

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

IN THE MATTER OF THE ESTATE  
OF THOMAS JOSEPH HARRIS,  
DECEASED,

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Supreme Court Case No.  
86096 Electronically Filed  
Aug 24 2023 03:40 PM  
Elizabeth A. Brown  
District Court Clerk of Supreme Court  
2022-PB-00119

TODD ROBBEN,

Appellant,

vs.

THE ESTATE OF THOMAS JOSEPH  
HARRIS, AND THOMAS J. HARRIS  
TRUST,

Respondents.

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**NOTICE OF INTENT TO OPPOSE MOTION FOR SANCTIONS**

**IF ORDERED**

**I. INTRODUCTION AND RELEVANT PROCEDURAL**

**BACKGROUND**

The Respondents, Estate of Thomas J. Harris, by and through its Personal Representative, the Honorable Tara M. Flanagan (the "Estate"), and the Thomas J. Harris Trust, by and through its Successor Trustee, Ms. Flanagan, (the "Trust") jointly present this Notice regarding Todd Robben's Second Motion for Sanctions filed on August 4, 2023.

Specifically, on August 4, 2023 Mr. Robben filed 1) Appellant's Request for Leave to File a 46 Page Request for Sanctions Against Respondent and the Facts Alone are More than the Rules Allow For, as well as 2) Appellant's Verified Request for Sanctions Against Respondent and Respondent's Counsel for Abusive Litigation Tactics, Perjury, Fraud, Fraud upon the court, Judicial Deception, and Delay Tactics (the documents are collectively referred to hereafter as the "First Motion for Sanctions"). After the First Motion for Sanctions was filed, on August 4, 2023, the office of Counsel for the Respondents contacted the clerk of the Court to determine if any opposition to the First Motion for Sanctions was required at that time, as Counsel did not want to incur any unnecessary fees and costs on behalf of the Respondents. The office of the clerk instructed no response or opposition to be filed, as the Motion for Sanctions was under review, and if any response or opposition was requested the Respondents would be provided with an adequate time frame by the Court to file the same. Shortly thereafter, on August 11, 2023, the Court entered its Order Denying Motion, wherein the Court denied Appellant's First Motion for Sanctions and struck it from the docket. Notably, the First Motion for Sanctions was stricken, in part, due to its failure to comply with the procedural rules regarding page limits

for the filing of motions before this Court. *See Court Order* dated August 11, 2023.

Thereafter, on August 16, 2023, Mr. Robben re-filed Appellant's First Amended Verified Request for Sanctions Against Respondent and Counsel Fred M. Wallace (the "Second Motion for Sanctions"). Appellant's Second Motion for Sanctions largely repeats the presentation of his stricken First Motion for Sanctions, but seeks to instead use an expansive and improper affidavit to circumvent the page limitations established by the procedural rules of this Court. Upon Appellant's filing his Second Motion for Sanctions, the undersigned contacted the clerk's office on August 21, 2023 to inquire if the Court desired an opposition to the Second Motion for Sanctions or, alternatively, if the Second Motion for Sanctions was under review as was the case with Mr. Robben's First Motion for Sanctions where no opposition was to be filed. Counsel made this inquiry with the intent and objective of reducing attorney's fees and litigation expense, as well as facilitating judicial economy, by not filing an extensive opposition to a procedurally defective motion. The Clerk of the Court's office again informed Counsel the Second Motion for Sanctions was under review by the Court, no response or objection was requested, and that after the Court's review – if the Second Motion for

Sanctions was not disposed of by the Court – the Respondents and their Counsel would be instructed by the Court to file a response or opposition to the Second Motion for Sanctions and the Court would provide a time frame to oppose said motion.

Upon receiving this direction, Counsel confirmed during the same call, on August 21, 2023, that upon the Court completing its review of the Second Motion to Strike, the Second Motion for Sanctions would not be granted without Counsel being provided a time frame by the Court to respond if the Motion was not summarily disposed of by the Court.

Most recently, on August 24, 2023, Counsel received an email from the Appellant attaching a copy of a Reply Brief in support of his Second Motion for Sanctions wherein Appellant argues the Court should grant the Second Motion for Sanctions based on Respondents' failure to oppose the Second Motion. In light of receiving this email, Counsel again contacted the clerk's office to inquire whether the Court desired a substantive opposition to the Second Motion for Sanctions, or alternatively, whether the Court intended to summarily dispose of the Motion on procedural grounds as was the case with the defective First Motion for Sanctions. During said call, the clerk of the Court reiterated no opposition was due or required at this time, that the Second Motion

for Sanctions was under review by the Court, and the Court would not grant the Second Motion for Sanctions without the Respondents and Counsel being provided leave to file an opposition and/or other response.

## **II. NOTICE**

Given the aforementioned procedural history, and the convoluted filing history of this matter, the Respondents, by and through Counsel, present this confirming notice to the Court stating it opposes the Second Motion for Sanctions and requests leave to file a substantive opposition to the Second Motion in the event the Court does not deny the Motion on procedural grounds.

## **III. RELATED POINTS**

Counsel does not present this notice to question, doubt, or undermine the clerk's office in any way. To the contrary, in the face of this unique case and improper filings, the Respondents are attempting to avoid incurring any unnecessary fees, and in doing so appreciate the direction from the clerk's office – who the undersigned and the Respondents hold in the highest regard.

Finally, while it presumably goes without saying, every aspect of the Second Motion for Sanctions is denied and opposed, as will be fully set forth if requested by the Court.

#### IV. CONCLUSION

Having received direction from the Clerk of the Court's office, the Respondents merely present this notice of their intent to respond or otherwise oppose the Second Motion for Sanctions if the Court does not sua sponte deny the Motion upon procedural grounds. To that extent, the Court may deem this Notice a request for an extension of time to respond to or otherwise oppose the Second Motion for Sanctions if the Second Motion is not disposed of upon completion of the Court's review, or, alternatively, a motion for clarification as to the Court's instruction for filing an opposition to the Second Motion for Sanctions upon completion of the Court's review.

DATED this 24<sup>th</sup> day of August 2023.

By: /s/ F. McClure Wallace.  
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*Personal Representative for the*  
*Estate of Thomas J. Harris, and*  
*as Successor Trustee of the*  
*Thomas J. Harris Trust*

## **CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am an employee of *WALLACE & MILLSAP* that I am over the age of eighteen (18) years, and that I am not a party to, nor interested in this action. On this date, I caused to be served a true and correct copy of the foregoing document on all parties to this action by placing an original or true copy thereof in a sealed envelope placed for collection and mailing by the United States Postal Service, at Reno, Nevada postage paid, following the ordinary course of business practices as follows:

Todd Robben  
P.O. Box 4251  
Sonora, California 95370

DATED this 24<sup>th</sup> day of August 2023.

By: /s/ Caroline Carter.

Employee of Wallace & Millsap