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Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

YOAV EGOSI	)	
Appellant,	)	<b>No.: 83454</b>
vs.	)	
PATRICIA EGOSI, N/K/A	)	District Court Case No.: D-16-540174-
PATRICIA LEE WOODS,	)	D
Respondent.	)	

**JOINT APPENDIX**

**VOLUME 12 OF 19**

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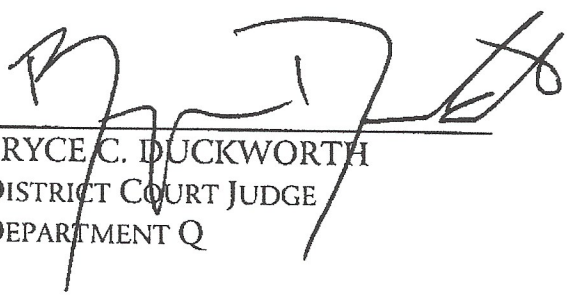
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1  
2 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that permanent  
3 alimony is not available to the parties according to the terms of the prenuptial  
4 agreement, but temporary maintenance pending trial is available.

5 DATED this 4<sup>th</sup> day of September, 2018.

6  
7  
8   
9 \_\_\_\_\_  
10 BRYCE C. DUCKWORTH  
11 DISTRICT COURT JUDGE  
12 DEPARTMENT Q  
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11 **DISTRICT COURT, FAMILY DIVISION**  
12 **CLARK COUNTY, NEVADA**

13 PATRICIA EGOSI,

14 Plaintiff,

15 vs.

16 YOAV EGOSI,

17 Defendant.

Dist. Ct. No.: D-16-540174-D

Dist. Ct. Dept.: Q

**MOTION TO CERTIFY THE  
ORDER FILED SEPTEMBER  
7, 2018 AS FINAL UNDER  
NRCF 54(b) AND MOTION TO  
STAY THESE  
PROCEEDINGS PENDING  
APPEAL**

**HEARING REQUESTED**

18 **NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS**  
19 **MOTION/COUNTERMOTION WITH THE CLERK OF THE COURT AND TO**  
20 **PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN**  
21 **TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION/COUNTERMOTION.**  
22 **FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE**  
23 **COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS**  
24 **MOTION/COUNTERMOTION MAY RESULT IN THE REQUESTED RELIEF**  
25 **BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE**  
26 **SCHEDULED HEARING DATE**

27 Comes Now Defendant, Yoav Egosi ("Joe"), through his attorney  
28 Alex Ghibaud, Esq. of the Law Office of Alex B. Ghibaud, PC, and files





1 the above titled motion requesting the following relief:

2 **RELIEF REQUESTED**

- 3 1. That this court certify the judgment entered on September  
4 7, 2018 as final;  
5 2. That this court stay these proceedings pending  
6 Defendant's appeal; and  
7 3. For such other relief as this court deems just and equitable.

8 This motion is based upon the following Memorandum of Points and  
9 Authorities, including the affidavits and documents previously filed, the  
10 papers and pleadings on file herein, and any oral argument permitted at the  
11 time of the hearing.

12 DATED this 17<sup>th</sup> day of September, 2018.

13 /s/ Alex Ghibaud

14 ALEX B. GHIBAUDO, Nevada Bar No. 10592

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**NOTICE OF MOTION**

**TO: ALL PARTIES & COUNSEL OF RECORD**

**NOTICE IS HEREBY GIVEN** that the undersigned will bring the above and foregoing Motion on for hearing on the **18<sup>th</sup>** day of **October**, 2018, at the hour of \_\_\_\_m. in Department Number Q of the above-entitled Court, or as soon thereafter as counsel may be heard.

DATED this 17<sup>th</sup> day of September, 2018.

/s/ Alex Ghibaud

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## Memorandum of Points and Authorities

### V. Introduction

On June 11, 2018 Joe filed his notice of appeal contesting this court's decision denying his motion to reconsider. However, an order denying a motion to reconsider is not substantively appealable. The challenged decision stemmed from an evidentiary hearing held on June 13 & 14, 2017 concerning the validity of the parties' prenuptial agreement. No order was ever reduced to writing or entered by this court memorializing this court's decision before Joe's motion was filed. On September 7, 2018, this court entered its order and notice of entry of the order from the June 13 & 14, 2017 evidentiary hearing.

On September 13, 2018, the Nevada Supreme Court entered an order to show cause why the pending appeal on the decision concerning the prenuptial agreement should not be dismissed. In its order, the Court stated that "our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(g) reveal...[that] it appears that the judgment or order designated in the notice of appeal is not substantively appealable." The Court refers to the initial notice of appeal referencing this court's denial of Joe's motion to reconsider.

That defect was cured when, on September 10, 2018 Joe filed an amended notice of appeal referencing this court's order and notice of entry of order filed September 7, 2018. However, an additional procedural defect may exist: the order entered September 7, 2018 may be considered an interlocutory order depriving the Court of jurisdiction to consider Joe's appeal. As such, Joe now requests that this court certify that judgment as final pursuant to NRCP 54(b).





1           **VI. Summary of facts and procedural history**

2           On September 26, 2016 Plaintiff filed her complaint for divorce. On  
3           October 16, 2016, Joe filed his answer and counter-claim. In his counter-  
4           claim, Joe alleged that the prenuptial agreement the parties entered into in  
5           Georgia prior to their marriage should be enforced. Paragraph 9 of Joe's  
6           counterclaim stated:

7           *Defendant and Plaintiff entered into a Prenuptial Agreement*  
8           *("Agreement") prior to their marriage on August 13, 2008; that*  
9           *said Agreement complies fully with the requirements of NRS*  
10          *123A and is valid and enforceable Agreement in all respects. A*  
11          *copy of said Agreement is attached hereto as Exhibit "A". The*  
12          *Court shall confirm the terms of the parties' Agreement.*

13          On October 28, 2016, Plaintiff filed her reply to Joe's answer and  
14          counterclaim. There, Plaintiff denied paragraph 9, referenced above. On  
15          January 5, 2017, Plaintiff filed her motion entitled "Plaintiff's notice of  
16          motion and motion to invalidate the prenuptial agreement, for a business  
17          valuation, for spousal support arrears, and for attorney's fees and costs."

18          In that motion, Plaintiff alleged that "The Parties' Prenuptial  
19          Agreement is Invalid Under Georgia Law and Does Not Satisfy the Scherer  
20          Test." On February 9, 2017, Joe filed his opposition to Plaintiff's motion.  
21          On June 13 & 14, 2017, an evidentiary hearing on the issue of the parties'  
22          prenuptial agreement. At the conclusion of that evidentiary hearing, this  
23          upheld the prenuptial agreement in part, but invalidated key portions of the  
24          agreement, namely that certain assets acquired after the marriage were  
25          community property, despite provisions of the agreement that dictate a  
26          different result. To reach that decision, this court took evidence, primarily in  
27          the form of live testimony from various witnesses, that revealed events  
28          which occurred prior to the parties' marriage.



On April 24, 2018, Joe filed his motion requesting that this court reconsider its decision regarding the prenuptial agreement. On May 29, 2018, that motion was denied. On July 10, 2018, this court vacated the trial on financial matters then pending in light of Joe's notice of appeal, filed June 11, 2018. On September 7, 2018, this court entered its order and notice of entry of order from the June 13 & 14, 2017 evidentiary hearing on the validity of the parties' prenuptial agreement. This motion follows.

## VII. Discussion

### a. This court should certify its order entered September 4, 2017 as final pursuant to NRCP 54(b)

#### i. Governing law – NRCP 54(b)

NRCP 54(b) provides that a judgment or order of the district court which completely removes a party or a claim from a pending action may be certified as final "only upon an express determination that there is no just reason for delay...."<sup>1</sup> Thus, the rule clearly contemplates certification of a judgment resolving a claim.<sup>2</sup>

#### ii. The district court may certify a judgment as final under NRCP 54(b) where claims for relief are not closely related

This court may certify a judgment as final where there is no just reason for delaying such certification. If there is just reason for the delay, then certification is inappropriate: there can be no finding that there is no just reason for delay if the claims asserted in an action, albeit separate, are so closely related that the Nevada Supreme Court must necessarily decide important issues pending in the district court in order to decide the issues

<sup>1</sup> *Hallicrafters Co. v. Moore*, 102 Nev. 526, 728 P.2d 441, 442 (Nev., 1986).

<sup>2</sup> *Mallin v. Farmers Ins. Exchange*, 106 Nev. 606, 797 P.2d 978, 981 (Nev., 1990).