

André Gurr
GARDEN CITY LAW, PLLC
1917 S. Higgins Avenue
P.O. Box. 8154
Missoula, MT 59801
(406) 926-6996
andre@gardencitylaw.com

Attorney for Respondent/Appellee/Father

IN THE SUPREME COURT OF THE STATE OF MONTANA

<p>In re the Parenting of T.P.D.C.:</p> <p>Tami Disney, Petitioner/Appellant,</p> <p>and</p> <p>Brandon Staat, Respondent/Appellee</p>	<p>Cause No.: DA 18-0236</p> <p>FATHER'S MOTION TO DISMISS MOTHER'S APPEAL AND VOLUNTARY WITHDRAWAL OF FATHER'S CROSS- APPEAL</p>
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Respondent/Appellee Brandon Staat (“Father”), through counsel of record, André Gurr of Garden City Law, PLLC., requests the Court dismiss Petitioner/Appellant, Tami Disney’s (“Mother”), appeal as untimely. Upon dismissal of Mother’s appeal, Father voluntarily withdraws his cross-appeal.

PROCEDURAL HISTORY

This is a parenting proceeding pertaining to T.P.D.C., born October 2015. On January 11, 2018, Mother filed the *Petition To Terminate* (doc. 105). Judge Deschamps presided over evidentiary hearings March 2, 9 and 28, 2018 on Mother’s *Petition to Terminate*.

On April 6, 2018, the district court entered its *Findings of Fact, Conclusions of Law and Order* (doc. 126).

On May 2, 2018, Mother filed a *Notice of Appeal* (doc. 134).

On June 29, 2018, Father filed a *Notice of Cross-Appeal* (doc. 144).

On September 18, 2018, the Court issued a *Notice of Filing* (doc. 148) confirming transcript submittal which completed the record on appeal.

Mother's opening brief was due on October 22, 2018. Mother did not request additional time before the expiration of the deadline. Mother did not file her appellate brief within the 30-day deadline.

ARGUMENT

Mother is required to file her appellate brief within 30 days of the record being filed. M. R. App. P. 13(1). Mother could have requested additional time to file her appellate brief consistent with M. R. App. P. 26(1). Mother did not file her brief by October 22, 2018 or request additional time to file her brief. Therefore, Mother's appeal should be dismissed as untimely.

Upon dismissing Mother's appeal, Father's cross-appeal is effectively moot. Therefore, upon dismissing Mother's appeal, Father voluntarily dismisses his cross-appeal.

Pursuant to M. R. App. P. 16(1), Mother's counsel was contacted.

Mother's counsel objects to this motion.

CONCLUSION

For these reasons, the Court should dismiss Mother's appeal. Upon dismissing Mother's appeal, Father voluntarily dismisses his cross-appeal.

Dated this 15th day of November 2018.

/s/ André Gurr, Esq.
Attorney for Father

CERTIFICATE OF COMPLIANCE

Pursuant to M. R. App. P. 16, I certify that this motion is printed in Times New Roman font, with proportionally spaced typeface of 14 points, is double spaced, is 296 words as counted by the attorney's word processing software, excluding caption, certificate of service, and certificate of compliance.

Dated this 15th day of November, 2018.

/s/ André Gurr, Esq.
Attorney for Father

VERIFICATION

STATE OF MONTANA)

Missoula County)

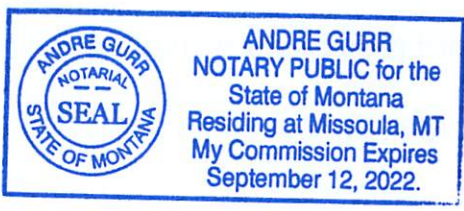
Brandon Staat, being first duly sworn, upon oath, deposes and says as follows:

I am the Respondent/Appellee in the foregoing action. The foregoing and the facts and matters contained herein are true, correct, and complete to the best of my knowledge and belief.

Dated this 15th day of November, 2018.


Brandon Staat

SUBSCRIBED AND SWORN TO before me this 15th day of November, 2018 by Brandon Staat.




Printed Name: _____
Notary Public for the State of Montana
Residing at _____
My Commission Expires: _____.

CERTIFICATE OF SERVICE

I, Andre Gurr, hereby certify that I have served true and accurate copies of the foregoing Motion - Dismiss - Appellee's Motion to Dismiss to the following on 11-15-2018:

Kathleen Anne Molsberry (Attorney)
2419 Mullan Road, Suite B
Missoula MT 59808
Representing: Tami Disney
Service Method: eService

Matthew Benjamin Lowy (Attorney)
2419 Mullan Road
Suite B
Missoula MT 59808
Representing: Tami Disney
Service Method: E-mail Delivery

Electronically Signed By: Andre Gurr
Dated: 11-15-2018