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Electronically Filed  
Aug 02 2022 12:19 a.m.  
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Clerk of Supreme Court

9 *Attorneys for Appellant Tara Kellogg*

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

11 TARA KELLOGG, A/K/A TARA  
12 KELLOGG-GHIBAUDO,

13 Appellant,

14 vs.

15 ALEX B. GHIBAUDO,

16 Respondent.

No. 84778

**Appellant's Motion for Leave to  
Amend Docketing Statement**

17 Appellant Tara Kellogg a/k/a Tara Kellogg-Ghibauda files her Motion for  
18 Leave to Amend Docketing Statement ("Motion") as follows. This Motion is  
19 based upon the papers and pleadings on file herein as well as any oral  
20 argument permitted by the Parties and/or their Counsel at the time of  
21 hearing.

22 **Points and Authorities**

23 **Introduction and Statement of Facts**

24 The instant action arises from a Complaint for Divorce filed by Appellant  
25 in the Clark County District Court on October 1, 2015.<sup>1</sup> The Parties had one

26 <sup>1</sup> Docketing Statement ("Docketing Statement"), filed on 7-7-2022, on  
27 file herein in Nevada Supreme Court Case No. 84778.  
28

1 Minor Child at the time of filing for divorce, but there are no now Minor  
2 Children. The District Court entered the Decree of Divorce on February 1,  
3 2017.<sup>2</sup> The Decree of Divorce granted the Parties the legal status of divorce  
4 and set Husband's spousal support obligation. On November 10, 2020, the  
5 Court entered Findings of Fact, Conclusions of Law and Judgment ("11-10-  
6 2020 FFCL") adjudicating a number of post-decree of divorce issues. This  
7 matter was appealed by both Parties in Nevada Court of Appeals Case No.  
8 82248-COA and is pending a Petition for Review that will be filed on or  
9 before August 7, 2022 with the Nevada Supreme Court pursuant to  
10 (including but not limited to) Nevada Supreme Court Internal Operating  
11 Procedures Rule 13A.

12 Prior to 11-10-2020 FFCL, the Parties entered into a Stipulated  
13 Confidentiality Agreement and Protective Order ("Protective Order").<sup>3</sup> The  
14 Protective Order in no way shape or form contemplated hearing videos or  
15 matters outside of discovery and was entered into "to facilitate the  
16 disclosure of information..." as "this action involves or may involve the  
17 disclosure of documents, and information potentially entitled to protection  
18 under N.R.C.P. Rule 16.2 and Rule 26(c)".<sup>4</sup> The Protective Order was meant  
19 for the purpose of discovery and not to be used as a sword post-litigation to  
20 silence public access to the Courts or first amendment rights. Any  
21 information about prior alleged indiscretions as they pertain to prostitution,  
22 drugs, alcohol or otherwise are already part of the public record by a  
23 published interview initiated by Respondent, with statements directly from

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24 <sup>2</sup> Docketing Statement.

25 <sup>3</sup> Docketing Statement.

26 <sup>4</sup> NRCP 16.2 and NRCP 26© are discovery rules.

1 respondent, and voluntarily interviewed for a major media outlet in Clark  
2 County, Nevada.<sup>5</sup>

3 The Clark County District Court held an evidentiary hearing on  
4 contempt issues as they pertain to Respondent's failure to pay family  
5 support on February 15, 2022. In retaliation, Respondent caused a hearing  
6 to be held on Respondent's claims of hearing video disclosures on March 21,  
7 2022. On April 14, 2022, the District Court entered the Findings of Facts,  
8 Conclusions of Law, and Order ("4-14-2022 FFCL") dealing with hearing  
9 video posting issues. This 4-14-2022 FFCL marked a rapid departure from  
10 any rights and obligations ever contemplated by the Parties in the  
11 Protective Order.<sup>6</sup>

12 Appellant filed a timely appeal of the 4-14-2022 FFCL on May 13, 2022.<sup>7</sup>

13 On July 7, 2022, Appellant filed the Docketing Statement in this matter.  
14 The Docketing Statement is quite thorough and carefully put together.  
15 Judicial economy, due diligence and handling appellate matters on the  
16 merits warrants permitting Appellant to file an Amended Docketing  
17 Statement in this matter that addresses appellate grounds for special orders  
18 under NRAP 3A(b)(8). Out of respect for the Court and in compliance with  
19 NRAP 14, Appellant respectfully requests leave of the Court in lieu of  
20 merely filing an Amended Docketing Statement. The basis for such grounds  
21 is set forth in the Docketing Statement, but an Amended Docketing  
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23  
24 <sup>5</sup> [https://www.reviewjournal.com/local/local-las-vegas/las-vegas-lawyer-](https://www.reviewjournal.com/local/local-las-vegas/las-vegas-lawyer-seeking-redemption-comes-clean-about-troubled-past/)  
25 [seeking-redemption-comes-clean-about-troubled-past/](https://www.reviewjournal.com/local/local-las-vegas/las-vegas-lawyer-seeking-redemption-comes-clean-about-troubled-past/)

26 <sup>6</sup> Docketing Statement.

27 <sup>7</sup> Docketing Statement.

1 Statement would help Court appreciate the matters at issue and administer  
2 the case more efficiently.

3 The 4-14-2022 FFCL constitutes an appealable order under NRAP 3A(8)  
4 as a special order entered after final judgment. Appellant is not attacking  
5 the Protective Order after the fact but asserts that the 4-14-2022 FFCL is  
6 an “order affecting the rights of some party to the action, growing out of a  
7 judgment previously entered.” Nobody disputes that the Protective Order  
8 was previously entered. Appellant’s claim is that the Protective Order  
9 afforded certain rights and responsibilities that did not include video  
10 posting and now the District Court has expanded those responsibilities  
11 beyond what was in the original order. While the Docketing Statement was  
12 carefully prepared and discusses the appellate issues with some  
13 sophistication and clarity, Appellant has filed a separate Motion for leave of  
14 the Court to file an Amended Docketing Statement to properly reflect NRAP  
15 3A(b)(8) and keep a clean record.

### 16 Legal Analysis

#### 17 A. The 4-14-2022 FFCL is an Appealable Determination Pursuant 18 to NRAP 3A((b)(8) as a Special Order

19 NRAP 3A(b)(8) provides for the appealability of a “special order entered  
20 after final judgment...”<sup>8</sup> Where a post-judgment Order substantially  
21 changes what was agreed to, ordered, or otherwise bargained for that post-  
22 judgment Order is most certainly appealable.<sup>9</sup> In the instant matter, the  
23 Parties bargained for a Protective Order that pertained to discovery and the  
24 Protective Order cited discovery rules e.g. NRCP 16.2 and NRCP 26. The

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25  
26 <sup>8</sup> NRAP 3A(b)(8).

27 <sup>9</sup> *Gumni v. Mainor*, 118 Nev. 912, 920, 59 P.3d 1220 (Nev. 2002).

Protective Order never contemplated nor indicates hearing videos. Now Respondent seeks to use the Protective Order as a shield outside of litigation for any future matters. The modification of the Protective Order made by the District Court in the 4-14-2022 FFCL is akin to modifying the terms of a Decree of Divorce property distribution after six months.<sup>10</sup> The concept of a Special Order is discussed somewhat in depth in the Docketing Statement, but Appellant has filed a separate Motion for Leave to Amend Docketing Statement to clarify the matter and assist the Court with judicial economy.

**B. Pursuant to NRAP 14 and NRAP 27, Appellant is Requesting Leave of the Court to File an Amended Docketing Statement**

NRAP 14 provides for the filing of a Docketing Statement. Appellant was diligent and prepare a thorough docketing statement that contained a detailed but concise discussion of the issues in somewhat of a procedurally complicated appeal. The interests of justice, judicial economy, and the facilitation of a clean briefing and appellate process would be served by permitting Appellant leave of the Court to file an Amended Docketing Statement discussing appellate grounds under NRAP 3A(b)(8) for special orders in slightly more depth. There is no prejudice to Respondent as they would be free under the rules to file an Amended Response to the Amended Docketing Statement or take other appropriate action as within the rules.

**Conclusion**

Appellant respectfully requests that the Court grant the following relief:

1. Enter an Order allowing Appellant leave to file an Amended Docketing Statement.

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<sup>10</sup> See e.g. *Sorenson v. Radel-Sorenson*, 134 Nev. 1013 (Nev. App. 2018) (citing: *Kramer v. Kramer*, 96 Nev. 759, 762, 616 P.2d 395 (Nev. 1980)).

1       2. For other such relief as the Court deems fair and equitable under the  
2       circumstances.

3       Dated this 2nd day of August 2022

4       Schwab Law Firm PLLC

5       /s/ *Evan Schwab*

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Lansford W. Levitt, Settlement Judge  
Schwab Law Firm PLLC  
JK Nelson Law LLC  
Alex B. Ghibauda, P.C.

An Employee of Schwab Law Firm PLLC