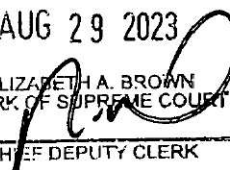


Todd Robben
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FILED

AUG 29 2023

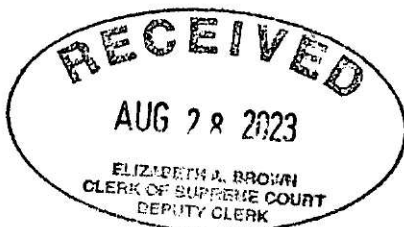
ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

IN THE SUPREME COURT OF THE STATE OF NEVADA

TODD ROBBEN,)	
)	Supreme Court Case No.: 86096
Appellant,)	
)	
vs.)	
)	
THE ESTATE OF THOMAS)	
JOSEPH HARRIS; AND)	
THOMAS J. HARRIS TRUST,)	
Respondents.)	

**APPELLANT'S MOTION TO STRIKE RESPONDENTS NOTICE OF
INTENT TO OPPOSE MOTION FOR SANCTIONS
IF ORDERED**

APPELLANT REQUESTS FURTHER SANCTIONS



Appellant, Todd Robben, *in pro se* moves the Court to strike the Respondent's frivolous notice and/or sanction Respondent's counsel Fred M. Wallace for claiming the Court Clerk provided incorrect "legal advice" to him despite the Clerk not being lawfully permitted to give him legal advice or otherwise communicate *ex parte*.

The factual allegations made by Mr. Wallace are not made under penalty of perjury, no affidavit was provided, and once again Mr. Wallace did not add the NRAP 28.2 verification.

The Responded did not timely object within seven days pursuant to NRAP 27(a)(3)(A) of Appellant's motion requesting sanctions filed in the Court docket on 08-16-2023. Respondent's Counsel, Fred M. Wallace, filed no objection to said motion for sanctions, and this notice is also outside the timeframe allowed pursuant to NRAP 27(a)(3)(A).

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to NRCP 12(f) "the court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter. The court may act: (1) on its own; or (2) on motion made by a party either before responding to the pleading or, if a response is not allowed.

Fred M. Wallace for claims, without proof or affidavit, the Supreme Court Clerk provided incorrect "legal advice" to him despite the Clerk not being lawfully permitted to give him legal advice or otherwise communicate *ex parte*. "[l]aw clerks and paralegals perform a variety of services for attorneys *but they may not give legal advice*, accept cases, set fees, appear in court, plan strategy, make legal decisions, or chart the direction of a case") FN 21 *In re Discipline of Lerner*, 197 P. 3d 1067 - Nev. Supreme Court 2008 citing *Attorney Griev. Comm. v. Hallmon*, 343 Md. 390, 681 A.2d 510, 515 (1996).

The Responded did not timely object within seven days pursuant to NRAP 27(a)(3)(A). "This court concludes that appellants concede the merit of respondent's motion." See *Foster v. Dingwall*, 126 Nev. 56, 66, 227 P.3d 1042, 1049 (2010) (stating that this court may construe the failure to oppose a motion as an admission that the motion is meritorious).

"Silence can only be equated with fraud where there is a legal or moral duty to speak or where any inquiry left unanswered would be intentionally misleading" *United States v. Tweel*, 550 F. 2d 297 - Court of Appeals, 5th Circuit 1977 citing *United States v. Prudden*, 424 F. 2d 1021 - Court of Appeals, 5th Circuit 1970.

The factual allegations made by Mr. Wallace are not made under penalty of perjury, no affidavit was provided, and once again Mr. Wallace did not add the NRAP 28.2 verification.

“Pursuant to NRAP 28.2, I hereby certify that I have read this motion, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this motion complies with all applicable Nevada Rules of Appellate Procedure. I understand that I may be subject to sanctions in the event that this motion is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.”

Pursuant to Nevada Revised Appellate Rules (“NRAP”) 28.2(c) which calls for sanctions “The Supreme Court or Court of Appeals may impose sanctions against an attorney whose certification is incomplete or inaccurate.” Nevada trial judges possess inherent equitable powers to punish parties for abusive litigation practices. Young v. Johnny Ribeiro Bldg., Inc., 787 P.2d 777, 779 (Nev. 1990).

RELIEF REQUEST

The Court must strike Respondent's request for notice and use the facts to further apply to the case concluding sanctions and any discipline including disbarment of Fed M. Wallace for his complete failure as counsel to perform ethically and lawfully before this Court, his client and opposing counsel.

Respectfully signed under penalty of perjury,

A handwritten signature in black ink, appearing to be 'T. Robben', written in a cursive style.

/s/ Todd Robben

August 25, 2023

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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of this Request for Sanctions to the parties pursuant to NRCP 5(b) by depositing an email to: F. McClure Wallace, counsel for Respondent, mcclure@wallacemillsap.com

DATED August 25, 2023

Signed under penalty of perjury,

A handwritten signature in black ink that reads "John M. Flynn". The signature is written in a cursive style with a large, stylized "J" and "F".

/s/John Flynn

John Flynn

180 Upper Sunset

Sonora, CA 95370