

1 **RPLY**

2 Elizabeth Brickfield, Esq., NSB #6236

3 9130 West Post Road, Suite 200

4 Las Vegas, Nevada 89148

5 Telephone: (702) 476-6440

6 Facsimile: (702) 476-6442

7 ebrickfield@dlnevadalaw.com

8 *Guardian Ad Litem for Kathleen June Jones*

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Elizabeth A. Brown
Clerk of Supreme Court

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

10 IN THE MATTER OF THE
11 GUARDIANSHIP OF THE PERSON
12 AND ESTATE OF KATHLEEN JUNE
13 JONES, AN ADULT PROTECTED
14 PERSON.

Supreme Court No.:
84655

District Court Case No.:
G-19-052263-A

15 KATHLEEN JUNE JONES,
16 Appellant,

17 vs.

18 ELIZABETH BRICKFIELD,
19 GUARDIAN AD LITEM FOR
20 KATHLEEN JUNE JONES; ROBYN
21 FRIEDMAN; DONNA SIMMONS,

22 Respondents.

23 **REPLY TO APPELLANT'S OPPOSITION TO MOTION FOR EXTENSION OF**
24 **TIME TO FILE THE ANSWERING BRIEF ON APPEAL (First Request)**

25
26 Respondent, ELIZABETH BRICKFIELD, Guardian Ad Litem to KATHLEEN
27 JUNE JONES hereby submits this *Reply to Appellant's Opposition to the Motion for*
28 *Extension of Time to File the Answering Brief on Appeal.*

1 The Respondent's Answering Brief is due by October 15, 2022. If granted a brief,
2 sixty (60) day extension from the date of the Answering brief is due, the Answering Brief
3 will be due by December 13, 2022. The Respondent's first motion for extension to file the
4 Answering Brief was filed September 28, 2022, less than two weeks after the Appellant's
5 Opening Brief was filed on September 15, 2022. Appellant previously moved for and
6 received an extension for filing the Opening Brief on August 26, 2022, just days before the
7 Opening Brief was due on September 1, 2022. This Reply is made in good faith and not for
8 purposes of delay.
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12 I. ARGUMENT

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14 The Appellant argues that the Respondent should have filed the Motion for
15 Appointment of Counsel for the Guardian Ad Litem sooner. Respondent requested that the
16 Court appoint her Counsel to adequately respond to the multiple appeals filed in opposition
17 to the district court's orders appointing Ms. Brickfield as Guardian Ad Litem and ordering
18 her fees, rate, and schedule. The Court first appointed Ms. Brickfield as Guardian Ad Litem
19 on February 16, 2021 and Ms. Brickfield filed a *Notice of Intent to Seek Fees and Costs*
20 *from the Guardianship Estate* on February 22, 2021. Counsel for the Protected Person filed
21 then began what would become multiple objections to Ms. Brickfield's requests. Counsel
22 for the Protected Person filed a *Notice of Objection to Guardian Ad Litem's Written Notice*
23 *of Intention to Seek Attorney's Fees and Costs from Guardianship Estate Pursuant to NRS*
24 *159.344(3)* on February 26, 2021. Ms. Brickfield responded to the objection on March 9,
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1 2021, and submitted her *Petition For Approval of Guardian Ad Litem's Fees and Costs*,
2 which LACSN again objected to on November 18, 2021 in the *Objection to Petition for*
3 *Approval of Guardian Ad Litem's Fees and Costs*. The Court heard Ms. Brickfield's Petition
4 on December 9, 2021 and granted it at the hearing. The Court subsequently Ordered
5 payment of Costs and Fees to the Guardian Ad Litem in its *Findings of Fact, Conclusions*
6 *of Law, and Order Granting Guardian Ad Litem Fees* on March 18, 2022 and its *Notice of*
7 *Entry of Order* filed March 31, 2022. Unsatisfied with the Court's repeated approval and
8 ordering of the Guardian Ad Litem's fees and costs, Counsel for the Appellant then began
9 filing appeals in the Nevada Supreme Court, first filing on April 28, 2022, their *Notice of*
10 *Appeal of the Findings of Fact, Conclusions of Law, and Order Granting Guardian Ad*
11 *Litem Fees*. Appellant then filed their *Partial Objection to Petition To Remove Legal Aid*
12 *Center Of Southern Nevada; Or, In The Alternative, To Limit The Scope Of Court Appointed*
13 *Counsel; Petition To Reappoint The Guardian Ad Litem; Petition For Instructions*
14 *Concerning Using Funds To Pay For Legal Services* on August 15, 2022. Appellant
15 continued to oppose the Court ordered Guardian Ad Litem Fees and Costs in the *Opposition*
16 *to Motion for Appointment of Counsel for Guardian Ad Litem* filed September 1, 2022.

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18 Furthermore, it should be noted that Guardians Robyn Friedman and Donna Simmons
19 did not object and further supported the Guardian Ad Litem's request for fees, as assessed
20 by the Court in the *Findings of Fact, Conclusions of Law, and Order Granting Guardian*
21 *Ad Litem Fees* filed March 18, 2022, nor did they oppose such in the *Reply To Partial*

1 *Objection To Petition To Remove Legal Aid Center Of Southern Nevada; Or In The*
2 *Alternative, To Limit The Scope Of Court Appointed Counsel; Petition To Reappoint The*
3 *Guardian Ad Litem; Petition For Instructions Concerning Using Funds To Pay For Legal*
4 *Services* filed September 2, 2022; or the *Motion for Extension of Time to File the Answering*
5 *Brief on Appeal (First Request)* filed September 28, 2022. Counsel for the Guardian agreed
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7 to Guardian Ad Litem's request for extension of time via email correspondence prior to the
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9 filing of the motion for extension of time, in an effort on the part of the Guardian Ad Litem
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11 to attempt to resolve this matter quickly and amicably.

12 The Appellant inaccurately argues that Respondent's request for extension of time
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14 resulted from Respondent's own delay in filing the Motion for Extension of Time on
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16 September 28, 2022, rather than sooner. However, Appellant did not file their Opening Brief
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18 until September 15, 2022, nearly five (5) months after the appeal was initiated by Appellant
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20 on April 28, 2022. Appellant's Opening Brief was due September 1, 2022, but Appellant
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22 waited until the deadline to file the Opening Brief approached before requesting an
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24 extension of time from this very same court on August 26, 2022, which was granted.
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26 Appellant argued that it needed more time to file the opening brief, even though Appellant
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28 initiated this appeal on April 28, 2022. Appellant was given until September 15, 2022 to
file the Opening Brief. It is unreasonable and nearly impossible to expect Respondent to
have filed the Request for Extension of Time sooner, as Appellant only just filed their
Opening Brief on September 15, 2022, and the issues raised in the appeal could not have

1 been addressed before that. It is absolutely unreasonable to expect Respondent to anticipate
2 Appellant's potential arguments and file motions addressing issues ultimately raised in the
3 Opening Brief, before the Opening Brief was ever filed.
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5 Lastly, Appellant argues that Respondent "should have filed her motion with the
6 district court months ago when the appeal first commenced" if Respondent believed she
7 needed an attorney to represent her on this appeal to the Court's orders granting the
8 Guardian Ad Litem's fees and costs. *See* page three (3) of the *Appellant's Opposition to*
9 *Motion for Extension of Time to File the Answering Brief on Appeal (First Request)*. As
10 this Court is already well aware, this appeal arises from Appellant's own oppositions to the
11 Court's Order approving fees and costs to the Guardian Ad Litem. Again, without receiving
12 the Opening Brief and having a chance to review Appellant's arguments, it is unreasonable
13 to expect the Respondent to file motions related to issues brought in the Opening Brief
14 before it was filed. Additionally, the Respondent did attempt to litigate the Appellant's
15 oppositions to her fees and costs as Guardian Ad Litem herself, but it soon became clear
16 that the Appellant would continue to appeal the Court's orders, further complicating the
17 case. Not only is the Respondent tasked by this court to fulfill her duties as Guardian Ad
18 Litem, but also due to the Appellant's repeated filings in both the district court and Nevada
19 Supreme Court, Respondent must now defend herself on issues already ordered by the court,
20 necessitating legal representation for her in her capacity as Guardian Ad Litem. Appellant
21 further contends that if the Guardian Ad Litem felt the need to defend herself from
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1 Appellant's appeals to her fees, the Guardian Ad Litem should have simply hired her own
2 private attorney at her own expense. While Appellant has reiterated time and time again that
3 the Guardian Ad Litem is not a party in this case, Appellant argues that the Guardian Ad
4 Litem should hire her own attorney if she believes she needs counsel to represent her in the
5 appeal, seemingly as if she was a party in this case.
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8 As the record demonstrates, this case is highly contentious and detailed on the issues,
9 including the appropriateness of the appeal. The facts surrounding the case were particular
10 and distinct, many of first impression. The Guardian Ad Litem continues to work on the
11 Answering Brief. The \$5,713.50 awarded by the court for Guardian Ad Litem's costs and
12 fees has not been paid to date and there is no harm to the Protected Person in any further
13 delay in payment. There is no harm to the Protected Person or her Estate in having this
14 request for a continuance granted. Respondent requested the continuance from Counsel for
15 the Protected Person and Counsel for the Guardian, and while Counsel for the Guardian
16 agreed to the extension, Counsel for the Protected Person would not.
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21 At the September 22, 2022 hearing, Family Court Judge Linda Marquis heard
22 argument on Respondent's Motion that Counsel be Appointed to Represent her in the
23 proceedings. Judge Marquis stated in court that she would be issuing her written decision
24 within two to three weeks, which may very well be issued after the date the Answering Brief
25 is to be filed. The Answering Brief is complex and requires attention to detail, and will
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1 make arguments based on and effected by Judge Marquis decision, which was not revealed
2 during the September 22 hearing.
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4 Additionally, Respondent is a candidate for the legislature in this upcoming election.
5 Respondent is running for the open seat for Assembly in Assembly District 23. The election
6 is being held on November 8, 2022, with early voting beginning on October 22, 2022. It is
7 a hardship to Respondent and her law firm to undertake an appeal during the critical months
8 of September and October. Appellant argues that Respondent's candidacy is a professional
9 obligation that does not warrant an extension of time to file the Answering brief as held in
10 *Varnum v. Grady*, 528 P.2d 1027, 1974 Nev. LEXIS 402, 91 A.L.R.3d 657. However, in
11 *Varnum*, the Appellant had repeatedly failed to comply with court rules, such as failing to
12 make a timely request for extension of time under NRAP 11(d), other "dilatory conduct" as
13 well as failure to demonstrate any legal justification for such conduct, and that due to the
14 Appellant's involvement "in a subsequent trial and was working on other briefs, counsel
15 should be excused for not complying with the rules", and the court agreed that such conduct
16 was inexcusable. *Varnum v. Grady*, 528 P.2d 1027, 1974 Nev. LEXIS 402, 91 A.L.R.3d
17 657 at 1029. This is not the case here. In this case, the Respondent is making a timely request
18 under NRAP 31(b)(3), in full compliance with the rules, and is simply requesting an
19 extension of time, just like Appellant requested on August 26, 2022 in filing the Opening
20 Brief.
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1 Respondent has no counsel in this matter and at this point in time is compelled to
2 work on the Answering Brief without assistance during the height of campaign season. The
3 numerous appeals and the complexity of this case require extensive time to conduct research
4 on very complex law involving appointment of and payment of fees to a Guardian Ad Litem
5 and appointment of counsel to a Guardian Ad Litem and payment of fees due to counsel to
6 a Guardian Ad Litem, and review and identification of the relevant portions of the
7 transcripts and pleadings in the District Court, and submissions by the Appellant, all of
8 which has taken longer than initially anticipated. Additionally, the Court's decision on the
9 September 22, 2022 hearing has not yet been issued.
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14 II. CONCLUSION

15 Given all of the above, Respondent reiterates her request for a brief, sixty (60) day
16 extension, until December 13, 2022.
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18 This motion is being submitted in good faith, and without the intent to cause undue
19 delay in the appeal.
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21 Dated this 4 day of October, 2022.

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Elizabeth Brickfield, Esq., NSB #6236
24 9130 West Post Road, Suite 200
Las Vegas, Nevada 89148
25 Telephone: (702) 476-6440
26 Facsimile: (702) 476-6442
ebrickfield@dlnevalaw.com
27 *Guardian Ad Litem for Kathleen June Jones*
28


CERTIFICATE OF SERVICE

I certify that on the 4th day of October, 2022, I served a copy of this REPLY TO APPELLANT'S MOTION FOR EXTENSION OF TIME TO FILE THE ANSWERING BRIEF ON APPEAL (FIRST Request) upon all counsel of record by the Nevada Supreme Court's electronic filing system:

Elizabeth Mikesell, Esq. (NSB #08034)
Scott Cardenas, Esq. (NSB #14851)
Legal Aid Center of Southern Nevada
725 East Charleston Blvd.,
Las Vegas, Nevada 89104
Telephone: (702) 386-1533
emikesell@lacsns.org
Attorney for Appellant, Kathleen June Jones

John P. Michaelson, Esq. (NSB #7822)
Michaelson Law
1746 W. Horizon Ridge Parkway
Henderson, Nevada 89012
Telephone: (702) 731-2333
john@michaelsonlaw.com
*Attorney for Respondents,
Robyn Friedman and Donna Simmons*

Jeffrey R. Sylvester, Esq. (NSB #4396)
Sylvester & Polednak, Ltd.
1731 Village Center Circle
Las Vegas, Nevada 89134
Telephone: (702) 952-5200
jeff@SylvesterPolednak.com


An Employee of Dawson & Lordahl PLLC