

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

ERICH M. MARTIN,

S.C. No.:

81810/82517

Electronically Filed

Jan 04 2023 02:07 PM

D.C. Case No.:

D-15-509045-D

Elizabeth A. Brown

Clerk of Supreme Court

Appellant,

vs.

RAINA MARTIN,

Respondent.

**RESPONSE TO MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR REHEARING AND REQUEST FOR ISSUANCE OF
REMITTITUR**

I. INTRODUCTION

Respondent, Raina Martin, by and through her attorneys of the WILICK
LAW GROUP, and pursuant to NRAP 27(a)(3), submits this *Response to Motion
for Extension of Time to File Petition for Rehearing*.

II. FACTS

The facts of the case are well documented in all other filings and as such, only the relevant facts of the case since the published decision was issued by this Court on December 1, 2022, are included here, with the exception of reminding the Court that Mr. Clement filed a *Notice Not to File a Reply* to our *Answering Brief* in the filings with the Nevada Court of Appeals. That restricted them from responding to the Amicus Curiae Briefs that were filed.

The order that was appealed from required Erich to pay into his attorney's trust account the sums that were payable to Raina for as long as the appeal took to complete. Mr. Clement was required by that order to provide an updated balance of funds held within 5 days of any deposit of monies by Erich, but the last report we received was on August 6, 2021.

On the date the *Opinion* was issued, undersigned counsel sent an email to Mr. Clement asking about the trust account balance of Raina's benefits. Mr. Clement's response was curt and non-responsive.¹ On December 16, a second email was sent to Mr. Clement repeating the request.² No response was ever received.³

This *Response* to Erich's *Motion for Extension of Time to File Petition for Rehearing* follows.

¹ See Exhibit A to this *Response*, email from Chad Clement, Esq., to Richard Crane, Esq., dated December 1, 2022.

² See Exhibit B to this *Response*, email from Richard Crane, Esq., to Mr. Chad Clement dated December 16, 2022.

³ Raina is now forced to seek the aid of the district court in enforcing this *Order* against a prominent law firm.

III. RESPONSE TO MOTION

We normally do not object to requests for additional time made by opposing counsel, but we believe court processes are being abused here to achieve delay for its own sake.

Though Appellant's counsel tries to make a hardship claim as to why the extension should be granted, it appears to be just another ploy to delay the inevitable. Counsel has repeatedly demonstrated a desire to simply delay the case indefinitely, through non-filings, refusal to respond to correspondence, and by not providing any new evidence or precedent that would support a different result.

As noted even by the Court of Appeals, the decision by the district court in this case is one of the most articulate and well thought out decisions issued recently by a local jurist. The results of the rehearing before this Court echo

the findings and holdings of the district court and support the precedent that parties are free to contract as to their marital dissolution and that failure to appeal a decision is fatal to a later attempt to dissolve such a contract (*Res Judicata*).

Raina has waited nearly two years to be paid her share of the benefits that this Court has affirmed are rightfully hers. Failure of opposing counsel to move forward in this case—after being given not only the NRAP Rule 40 time of 18 days in which to file the Petition for Review, but an additional 14 days granted pursuant to telephonic request—should not be Raina’s problem.

Additionally, it is clear that Raina is now going to have to attempt collections of the money that the district court ordered was to be paid into Mr. Clement’s trust account, as it appears they failed in their responsibility to either

collect or account for those funds for the past two years, and now simply refuse to talk about it.

IV. REQUEST FOR RELIEF

Raina's position has been affirmed by both the district court and this Court. That decision was supported by not only a national *Amicus Curiae* (AAML and the Nevada Family Law Section) but is in line with the majority of state decisions that have entertained similar appeals. Additionally, it is in line with precedent in Nevada that has been in place for decades. Lastly, it is supported by the United States Supreme Court decision in *Howell*⁴ itself, which advised litigants and courts to take account of the possibility of a waiver of retired pay for disability compensation and provide for that contingency. That

⁴ *Howell v. Howell*, 137 S. Ct. 1400, 581 US ___, 197 L. Ed. 2d 781 (2017).

is exactly what the parties did here. There is no reason to further delay the issuance of the remittitur.

V. CONCLUSION

Based on the foregoing, Raina requests this Court to:

1. Deny Erich's *Motion for an Extension of Time to File Petition for Rehearing*.
2. Issue the remittitur in this case.
3. Grant any other relief this Court may deem appropriate.

Dated this 4th day of January, 2023.

Respectfully submitted,
WILLICK LAW GROUP

// s // *Richard L. Crane*

Marshal S. Willick, Esq.
Richard L. Crane, Esq.
Attorneys for Respondent

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of WILICK LAW GROUP and that on this 4th day of January, 2023, a document entitled *Response to Motion for Extension of Time to File Petition for Rehearing* 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.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff

//s/ Justin K. Johnson

An Employee of WILICK LAW GROUP

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EXHIBIT “A”

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Justin Johnson

Subject: FW: ACCOUNTING [IWOV-iManage.FID1122036]

From: Chad F. Clement <cclement@maclaw.com>
Sent: Thursday, December 01, 2022 10:11 AM
To: Richard Crane <richard@willicklawgroup.com>
Cc: Marshal Willick <marshal@willicklawgroup.com>
Subject: RE: ACCOUNTING [IWOV-iManage.FID1122036]

Richard,

Thanks for forwarding the email to me. Yes, Kathleen and Rachael are no longer with our firm. So, for now, please send communications directly to me. I appreciate that you sent the below email within 42 minutes of the opinion being issued. By the way, congratulations on the opinion. I obviously haven't had sufficient time to review the opinion, get my bearings on everything, formulate thoughts and opinions on it, speak to my client about it, or consult with him about intended next steps. So, I think your email is a bit hasty and premature. As soon as I am able to do those things, I'm sure we'll be in touch with one another about next steps. Thanks.

-Chad

From: Richard Crane <richard@willicklawgroup.com>
Sent: Thursday, December 1, 2022 9:53 AM
To: Chad F. Clement <cclement@maclaw.com>
Subject: FW: ACCOUNTING

Mr. Clement,

I sent the below just now and the addressees were listed as undeliverable. Please either take action requested or pass to the attorney responsible.

BR



Rick Crane, Esq.
Willick Law Group
A Domestic Relations & Family Law Firm
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Phone: (702) 438-4100, ext. 115
Fax: (702) 438-5311
Web: www.willicklawgroup.com
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From: Richard Crane

Sent: Thursday, December 01, 2022 9:48 AM

To: kwilde@maclaw.com; rtygret@maclaw.com

Cc: Marshal Willick <marshal@willicklawgroup.com>; Justin Johnson <justin@willicklawgroup.com>

Subject: ACCOUNTING

Ms. Wilde,

I am sure that you have seen the decision issued by the Nevada Supreme Court in Martin. As such, we request an accounting of the money that has been deposited in your trust account in accordance with the order from the District Court on November 3, 2020. We also will expect that the total amount owed shall be transferred to our trust account immediately upon the issuance of the remittitur.

Your cooperation in this matter is greatly appreciated.

BR



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EXHIBIT “B”

EXHIBIT “B”

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Justin Johnson

From: Richard Crane
Sent: Friday, December 16, 2022 3:12 PM
To: Chad F. Clement
Cc: Marshal Willick; Justin Johnson
Subject: FW: ACCOUNTING [IWOV-iManage.FID1122036]

Chad,

It has been two weeks and we have not heard back from you concerning the money you are to be holding in your trust account. Please provide the balance you are holding by Monday. This is being sent in accordance with EDCR 5.501.

BR



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To: Chad F. Clement <cclement@maclaw.com>
Cc: Marshal Willick <marshal@willicklawgroup.com>
Subject: RE: ACCOUNTING [IWOV-iManage.FID1122036]

Chad,

Yes, it was quick, and thank you for the congratulations. This is a very important decision for all military families.

As to the accounting, you should not have to consult with your client as this is information that is completely in your control. If the answer is that you have not been getting the monthly deposits to your trust account, you can tell me that and you can work with your client to deal with the arrearage. The accounting was required monthly, so I think you can respond to this in accordance with the Court Order. Please do so at your earliest convenience.

BR



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