# IN THE SUPREME COURT OF THE STATE OF NEVAD

Amy Luciano,

Appeal No. 86782

Appellant

VS.

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Frank Luciano,

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Respondent

## APPELLANT'S MOTION TO EXTEND TIME TO FILE OPENING BRIEF

## (SECOND REQUEST)

COMES NOW, Appellant, Amy Luciano, appearing in pro se, hereby requests that this court enter an order extending time to submit her Opening Brief (second request).

The motion is based upon the Memorandum of Points and Authorities, declaration of Amy Luciano, and all other papers and pleadings on file herein.

Respectfully submitted the **O** day of November 2023.

10628 Foxberry Park Dr.

Reno, Nevada 89521

(702) 557-6415 - Cell Phone

Appellant appearing in pro se

NOV 27 2023 CLERK OF BUPPIEME COUNTY

### MEMORANDUM OF POINTS AND AUTHORITIES

#### I. Statement of Relevant Facts

Appellant appealed several orders including an Amended Order that erroneously denied several Rule 60(a), Rule 60(b), and Rule 60(d)(3) Motions filed on May 11, 2023, and entered on May 12, 2023. Appellant appealed on June 12, 2023, a Sunday since June 11, 2023, landed on a Saturday (NRAP 26(a)(1)(C)), and service was effectuated via US Postal Mail, allowing an additional three days, thus Appellant had until June 14, 2023, to file a Notice of Appeal at district court, in which was transmitted to this court on June 20, 2023. See NRAP 26(c). In addition, there is an unsigned default filed on November 19, 2019, no notice of intent to take default, and no affidavit in support of default.

Appellant's Opening Brief was due to be filed on November 6, 2023.

On November 6, 2023, this court granted a telephonic 14-day extension of time for filing a brief under Rule 26(b)(1)(B) pursuant to NRAP 31(b)(1).

However, Appellant has been diagnosed with leukemia, osteomyelitis of jaw, a mass in her left thyroid, and was re-diagnosed with covid on September 25, 2023 (See Exhibit 1 attached hereto).

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Due to being sick with covid, Appellant hasn't been able to adduce the entire underlying record since is only using a Record on Appeal Index and available Hearing Transcripts, however, Judge Perry has filed additional orders without holding a hearing at district court.

In fact, service hasn't been properly effectuated of recent orders filed on September 19, 2023, September 20, 2023, and November 16, 2023, knowing that Appellant has remained steadfast that a stipulation didn't occur on November 7, 2019, September 16, 2020, August 29, 2022, and January 6, 2023, and that a lawyer was supposed to appear on November 7, 2019, and August 29, 2022.

Appellant had asked during the hearing held on September 16, 2020, to have a continuance since service hadn't been effectuated of Respondent Frank Luciano's Opposition and Countermotion filed on August 3, 2020.

Appellant has also filed NRCP 62 Motions at district court on November 12, 2023, in which an Order was filed on November 16, 2023, however service wasn't effectuated since only a Notice of Submission was received (See Exhibit 2 attached hereto) and the Notice of Entry didn't have service effectuated on November 16, 2023.

## II. Legal Argument

A. This court should grant Appellant's Motion to extend time to file Appellant's Opening Brief for 14-days due no later than December 4, 2023.

NRAP 31(3) states that a motion for extension of time for filing a brief may be made no later than the due date for the brief and must comply with the provisions of this Rule and Rule 27.

However, Appellant has been diagnosed with leukemia, osteomyelitis of jaw, has a mass in her left thyroid, and was re-diagnosed with covid on September 25, 2023 (See Exhibit 1 attached hereto).

Further, Respondent Frank Luciano has put Appellant into a dire financial position knowing there is a disparity of income, Appellant wasn't ever afforded equal footing during any hearings held prior to the filing of this appeal, and Respondent Frank Luciano committed perjury in Family Court on May 19, 2020.

On November 20, 2023, Respondent Frank Luciano sent email messages alleging this will continue and has attempted to force an unreasonable settlement since he has proceeded with a criminal stance, even though knew I was extremely sick with covid on September 16, 2020.

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## III. Conclusion of Appellant's Motion to Extend Time to File Opening Brief (Second Request)

Therefore, it is respectfully requested that this court enter an order extending time to submit her Opening Brief (second request), for 14-days with Appellant's Opening Brief due no later than December 4, 2023.

Respectfully submitted the day of November 2023.

By: Cheer Clocal

Amy Luciaño

10628 Foxberry Park Dr.

Reno, NV 89521

(702) 557-6415 - Phone

Appellant appearing in pro se

#### **DECLARATION OF AMY LUCIANO**

- I, Amy Luciano, declare under the penalty of perjury under the laws of the State of Nevada that the following assertions are true and correct:
  - 1. I'm appellant appearing in pro se in this appeal docketed on July 7, 2023.
- 2. I've submitted applications to waive filing fees at Eighth Judicial District Court since I've been covered with Medicaid through the State of Nevada since August 13, 2021, but also been diagnosed with leukemia on June 7, 2023, osteomyelitis of jaw on August 5, 2021, have a mass in my left thyroid, and was diagnosed with and still recovering from covid.
- 3. I have complete recall and personal knowledge regarding facts and circumstances of the underlying divorce and child custody case that respondent Frank Luciano had commenced at Eighth Judicial District Court on October 21, 2019.
- 4. After reviewing portions of the underlying record using only a Record on Appeal Index and available Hearing Transcripts, respondent Frank Luciano committed perjury during the hearing held on May 19, 2020, as I was kept away from hearings held on February 20, 2020, May 5, 2020, and May 19, 2020, so I couldn't object that a stipulation wasn't ever entered since I hadn't ever been sworn in, canvassed, and testified as to the requirements.

5. On November 20, 2023, Respondent Frank Luciano sent an email message alleging this will continue unless I accept his unreasonable settlement offer, pay \$6,000 - \$12,000 to have an evaluation performed, even though he knows that he obtained it by fraud since committed fraud upon the district court on May 19, 2020, especially after I attempted to explain that I was trying to finish writing Opening Brief and NRAP 8 Motion.

DATED the day of November 2023.

Amy Luciano

10628 Foxberry Park Dr.

Reno, NV 89521

(702) 557-6415 - Phone

Appellant appearing in pro se

### CERTIFICATE OF SERVICE

I, declare under penalty of perjury of the law of the State of Nevada that the following is true and correct. That I served Appellant's Motion to Extend Time to File Appellant's Opening Brief (Second Request) as follows:

X United States mail in Reno, Nevada, with First-Class postage prepaid and addressed as follows:

Emily McFarling, Esq.
Mcfarling Law Group
6230 W. Desert Inn Road
Las Vegas, NV 89146
Service effectuated via this court's Eflex upon filing.

Frank Luciano 3800 S. Nellis Blvd., Apt. 261 Las Vegas, NV 89121 Respondent

DATED the day of November 2023.

Amy Luciano



5575 Kietzke Ln. Reno, NV 89511 P: 775-851-1505 F:775-851-1583

Date: 9/25/23

To Whom It May Concern,

Patient's Name: Amy Harley

The patient has concerns of COVID-19 exposure / symptoms of COVID-19. The patient was tested in clinic today. As recommended the patient should follow WCHD/CDC self-isolation precautions. An information handout was provided. No release back to work note will be provided at this time.

Please contact my office for any questions or concerns.

Joshua Wood MD

#### ELECTRONICALLY SERVED 11/16/2023 2:37 PM

11/16/2023 2:37 PM l 2 DISTRICT COURT 3 CLARK COUNTY, NEVADA 4 5 Frank Luciano, Plaintiff CASE NO: D-19-598320-D 6 DEPT. NO. Department P VS. 7 Amy Luciano, Defendant. 8 9 10 **EMAIL SUBMISSION ACCEPTED NOTICE** 11 A document has been filed into the case. Please go to Eighth Judicial District Court Portal 12 (https://www.clarkcountycourts.us/Portal/) for more information. 13 14 **Submission Details:** 15 Subject: D-19-598320-D----ORDR-- Order (Miscellaneous Fillings) 16 Received Time: 11/16/2023 11:30:35 AM 17 Verification codes: E68 050 5A03 D945 18 19 20 21 22 23 24 25 26 27 28