

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 18<sup>th</sup> day of January, 2013.

25                                   s/ David T. Wall

26                                   **DAVID T. WALL, ESO.**  
27                                   Nevada State Bar No. 2805  
28                                   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 18<sup>th</sup> 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 18<sup>th</sup> day of January, 2013.

**EGET WALL**

s/ David T. Wall

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

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Daniel F. Polsenberg, Esq.  
Joel D. Henriod, Esq.  
LEWIS AND ROCA, LLP  
3993 Howard Hughes Pkwy., Suite 600  
Las Vegas, Nevada 89169

Stephen H. Rogers, Esq.  
ROGERS MASTRANGELO  
CARVALHO & MITCHELL  
300 South Fourth Street, Suite 170  
Las Vegas, Nevada 89101

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An Employee of EGLET WALL