

1 **DECLARATION OF DAVID T. WALL**

2 I, David T. Wall, make this declaration pursuant to NRS 53.045:

3 1. I am an attorney duly licensed to practice law in the State of
4 Nevada and I am a partner in the law firm of Eglet Wall, which represents the
5 respondents in the consolidated appeals entitled *Jenny Rish v. William Jay*
6 *Simao, et al.*, pending in the Nevada Supreme Court as Case Nos. 58504,
7 59208, and 59423.

8 2. I make this declaration on my own personal knowledge in support
9 of respondents' Motion for Leave to File Brief in Excess of Type-Volume
10 Limitations.

11 3. The proposed answering brief is a joint effort between myself and
12 appellate counsel with over 30 years of appellate experience. Appellate
13 counsel and myself have edited the brief several times, a process that has
14 resulted in a substantial reduction of the brief's overall size.

15 4. The brief currently consists of 26,556 words, but over 8,000 of
16 these words are expended in setting forth the facts necessary to properly
17 consider the substantial evidence questions raised in appellant's opening brief.

18 5. Additionally, the opening brief consists of 20,136 words and
19 provides little in the way of factual development of the substantial evidence
20 questions raised in such brief.

21 6. In light of the foregoing, it is respectfully submitted that the extra
22 volume in respondents' answering brief is necessary to respond to the issues
23 raised on appeal and will be of assistance to the court.

24 DATED this 18th day of January, 2013.

25 s/ David T. Wall

26 _____
27 DAVID T. WALL, ESQ.
28 Nevada State Bar No. 2805
 400 South Fourth Street, Suite 600
 Las Vegas, Nevada 89101

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

2 JENNY RISH,

3 Appellant,

4 vs.

5 WILLIAM JAY SIMAO, individually; and
6 CHERYL ANN SIMAO, individually and
 as husband and wife,

7 Respondents.

 Case Nos. 58504
 59208
 59423

 Electronically Filed
 Jan 18 2013 09:46 a.m.
 Tracie K. Lindeman
 Clerk of Supreme Court

8 **MOTION FOR LEAVE TO FILE BRIEF**
9 **IN EXCESS OF TYPE-VOLUME LIMITATIONS**

10 Respondents, acting by and through their counsel, David T. Wall, of the
11 law firm of Eglet Wall, and hereby move the Court to enter its order granting
12 them leave to file an answering brief that exceeds the type-volume limitations
13 prescribed by NRAP 28(a)(7)(A)(ii), to wit: a brief containing 26,556 words.
14 This motion is made pursuant to NRAP 32(a)(7)(D) and is based on the
15 Declaration of David T. Wall, annexed hereto as Exhibit 1.

16 DATED this 18th day of January, 2013.

17 **EGLET WALL**

18 s/ David T. Wall

19 _____
20 DAVID T. WALL, ESQ.
21 Nevada State Bar No. 2805
22 400 South Fourth Street, Suite 600
23 Las Vegas, Nevada 89101
24 Attorneys for Respondents

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **FACTS**

3 Appellant's opening brief consists of 20,136 words. It raises two
4 substantial evidence issues, to wit: 1) the sufficiency of the evidence to
5 support the imposition of sanctions; and 2) the sufficiency of the evidence to
6 support the award of damages. Yet, appellant has set forth almost none of the
7 massive evidence that must be considered in deciding these issues.

8 Respondents' answering brief consists of 26,556 words. But it must be
9 emphasized that over 8,000 of these words are used in the Statement of the
10 Facts, setting forth the evidence that should have been described to the court
11 by appellant. Thus, the words actually devoted to respondents' legal argument
12 are less than the number of words contained in appellant's opening brief.

13 Furthermore, respondents' counsel have been diligent in editing the
14 answering brief. The assistance of experienced appellate counsel was enlisted
15 and several rounds of editing were undertaken, resulting in a substantial
16 reduction in the brief's overall content.

17 In these circumstances, it is respectfully submitted that respondents have
18 met the standards required by this court's rules.

19 **ARGUMENT**

20 NRAP 32(a)(7)(D) provides that a request to file a brief in excess of the
21 page and type-volume limits may be granted upon a showing of diligence and
22 good cause. Respondents respectfully submit that the facts set forth above
23 establish such diligence and good cause for the modest request to increase the
24 type-volume limitation. It is further submitted that respondents' answering
25 brief, as presently constituted, will be of assistance to the court in its
26 disposition of this appeal.

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CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the Motion for Leave to File Brief in Excess of Type-Volume Limitations, to wit: an answering brief of 26,556 words, should be granted.

DATED this 18th day of January, 2013.

EGET WALL

s/ David T. Wall

DAVID T. WALL, ESQ.
Nevada State Bar No. 2805

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