

**IN THE COURT OF APPEALS OF THE STATE OF NEVADA**

NECHOLE GARCIA,

Appellant,

v.

EVGENY SHAPIRO,

Respondent.

Case No.: 83992-COA

Electronically Filed  
Mar 11 2022 11:27 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT’S MOTION TO DIRECT THE DISTRICT COURT TO  
TRANSMIT COURT EXHIBIT 2 TO THE COURT OF APPEALS**

COMES NOW, Appellant, Nechole Garcia, by and through her attorney, Emily McFarling, Esq. of McFarling Law Group, and hereby requests an Order to Direct the District Court to Transmit Court Exhibit 2 To The Court of Appeals. This Motion is based upon the Memorandum of Points and Authorities, Declaration of Emily McFarling, Esq., and all other papers and pleadings on file herein.

DATED this 11<sup>th</sup> day of March, 2022.

**McFARLING LAW GROUP**

/s/ Emily McFarling

Emily McFarling, Esq.  
Nevada Bar Number 8567  
6230 W. Desert Inn Road  
Las Vegas, NV 89146  
(702) 565-4335  
*Attorney for Appellant,  
Nechole Garcia*

## **MEMORANDUM OF POINTS AND AUTHORITIES**

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

At the Evidentiary Hearing, both Parties planned to offer exhibits containing OurFamilyWizard communications between the Parties. Because of the nature of OurFamilyWizard, the Court has independent access to login and review communications. Instead of admitting either party's exhibit, the District Court entered the entirety of the Parties' OurFamilyWizard communications as the Court's Exhibit 2. A copy of the exhibit as entered was not provided to either counsel or party, although both parties and counsel have direct login access to know what the exhibit contained.

### **II. LEGAL ARGUMENT**

#### **A. This Court Should Direct the District Court to Transmit the Court's Exhibit 2 (OurFamilyWizard Communications) to the Clerk of the Supreme Court**

Because Appellant has been unable to obtain a copy of the Court's Exhibit 2 as admitted, this Court should direct the District Court to transmit a copy to the Clerk of the Supreme Court for use in this appeal.

NRAP 10(b)(2) provides, "If exhibits cannot be copied to be included in the appendix, the parties may request transmittal of the original exhibits to the clerk of the Supreme Court under Rule 30(d)." NRAP 30(d) provides, "Copies of relevant

and necessary exhibits shall be clearly identified, and shall be included in the appendix as far as practicable. If the exhibits are too large or otherwise incapable of being reproduced in the appendix, the parties may file a motion requesting the court to direct the district court clerk to transmit the original exhibits. The court will not permit the transmittal of original exhibits except upon a showing that the exhibits are relevant to the issues raised on appeal, and that the court's review of the original exhibits is necessary to the determination of the issues."

Pursuant to the rules, the District Court may be directed to transmit an exhibit and should be directed to transmit Court's Exhibit 2, which consists of the entirety of the OurFamilyWizard communications between the Parties from the date they began use through the evidentiary hearing.

### **III. CONCLUSION**

Based on the foregoing, the Court should issue an order directing the District Court to transmit Court Exhibit 2 to the Court of Appeals.

DATED this 11<sup>th</sup> day of March, 2022.

#### **McFARLING LAW GROUP**

/s/ Emily McFarling

Emily McFarling, Esq.  
Nevada Bar Number 8567  
6230 W. Desert Inn Road  
Las Vegas, NV 89146  
(702) 565-4335  
*Attorney for Appellant,  
Nechole Garcia*

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**DECLARATION EMILY MCFARLING, ESQ.**

I, Emily McFarling, Esq., declare under penalty of perjury under the laws of the State of Nevada that the following is true and correct:

1. I represent the Appellant in the above-entitled case.
2. I have read the attached motion and know the contents thereof; the same is true of my own knowledge, except for those matters stated upon information and belief and, as to those matters, I believe them to be true.

I declare under penalty of perjury, under the laws of the State of Nevada and the United States (NRS 53.045 and 28 USC § 1746), that the foregoing is true and correct.

DATED this 11<sup>th</sup> day of March, 2022.

**MCFARLING LAW GROUP**

/s/ Emily McFarling

Emily McFarling, Esq.  
Nevada Bar Number 8567  
6230 W. Desert Inn Road  
Las Vegas, NV 89146  
(702) 565-4335  
*Attorney for Appellant*  
*Nechole Garcia*

## **CERTIFICATE OF SERVICE**

I, an employee of McFarling Law Group, hereby certify that on the 11<sup>th</sup> day of March, 2022, I served a true and correct copy of APPELLAN'T'S MOTION TO DIRECT THE DISTRICT COURT TO TRANSMIT COURT EXHIBIT 2 TO THE COURT OF APPEALS as follows:

☐ by United States mail in Las Vegas, Nevada, with First-Class postage prepaid and addressed as follows:

☒ via the Supreme Court's electronic filing and service system (eFlex):

Jennifer Isso, Esq

[ji@issohugheslaw.com](mailto:ji@issohugheslaw.com)

/s/ Alex Aguilar

Alex Aguilar