

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIMBERELY WHITE,
Appellant,

vs.

TAMIKA BEATRICE JONES,
Respondent.

Case No.: 86500

District Court Case No. D594413

Electronically Filed
Aug 15 2023 09:19 AM
Elizabeth A. Brown
Clerk of Supreme Court

RESPONDENT'S FAST TRACK RESPONSE

COMES NOW, Respondent, TAMIKA BEATRICE JONES, by and through her attorney, Mark J. McGannon, Esq. of the McGANNON LAW OFFICE, P.C., and pursuant to NRAP 27, submits her Fast Track Response

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

1. Name of party filing this fast track response:

TAMIKA BEATRICE JONES

2. Name, law firm, address, and telephone number of attorney submitting this fast track response:

Mark J. McGannon, Esq.
Nevada Bar No.: 5419
McGANNON LAW OFFICE, P.C.
5550 Painted Mirage Rd., Suite 320
Las Vegas, NV 89149
702-888-6606

3. Name, law firm, address, and telephone number of appellate counsel if different from trial counsel: N/A.

4. Proceedings raising same issues. N/A.

5. Procedural history.

The litigation procedural history was summarized in the Court's Findings of Fact, Conclusions of Law and Order ("FFCO") filed March 29, 2023.

This case was initiated on August 12, 2019, when Tamika filed a Complaint for Custody. The children's father, Christopher Judson, filed an Answer on September 06, 2019. ROA 1147. At the hearing on September 19, 2019, the Court ordered per the Parties' stipulation that the Parties would share joint legal custody and joint physical custody of the minor children. Order filed Oct. 24, 2019. ROA 1147.

At the hearing on December 05, 2019, as relevant here the Court ordered that Tamika shall get Christopher's permission or a Court order to relocate out of state. Order filed Feb. 05, 2020. ROA 1147. On December 19, 2019, Tamika filed a Motion for Permission to Relocate Immediately, for Temporary Sole Physical Custody, and Related Relief. However, the hearing and motion were vacated as Tamika failed to properly serve Christopher with the motion. ROA 1147.

At the return hearing on April 15, 2020, Tamika indicated that the Parties had an agreement regarding custody. However, Christopher was not present to confirm the agreement. The Court referred the Parties to mediation to place their agreement in writing. However, mediation did not take place because the parties failed to appear. ROA 1148.

On July 15, 2020, Kimberly filed a Motion to Intervene **that included requests for sole legal and primary physical custody of the children and third-party visitation.** Neither party filed an opposition or was present for the hearing on the motion set for August 05, 2020. Kimberly was sworn in and testified that she believed that Tamika had fled to Michigan with the children and that she was the children's caretaker. The Court granted Kimberly's request to intervene, granted Kimberly grandparent's visitation and indicated that a pickup order would be issued if necessary to bring the children back to Nevada. Order filed Sep. 14, 2020. ROA 1148. (Empasis added.)

Tamika and Kimberly were present for the hearing on August 31, 2020; Christopher was not present. Tamika indicated that she and Christopher reside together in Las Vegas. The parents and Kimberly were referred to mediation regarding grandparent visitation and Kimberly was awarded temporary grandparent visitation. Order filed Sep. 14, 2020. ROA 1148.

On December 08, 2020, Kimberly filed a Motion to Enforce Visitation Order, Motion for Contempt, Motion for Pick Up Order and Attorney's Fees and Costs. Neither parent was present for the motion hearing on February 24, 2021. The court ordered that temporarily, Kimberly would have telephone contact with the children on Tuesdays and Thursdays and that if Tamika were to reside in Michigan that Kimberly would receive visits for Spring Break, 2-3 weeks in the summer, and one week in Winter Break. Further, a Pickup Order would be issued to effectuate visitation if necessary. Order filed Mar. 29, 2021. An Order for Return of Children was filed on March 30, 2021. ROA 1148-49.

On November 18, 2021, Tamika filed a Motion to Stay for Return to Children. On January 01, 2021, Kimberly filed an Opposition and Countermotion for an Order to Show Cause. Tamika filed an Opposition to the Countermotion for an Order to Show Cause on January 19, 2022. The hearing on the Motion took place on January 20, 2022. **The Court reinforced that the Court was not considering custody to Kimberly, only visitation.** The hearing was continued to the next day on January 21, 2022. ROA 1149. (Emphasis added.)

All parties appeared for the January 21, 2022 Hearing. **Christopher was sworn and testified and gave his permission for the children to relocate to Michigan with Tamika.** The Court ordered that temporarily, Kimberly would

have telephone contact with the children on Tuesday and Thursday at 6:00 PM or 6:30 PM Michigan time. Temporarily, Kimberly would have visitation with children for 2 weeks in the summer, one week spring and one week in the winter. The Court ordered for Xy'Shone and Xaia to return to Michigan and an evidentiary hearing regarding visitation was set for July 22, 2022. Order filed Jan. 25, 2022. ROA 1149. (Empasis added.)

On June 16, 2022, the Court heard Tamika's request to continue the evidentiary hearing. The hearing was continued to February 03, 2023. **The Court again clarified that a request for custody by Kimberly would not be considered in this case. She would be required to file a new case for custody. Order filed Sep. 14, 2022.** ROA 1149-50. (Empasis added.)

This matter came on for an evidentiary hearing on February 03, 2023, at 9:00 AM. regarding **grandparent's visitation**. Plaintiff, Tamika Jones (hereinafter, "Plaintiff," "Mom," or "Tamika") appeared via BlueJeans with her counsel of record, Mark McGannon, Esq. Intervener, Kimberly White (hereinafter, "Intervenor," "Paternal Grandmother," or "Kimberly") appeared via BlueJeans self-represented. At trial, Tamika and the children resided in Michigan. At trial, Kimberly appeared from California and indicated that she had been released from the hospital the day prior to trial but that she lives in Nevada. Kimberly seemed to

believe that the trial was based upon Tamika's request; however, the trial was set based upon Kimberly's request for grandparent visitation. ROA 1150.

The Court heard arguments of counsel and testimony of the parties. No exhibits were introduced or admitted at trial. ROA 1146 and 47.

The Court clarified that the burden was on Kimberly as the party petitioning for grandparent's visitation because at the beginning of trial she indicated several times that the burden was on Tamika and that Tamika's counsel requested trial. ROA 1150. (Empasis added.)

Following trial the Court issued its FFCO filed March 29, 2023 granting Kimberly grandparent visitation.

6. Statement of facts.

Without the Court transcript's having been prepared because they were untimely requested, Respondent will again primarily use the factual findings set forth in the Court's FFCO filed March 29, 2023, as the only evidence at trial was the sworn testimony of Kimberely White and Tamika Jones.

Importantly, Kimberly testified and introduced no exhibits. Tamika testified and introduced no exhibits. ROA 1146 and 47.

This case involves three minor children: XYSHONE JUDSON, born November 20, 2011 (age 11); XAIA JUDSON, born August 13, 2015 (age 7); and

XIONNE JUDSON, born May 3, 2019 (age 3). ROA 1147. Tamika is the children's biological mother. Christopher is the children's legal father.

Kimberly is Christopher's mother and the children's paternal grandmother. ROA 1150. Kimberly and Tamika met in 2011. At that time, Tamika began residing with Christopher at Kimberly's house in Michigan. Tamika was pregnant with Xyshone at that time. Kimberly eventually moved to Las Vegas in 2013 and Tamika, Christopher, and Xyshone also moved to Las Vegas. Tamika and Christopher eventually had Xaia in 2015 and Xionne in 2019. ROA 1151.

The parents and children lived in Kimberly's home periodically until 2019. There were periods where the parents would get their own housing; however, more often than not lived with Kimberly. Even when the parents did not live in the home, the children spent a significant of time at Kimberly's home because Kimberly's mother and father watched the children while the parents worked. ROA 1151.

Kimberly provided for Tamika, Christopher, and the children while the parties lived together. Kimberly helped care for the children. She provided transportation, food and housing for Christopher, Tamika, and the children. Additionally, Kimberly was an active participant in the children's education; she provided transportation to school. ROA 1151-52.

Kimberly's mother, whom also lived in the home, helped the children with their schoolwork. Kimberly's father also lived in the home with the children.

When Xyshone first entered school, Kimberly paid for him to attend private school at Challenger School. Kimberly and Tamika both enrolled the child for school there. Kimberly's mother and father also have a close and bonded relationship with the children. When Tamika moved out of Kimberly's home in 2019, the children also moved out of Kimberly's home; however, Kimberly still saw the children frequently. She assisted Tamika with transporting the children to school and saw the children 4-5 times a week. ROA 1152.

Kimberly and Christopher have a poor relationship and do not speak to each other. Kimberly has not spoken to him for over a year. Kimberly has not spoken to Tamika for over a year. However, the parties previously had a good relationship. Tamika considered Kimberly to be her "second mother". ROA 1152.

Tamika does not want Kimberly to have visitation with the children and does not believe that it is in their best interest. **When the children return from visits with Kimberly, there often follows investigations by CPS in Nevada and Michigan. However, none of the allegations of neglect and abuse against Tamika were substantiated.** After January 2022, Kimberly contacted the Family Mediation Center and made allegations of abuse. Kimberly denied calling CPS regarding abuse by Tamika. ROA 1152. (Emphasis added.)

The level of conflict between the parties is high. Although Kimberly verbalized that she did not have animosity towards Tamika, her court pleadings

and actions clearly show otherwise. **Kimberly tried to use the judicial process to usurp control over the children from both parents. The Court clarified on multiple occasions that custody would not be considered in this case.** Kimberly filed a writ concerning the Court's decision regarding custody to the Nevada Court of Appeals; her writ was denied. ROA 1151. (Empasis added.)

Kimberly characterized the conflict between the parties as one sided; however, it is clear the parties mutually dislike each other. **Kimberly frequently indicated that the parents "abducted" their own children. Kimberly's characterization of Tamika's relationship and actions with her own children have caused conflict in the parties' relationship.** ROA 1151. (Emphasis added.) During the pendency of the case, the Court granted Kimberly temporary visitation pending trial. The Court indicated that the Court would make a decision after a full discussion. ROA 1153.

Tamika and the children moved to Michigan in November 2020 where they currently reside. Christopher was last known to have resided in Las Vegas, Nevada. **The parties had an understanding that Tamika would relocate to Michigan in November 2020 while Christopher continued to reside in Nevada. This was corroborated by Christopher at the hearing on January 21, 2022.** ROA 1153. (Emphasis added.) From the period of 2020 to March 2022, Xyshone and Xaia resided with Kimberly from November 2021 (per the pick-up order

issued by the Court) until January 2022 (when the Court ordered that children be returned to Tamika in Michigan). Kimberly refused to allow Tamika telephone or video contact with Xyshone and Xaia when they resided with her. Kimberly got a TPO issued against Tamika in December 2021 that was eventually dissolved (T-21-219814-T). The Hearing Master found “The court had issued a temporary order on allegations of harassment. [Tamika] contends that her efforts to contact [Kimberly] related to her bona fide interest in having contact with her children, and therefore does not constitute harassment. The court agrees.” Order filed Jan. 10, 2022. ROA 1153.

Kimberly did not see Xionne from 2020 to March 2022. From March 2022 to November 2022, the parties followed the Court’s temporary visitation orders. Kimberly has not seen any of the children since July 2022. She last had phone contact with the children in November 2022. She did not reach out to Tamika regarding the temporary visitation and telephone contact ordered by the Court. Kimberly allowed her mother to have phone calls with the children beginning in November 2022. ROA 1154.

Xaia fears coming to Las Vegas. She recently has been acting out behaviorally in school. Tamika has nightmares that Kimberly will try to take her children. She believes that children are also having nightmares because they are afraid Kimberly will try to take them from Tamika. Tamika currently takes

Lexapro for anxiety and depression. She did not experience anxiety and depression prior to the children coming to Las Vegas with Kimberly on a pick up order. ROA 1154.

Tamika does not believe that visitation between Kimberly and the children are in their best interests. From November 2021 to January 2022, Kimberly did not allow Tamika to speak to her own minor children even though Tamika attempted to do so. Kimberly did not allow Tamika to speak to the children for Christmas and other holidays during that time. Further, Tamika does not like that Kimberly has transported the children by car for transportation while the last court ordered required Kimberly to provide transportation by plane and provide the itinerary to her. ROA 1154. The court is aware that the parents agree in denying visits to Kimberly. ROA 1154.

7. Issues on appeal combined with 8. Legal argument, including authorities:

According to Appellant at her Number 16. In her Fast Track Statement: The issues on appeal all occurred at the February 3, 2023, Evidentiary Hearing.

Unfortunately, Appellant is/was somehow under the continued misconception she would again be able to seek custody of the Minor Children even though the Court made it clear on numerous occasions that the evidentiary hearing was solely for purposes of grandparent visitation and that the burden was on her as the moving Party. ROA 1149-50. In that regard, Appellant produced or disclosed no evidence

during the underlying proceeding and produced no evidence at trial besides her sworn testimony. ROA 1146 and 1147.

The problem is Appellant never just wanted visitation, she thought she could be a better parent and sought custody of the minor children from the time of her Motion for Intervention. (ROA 236-238). Of note conveniently missing from the Motion to Intervene were any allegations of neglect or abuse. (ROA 236-238). These allegations only appeared after the Court granted her Motion to Intervene as to visitation only.

Generally, in Nevada lower courts have “broad discretionary powers to determine child custody matters” and this Court “will not disturb the district court’s custody determinations absent a clear abuse of discretion.”¹ “An abuse of discretion occurs when a district court’s decision is not supported by substantial evidence or is clearly erroneous.”² Substantial evidence “is evidence that a reasonable person may accept as adequate to sustain a judgment.”³ When making a custody determination, the sole consideration is the best interest of the child.⁴ The Court on review presumes that the district court properly exercised its discretion in determining the best interest of the child where the court made

¹ *Ellis v. Carucci*, 123 Nev. 145, 149, 161 P.3d 239, 241 (2007)

² *Bautista v. Picone*, 134 Nev. 334, 419 P.3d 157 (2018).

³ *See Ellis, supra*, 161 P.3d at 241-42.

⁴ NRS 125C.0035(1); *Davis v. Ewalefo*, 131 Nev. 445, 451, 352 P.3d 1139, 1143 (2015).

substantial factual findings.⁵ Hence, an abuse of discretion does not occur just because there is disagreement with the decision, or when another reasonable decision could have been reached, but rather occurs **only** when “no reasonable judge could reach a similar conclusion under the same circumstances.”⁶

Accordingly, if reasonable minds could disagree, then by definition there is no abuse of discretion and this Court must affirm the custodial determination of the lower court. While Tamika vehemently disputes Kimberly’s positions, the mere disagreement or dissatisfaction of a judicial order is not a proper basis for an appeal. Here, Kimberly fails to establish the lower court’s ruling was erroneous—let alone clearly erroneous.

On Appeal, Appellant submits to this Court an incomprehensible, imaginative litany of allegedly appealable non cogent factual and legal issues which unequivocally lack any evidentiary or legal support.⁷ As such, Respondent is only responding to Appellant’s alleged issues on appeal which are also mentioned in her legal argument section.

⁵ See *Culbertson v. Culbertson*, 91 Nev. 230, 233-34, 533 P.2d 768, 770 (1975).

⁶ *Leavitt v. Siems*, 130 Nev. 503, 509, 330 P.3 1, 5 (2014).

⁷ See *Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (explaining that this court need not consider an appellant’s argument that is not cogently argued or lacks the support of relevant authority); *Powell v. Liberty Mut. Fire Ins. Co.*, 127 Nev. 156, 161 n.3, 252 P.3d 668, 672 n.3 (2011)(providing that arguments not raised on appeal are deemed waived).

1. Judge Ochoa declared no discussion from any of the previous hearings could be discussed at the February 23, 2023, evidentiary hearing.

Response: Unfortunately, Appellant still wanted to discuss custody at Trial and simply does not want to understand the Court's clear unambiguous rulings that the evidentiary hearing pertained only to her request for grandparent visitation and not to her repeated unsubstantiated request for custody. ROA 1149-50. Moreover, EDCR Rule 5.506. Exhibits to motions and other filings, states in pertinent part:

(a) Unless otherwise required by another rule, statute, or court order, this rule applies to exhibits filed in support of a motion or other paper, which shall be filed contemporaneously with the filing to which they relate.

(b) **To be admissible at trial or in an evidentiary proceeding, all papers filed as exhibits shall be produced in discovery and Bates-stamped or otherwise identified by page number at the bottom right corner.** (Emphasis added.)

In this case, no evidence was admitted as Appellant failed to produce any exhibits or other documents in discovery. Thus, only the oral testimony of the Parties was allowed by the Court at the Trial. ROA 1146 and 1147.

2. The FMC child interview from March 4, 2022, was not reviewed, as calendared.

Response: Appellant provides no citation to anything in the record supporting this allegation, and thus, there is no basis for this allegation as the Report was disseminated to the Court on or about March 7, 2022, and subsequently

disclosed to counsel/parties by the Court, and Appellant failed to request the Court take notice of the Report at Trial.

3. The respondent's attorney engaged in ex parte communication after the evidentiary hearing, which resulted in him writing the decision unreasonably restricted visits under NRS 1250(3).

Response: Appellant provides no citation to anything in the record supporting this ludicrous allegation. When in reality, the Court in its FFCO specifically concluded:

There is a rebuttal presumption that visitation is not in the children's best interests. Kimberly has the burden to overcome that presumption by clear and convincing evidence. Most of the factors favor visitation between Kimberly and the children and the Court remains concern regarding the level of conflict between Kimberly and the parents. *However, there are many ways in which visitation between Kimberly and the children would facilitate their best interest.* There are significant emotional ties between Kimberly and the children. **Kimberly improperly tried to usurp parental responsibility from Tamika; however, she whole heartedly but also imprudently did so because she believed she was protecting the children in some way.** The children have resided in Michigan with Tamika since November 2020. The children appear apprehensive about returning to Nevada for visitation. However, the evidence does suggest that it would be in their best interests to maintain some relationship with Kimberly. Christopher does not appear to be actively involved in the children's lives and the children would benefit by being able to maintain a consistent relationship with a paternal relative.

Kimberly is granted visitation with the children on Labor Day and Memorial Day weekends of each year. All visitation is to occur in Michigan where the children reside. Kimberly shall not travel 100 miles outside of Ferndale, Michigan for visitation and shall not leave the state for visitation. Visitation begins Friday evening at 6:00 PM

EST and ends Sunday at 6:00 PM EST. The children shall call Tamika at 10:00 AM EST on Saturday and Sunday during Kimberly's visitation. *The parties may agree in writing if they wish for Kimberly's parents to also participate in visitation.* ROA 1159-60. (Emphasis added.)

Thus, the Court pursuant to NRS 125C.050 made its factual and legal conclusions and implemented an order of visitation expressly fashioned upon substantial evidence obtained at Trial from the Parties testimony and weighing the Parties' credibility. Clearly, Respondent's counsel had nothing to do with the drafting of the Court's FFCO, and given Appellant's Court noted improprieties there is no basis for consideration of this frivolous allegation.⁸

Lastly, Appellant sets forth a multitude of specious sufficiency of evidence allegations relating to purported unsubstantiated child abuse and child abduction. Again, the Appellant refuses to acknowledge that the Court specifically ruled on several occasions that the Evidentiary Trial was for grandparent visitation only and not custody. ROA 1149-50.

Specifically, in its Order after Hearings on January 20 and 21 2022, the Court made formal findings based upon DAD's sworn Permission for Relocation

⁸ See Ogawa v. Ogawa, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009) (recognizing that the district court's factual findings are entitled to deference and will not be disturbed unless they are clearly erroneous or not supported by substantial evidence); Quintero v. McDonald, 116 Nev. 1181 1183, 14 P.3d 522, 523 (2000) (noting that the appellate court is not at liberty to reweigh evidence on appeal). Of note, the great grandparents were not parties to this action, thus they were not awarded any visitation, nor were they denied any visitation rights. However, the Court did indicate as quoted in italics above, that the grandparents could also participate in Kimberly's visitation if Tamika agreed in writing.

with Minor Children and testimony in Court that: **THE COURT FURTHER FINDS:** that natural father, CHRISTOPHER JUDSON appeared at the hearing and confirmed that he authorized, natural mother, TAMIKA JONES and his Minor Children, XYSHONE JUDSON, born November 20, 2011, XAIA JUDSON born August 13, 2015, and XIONNE JUDSON born May 3, 2019 (“Minor Children”) to relocate to Michigan. ROA 864.

THE COURT FURTHER FINDS AND ORDERS: that it is in the best interest of the Minor Children that TAMIKA JONES be awarded Temporary Sole Legal and Primary Physical Custody of the Minor Children. ROA 866.

THE COURT FURTHER FINDS AND ORDERS: that the COURT’s prior Order for the Return of the Children and Order giving KIMBERLY WHITE Temporary Physical Custody of the Minor Children dated March 30, 2021, is null and void. ROA 866.

THE COURT FURTHER FINDS AND ORDERS: that TAMIKA JONES may relocate with the Minor Children to Michigan until further Ordered by the Court. ROA 866.

At the hearing on June 16, 2022, **THE COURT NOTED:** *It is very difficult to change custody from one parent or two parents, when both parents have agreed that mother should have the children. The Court also granted INTERVENOR’S Motion for Intervention as to grandparent rights not as to custody rights*

[TIMESTAMP 11:05:09-11:06:00]. (Italics added.) (ROA 1073).

THE COURT FURTHER NOTED: *It has always looked at this as a grandparent's rights case only, and if INTERVENOR thinks it is different that is fine, but the record is that DAD has agreed that MOM shall have the children and gave permission for her to relocate to Michigan; Michigan and Nevada has investigated and there have been no substantiation of any issues so INTERVENOR can file her Complaint if she has the grounds* [TIMESTAMP 11:06:22- 11:06:55]. (Italics added.) (ROA 1073).

Lastly, **THE COURT FURTHER ORDERED:** that Grandmother/Intervenor's custody request is DENIED. Grandmother/Intervenor may file a new complaint for custody, explain the reasons, and the cases will be consolidated.

Moreover, Kimberly previously filed a deceptive emergency Petition for Writ of Mandamus for Immediate Relief; Case No. 85312; on November 22, 2022, seeking an emergency decision because the children were in a hazardous situation with escalating abuse. (1RA 0001). The Court of Appeals in its December 7, 2022, ORDER DIRECTING SERVICE, DIRECTING LIMITED ANSWER, GRANTING TEMPORARY STAY, AND DENYING IN PART PETITION FOR WRIT OF MANDAMUS already denied her previous Writ request challenging the District Court's refusal to consider her request for custody and hear evidence

regarding the abuse and safety concerns of the three minor children. (1RA 0002; 1RA 0025). The Court stated: *It further appears that the district court took petitioner's concerns regarding safety of the children into consideration when temporarily allowing Jones to relocate with the children in light of real party in interest Christopher Judson's permission, which he placed on the 'record, determining that based on the information available, the relocation and continuation of the hearing did not implicate safety concerns.* **As for petitioner's request for custody, typically, a nonParent who seeks custody of a child must file a complaint for custody with the district court.** NRS 125C.004.; see also NRS 125C.0035(3)(c). **Here, while petitioner was allowed to intervene in the parents' custody case, the district court stated that she was allowed to do so for purposes of pursuing grandparent visitation, only.** See NRS 125C.050. 1RA 25-26. (Emphasis added.)

Importantly, Appellant intentionally never heeded the District Court or Court of Appeals and filed a complaint for custody in the District Court, instead she once again seeks another bite at the apple through the Appeal process when she has repeatedly been denied her malicious attempts at ripping custody of the Minor Children from their natural mother on numerous previous occasions. In this case, the Court heard testimony from both Parties, without hearing matters related to custody, and analyzed the statutory criteria under NRS 125C.050 and set forth its

detailed Findings of Fact, Conclusions of Law and Orders in which it crafted a grandmother visitation schedule based upon the specific evidence before it well within the Court's discretion which clearly should not be overturned on this Appeal.

9. Preservation of issues. Appellant conveniently failed to address the critical preservation of alleged appealable issues in her Fast Track Statement. In this case it does not appear that a single issue presented by Appellant was objected to the Court during the Trial of this matter. See Old Aztec Mine, Inc. v. Brown, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (providing that an argument not raised in the district court is waived and will not be considered on appeal).

VERIFICATION

1. I hereby certify that this fast track response complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this fast track response has been prepared in a proportionally spaced typeface using Microsoft word-Office 365 Business in font type Times New Roman size 14.

2. I further certify that this fast track response complies with the page- or type-volume limitations of NRAP 3C(h)(2) because it is Proportionately spaced, has a typeface of 14 points or more, and contains 4729 words.

3. Finally, I recognize that pursuant to NRAP 3C I am responsible for filing a timely fast track response and that the Supreme Court of Nevada may sanction an

attorney for failing to file a timely fast track response or failing to cooperate fully with appellate counsel during the course of an appeal. I therefore certify that the information provided in this fast track response is true and complete to the best of my knowledge, information and belief.

Dated this 14th day of August 2023.

/s/ Mark J. McGannon

Mark J. McGannon, Esq.

Nevada Bar No.: 5419

McGANNON LAW OFFICE, P.C.

5550 Painted Mirage Rd., Suite 320

Las Vegas, NV 89149

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the law office of McGANNON LAW OFFICE, P.C. that service of the foregoing RESPONDENT'S FAST TRACK RESPONSE was made on this 15th day of August 2023, by electronic service via the Court's E-Filing System, or if not on the service list by depositing the same in the United States Mail in Las Vegas, Nevada, postage paid addressed as follows:

ATTORNEY/PARTIES	EMAIL
KIMBERLY WHITE 10461 Hartford Hills Ave. Las Vegas, NV 89166 INTERVENOR	Email: kwhite_writer@hotmail.com

/s/ Mark J. McGannon

An employee or agent of McGANNON LAW
OFFICE, P.C.