Law Clerk
 - 21 also addressed the hearing and that they would send the BlueJeans link prior
 - 22 to the hearing.
 - 23 ○ Another email sent this date included the Pre-Trial Memorandum.
- 24 - November 24th
 - 25 ○ This email included the List of Trial Exhibits.
- 26 - November 25th
 - 27 ○ This email included also included the Amended Trial Exhibits.
- 28 - December 2nd

- This email included a link to the trial exhibits.

In those emails, he received documents for trial that included the trial date and time, December 3rd, 2020 at 9:15 a.m.

On January 25, 2021, undersigned attempted to resolve this matter. Bart failed to respond or acknowledge that counsel mailed the Notice. He, however, filed an Appeal and then a Motion to Stay in the district court, which was denied. At the hearing on his Motion, the court found:

THE COURT STATED its concerns that this a long stall game to prolong the proceedings and noted the parties have been litigating this motion since 2019. *See* Video Transcript at 10:06:48 to 10:07:20.

THE COURT HEREBY FINDS that there was nothing erroneous within the order and that the order was proper. *Id.* at 10:06:30.

THE COURT FURTHER FINDS that Plaintiff was given adequate notice of the pending trial but failed to provide any documents to the Court or opposing party. *Id.* at 10:06:39.

THE COURT HEREBY ORDERS that the Court shall temporarily stay the order until April 30, 2021 in order for the parties to proceed to the Supreme Court Settlement Conference scheduled for April 30, 2021. *Id.* at 10:07:20.

IT IS FURTHER ORDERS that the temporary stay is ordered out of an abundance of caution. *Id.* at 10:07:57.

Thus, it appears that Bart continues to misrepresent the facts by claiming that he had no notice of the rescheduling. As a result, Bonnie is forced to incur fees in order to file another Opposition. It is also important to note that Bart has delayed these proceeds during the initial divorce. He also failed to meaningfully participate. His actions are not surprising. He also acted similarly in other divorce cases. In prior cases, he even omitted

1 assets and tried to hide money to prejudice his wife. He continues to do the same to
2 Bonnie.
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4 Bart fails to acknowledge that he was served with the Notice of Rescheduling sent
5 by undersigned in an effort to misrepresent the facts and commit fraud upon this
6 honorable court. He also fails to acknowledge the multiple emails he received from
7 counsel detailing the trial date and time, Bonnie's exhibits in support of her motion, and
8 the evidence that was subpoenaed. Bart also fails to mention that he failed to provide a
9 Pre-Trial Memorandum or any exhibits in support of his Opposition.
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12 Moreover, Bart's claims in his motion are also illogical and support that he was
13 aware of the December 3, 2020 date after the rescheduling. In his motion, Bart claims to
14 not know that the December 3, 2020 date went forward. He, however, failed to respond
15 to counsel's emails with the December 3, 2020 trial documents **OR** question why the
16 hearing did not move forward on the October 29, 2020 date. It is illogical that Bart
17 waited three months after the October 29, 2020 evidentiary hearing to look into his
18 pending litigation. It is illogical that counsel would send trial documents (Exhibits, Pre-
19 Trial, etc.) to Bart in November if trial occurred October 29, 2020.
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24 Bart's failure to appear is consistent with his behavior in this matter. When Bart
25 was represented by counsel, he failed to appear, even telephonically, at any hearing. He
26 failed to timely file a Financial Disclosure Form. He provided only his W2s but failed to
27 provide any documents to refute Bonnie's claims. He failed to file any other pleading or
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1 exhibit. Bonnie subpoenaed Bart's records. She incurred over \$23,000 in attorney's fees
2 and costs to tediously review those subpoenas. Undersigned meticulously outlined every
3 transaction for Bart's payments to Bonnie (or lack thereof). Undersigned and Bonnie
4 even acknowledged additional payments from Bart to Bonnie that were unintentionally
5 left out of her exhibits/spreadsheet.
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8 In her Motion in May 2019, Bonnie claimed that Bart was in arrears. She provided
9 a Schedule of Arrears. Bart claimed it was incorrect **but failed to provide even a scintilla**
10 **of evidence** to refute her claims. It was Bart's burden to do so, but Bonnie provided the
11 evidence to support her claims, Bart's non-payments, and the other issues. It is more
12 likely that Bart realized the evidence Bonnie prepared in support of her Motion and
13 purposefully failed to appear hoping the court would not move forward. Regardless,
14 even if Bart appeared he failed to provide any evidence to support his claims and meet
15 his burden of proof. As a result, Bonnie submits that she still would have prevailed.
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19 Next, Bart fails to refute the subpoenas support his income and bonuses or
20 evidencing his bank statements and payments to Bonnie. Additionally, Bart did not move
21 prior to September. Bart has failed to provide Bonnie or this court with the new address.
22 He only recently updated his address (April 6, 2021). He failed to forward his address
23 because undersigned never received return mail during the litigation. Bart also did not
24 update his address with the children's medical providers.
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1 **II. POINTS AND AUTHORITIES**

2 **Bart's Motion To Set Aside Should Be Denied**

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4 In his motion, Bart claims that the Findings and Order filed December 24, 2020
5 and the Order Granting Attorney Fees should be set aside pursuant to NRAP 8. Bart's
6 reliance, however, is misplaced. NRAP 8(c) states in relevant part:
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8 (c) Stays in Civil Cases Not Involving Child Custody. In deciding whether
9 to issue a stay or injunction, the Supreme Court or Court of Appeals will
10 generally consider the following factors: (1) whether the object of the appeal
11 or writ petition will be defeated if the stay or injunction is denied; (2)
12 whether appellant/petitioner will suffer irreparable or serious injury if the
13 stay or injunction is denied; (3) whether respondent/real party in interest will
14 suffer irreparable or serious injury if the stay or injunction is granted; and (4)
15 whether appellant/petitioner is likely to prevail on the merits in the appeal or
16 writ petition.

17 Here, Bart fails to acknowledge that he is a VP at World Resorts. He earns at
18 minimum, \$132.21/hour (that is \$274,996/year!). He will not be harmed by paying
19 payments on the judgment for the fees *he owes Bonnie for years*. This, however, is
20 another example of Bart attempting to manipulate this honorable court as he has tried to
21 do to the district court in multiple divorce cases. He will not be harmed whatsoever.
22 Bonnie, on the other hand, is unemployed as a result of COVID and has been chasing
23 Bart for funds since the divorce. Additionally, Bart *will absolutely* not suffer irreparable
24 or serious harm. Instead, he will be forced to *finally* pay on the monies he has owed
25 since 2015. Again, Bonnie will continue to suffer harm and incur fees and costs to
26 finally collect against him. Finally, Bart is not likely to prevail. He was not denied due
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1 process. This continued claim while ignoring his deficiencies (appearing, updating his
2 address), is belied by his historical actions. He had proper notice and failed to appear in
3 court. He is also a well-educated businessman. He has had *multiple* divorces and is well
4 aware of the process. This behavior is par for the course. For these reasons, Respondent
5 submits that Appellant's Motion should be denied.
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8 DATED this 11 May 2021.

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10 RADFORD J. SMITH, CHARTERED

11 By: /s/ Kimberly A. Stutzman
12 KIMBERLY A. STUTZMAN, ESQ.
13 Nevada State Bar No. 014085
14 2470 St. Rose Parkway, Suite 206
15 Henderson, Nevada 89074
16 *Attorneys for Respondent/Cross-Appellant*
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