

IN THE SUPREME COURT OF THE STATE OF NEVADA

KYMBERLIE JOY HURD,

Appellant,

vs.

MARIO OIPARI,

Respondent.

Supreme Court Case No. 85537

District Court Case No. D-21-622669-C

**MOTION FOR AN EXTENSION OF TIME TO FILE RESPONDENT'S
FAST TRACK RESPONSE**

COMES NOW Respondent, MARIO OIPARI (hereinafter "Mario"), by and through his attorneys of record, Matthew H. Friedman, Esq., and Christopher B. Phillips, Esq. of the law firm Ford & Friedman and respectfully moves this Court for an extension time of fourteen (14) days for filing Mario's Fast Track Response.

This Motion is made pursuant to NRAP 3E(f)(3) and is based on the following Points and Authorities and the Declaration of Counsel included herein.

PROCEDURAL HISTORY

This appeal is the third appellate proceeding initiated in this Court by Appellant, KYMBERLIE JOY HURD (hereinafter "Kymberlie") following the Eighth Judicial District Court's (hereinafter the "district court") entry of various child custody orders. Kymberlie's first appeal was dismissed due to a lack of jurisdiction to review the district court's temporary custody orders. See *Order Dismissing Appeal*, filed June 10, 2022, Case No. 84784.

Thereafter, Kymberlie initiated a second case in this Court by filing a Petition for a Writ of Mandamus and Writ of Prohibition, which was also denied. See *Order Denying Petition for a Writ of Prohibition or Mandamus*, filed September 19, 2022, Case No. 85215.

At present day, Kymberlie is appealing the *Findings of Fact, Conclusions of Law, and Order from the Evidentiary Hearing* filed in the district court on October 17, 2022.

Specifically, the current appeal at bar was docketed in this Court on October 21, 2022. In turn, this Court issued *Instructions/Notice Regarding Deadlines* instructing Kymberlie to file her Fast Track Statement within forty (40) days of October 21, 2022. Consequently, Kymberlie's Fast Track Statement was originally due on November 30, 2022.

On November 30, 2022, Kymberlie requested, and this Court granted, a seven (7) day extension of time for Kymberlie to file her Fast Track Statement. See *Order Granting Telephonic Extension* filed December 1, 2022. See also NRAP 3E(f)(2). Pursuant this Court's December 1, 2022 Order, Kymberlie's deadline to file her Fast Track Statement was extended to December 7, 2022.

However, Kymberlie waited until December 9, 2022 to file her Fast Track Statement. On this point, NRAP 25(a)(2)(b)(ii) provides that a document is deemed timely filed if it is mailed to the Clerk of Court by first-class mail on or before the date it is due. Here, the service copy of Kymberlie's Fast Track Statement arrived at

the undersigned counsel's office in an envelope bearing pre-paid postage dated December 9, 2022. This is also consistent with the Clerk of the Court having stamped Kymberlie's Fast Track Statement "Received" and "Filed" on December 9, 2022. Thus, it appears that Kymberlie was untimely in filing her Fast Track Statement, even though she was afforded an extension of time for filing the same.

Additionally, Kymberlie's Fast Track Statement appears to be significantly longer than what is allowed by the Nevada Rules of Appellate Procedure. Specifically, NRAP 3E(d)(1) limits a Fast Track Statement to sixteen (16) pages or 7,267 words if computed by type-volume limitation. See NRAP 3E(e)(2). Here, Kymberlie's Fast Track Statement is twenty-six (26) pages in length, and it does not include a Certificate of Compliance setting forth any type-volume limitation as required by NRAP 3E(e)(3).

Nonetheless, Kymberlie's voluminous Fast Track Statement was filed and served¹ on December 9, 2022; and for the reasons that follow, Mario respectfully requests an extension of fourteen (14) days to file his response to the same.

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¹ Of note here is that the Certificate of Service attached to Kymberlie's Fast Track Statement indicates that the same was mailed on December 7, 2022. However, the pre-paid postage stamp affixed to the envelope is dated December 9, 2022.

ARGUMENT IN SUPPORT OF REQUESTED EXTENSION

NRAP Rule 3E(d)(2) requires a Fast Track Response to be filed within twenty-one (21) days from the date a Fast Track Statement is served. Here, the mailing date of Kymberlie's Fast Track Statement – December 9, 2022 – constitutes the date of service. As such, Mario's Fast Track Response is currently due on December 30, 2022.

However, the undersigned counsel's office will be closed on December 30, 2022 in observance of the New Year holiday weekend. Additionally, the undersigned counsel will be out of the jurisdiction in the days leading up to the current deadline, as both of Mario's attorneys of record have preexisting travel arrangements that are scheduled to occur during the upcoming Christmas and New Year holidays. See *Notice of Unavailability of Counsel* filed on December 16, 2022.

Additionally, Mario and the undersigned counsel anticipate needing additional time to review and analyze Kymberlie's voluminous filing in order to prepare a concise and comprehensive response to the same, as Kymberlie's Fast Track Statement is significantly longer than what is typically permitted by the Nevada Rules of Appellate Procedure. To that end, it also appears that Kymberlie is – at least in part – using the current appeal as an attempt to relitigate a series of prior, temporary orders, even though this Court has no appellate jurisdiction to review temporary orders. Simply stated, it will take considerable time and effort to prepare

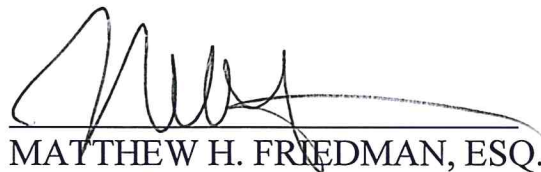
a narrowly tailored response to Kymberlie's otherwise improper Fast Track Statement.

Furthermore, it cannot be overlooked that Kymberlie took 49 days to file her Fast Track Statement,² and when she finally submitted the same, it was late and ten (10) single spaced pages over the page limit allowed by this Court. Thus, it follows that Mario's requested extension – which will result in him having a total of 35 days to file his Fast Track Response – is reasonable given the circumstances. As such, Mario requests that the deadline for him to file his Fast Track Response be extended up to and including Friday, January 13, 2023.

Finally, Mario notes that he has not requested any prior extensions of time to file his Fast Track Response, and the requested extension is made in good faith and not for the purpose of unnecessary delay.

Respectfully submitted this 21 day of December, 2022.

FORD & FRIEDMAN



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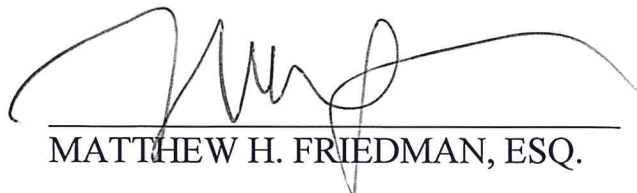
² Even though Kymberlie was initially ordered to file her Fast Track Statement within forty (40) days of October 21, 2022, the same was not mailed until December 9, 2022. October 21, 2022 – December 9, 2022 totals forty-nine (49) days.

DECLARATION OF COUNSEL FOR RESPONDENT

MATTHEW H. FRIEDMAN, ESQ., being duly sworn under the penalties of perjury of the state of Nevada, deposes and says:

1. That I am a member in good standing of the State Bar of Nevada;
2. That I am counsel for Respondent, Mario Oipari, in the above-entitled matter and I submit this Declaration in Support of the foregoing Motion for an Extension of Time to File Respondent's Fast Track Response;
3. That I have personal knowledge of the facts contained herein and the same are true and correct to the best of my knowledge, information, and belief, save as to those matters stated upon information and belief, and as to those matters, I believe them to be true;
4. That I believe the facts contained herein above demonstrate compelling circumstances for granting the short extension of time being requested to prepare and file Respondent's Fast Track Response; and
5. That this request for an extension of time is brought in good faith and not to delay the proceedings herein.

Dated this 21 day of December, 2022.



MATTHEW H. FRIEDMAN, ESQ.

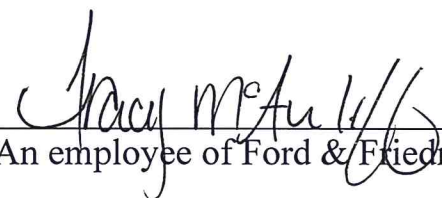
CERTIFICATE OF SERVICE

I the undersigned hereby certify that on the 21 day of December, 2022, I served the above and foregoing *Motion for an Extension of Time to File Respondent's Fast Track Response* by depositing a true and correct copy of the same in the U.S. Mail, postage prepared, addressed to Appellant as follows:

Kymberlie Joy Hurd
210 Red Coral Drive
Henderson, NV 89002

I further certify that a courtesy copy of the foregoing was also served upon Appellant via electronic mail addressed as follows:

Kymberlie Joy Hurd
KymberlieJoy@gmail.com


An employee of Ford & Friedman