

09/28/2020

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 20-0460

DAVINA ATTAR-WILLIAMS  
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Petitioner/Appellant

IN THE SUPREME COURT OF THE STATE OF MONTANA

In re the Marriage of:

DAVINA ATTAR-WILLIAMS,

Petitioner/Appellant,

and

STEVEN THOMAS WILLIAMS,

Respondent/Appellee.

CASE NO. DA 20-0460

**PETITIONER'S MOTION TO  
WAIVE REQUIRED MEDIATION  
PURSUANT TO THE DOMESTIC  
ABUSE EXCEPTION DESCRIBED  
IN RULE 7(2)(b) OF THE  
MONTANA RULES OF  
APPELLATE PROCEDURE AND  
BRIEF IN SUPPORT**

COMES NOW Appellant Davina Attar-Williams in the above-captioned matter and submits the following Motion to Waive mediation required by Rule 7 of the Montana Rules of Appellate Procedure for domestic relation appeals due to the domestic abuse exception under Rule 7(2)(b), M. R. App. P.

When Petitioner/Appellant Davina Attar-Williams stated in her Notice of Appeal the current appeal was subject to the mediation requirements of Rule 7 of the Montana Rules of Appellate Procedure, what Appellant meant was that this appeal of the District Court's September 9, 2020 Final Dissolution Decree and the Findings of Fact and Conclusions of Law on which the District Court's Final Dissolution Decree was based is domestic relations case ordinarily subject to the mediation requirements of Rule 7, M. R. App. P.

Appellant, however, always intended to move the Court to waive the Rule 7 appellate mediation requirement in light of the domestic abuse exception for domestic relations cases involving domestic abuse described under Rule 7(2)(b), M. R. App. P., which indicates that the Montana Supreme Court will not require the parties to a domestic relations case that involved domestic abuse to submit to the mediation requirements of Rule 7 of the Montana Rules of Appellate Procedure.

As the District Court record shall demonstrate, on September 17, 2019, Judge Harris granted Petitioner/Appellant Davina Attar-Williams a 3-year Order of Protection against Respondent/Appellee Steven Thomas Williams. Moreover, because Appellant's prior attorneys never informed her that, much like the appellate mediation requirement under Rule 7, M. R. App. P., she could also move to waive the district court's pre-trial mediation requirement in light of Respondent/Appellee's long history of abuse, Appellant did engage in mediation with Appellee in May 2020. Due to the circumstances involving Appellee's longstanding power/control dynamic from years of abusing Appellant every way imaginable, including physically, emotionally, psychologically and financially, Appellant and Appellee's all-day mediation was nothing more than an absolute waste of time and money because of Appellee and Appellee's counsel's refusal to attempt to negotiate with Appellant in good faith or to try to work out any semblance of a reasonable potential settlement in good faith, in addition to their refusal to even attempt to refrain from trying to bully Petitioner into agreeing to their harsh and unwavering terms and conditions which entailed demanding that Appellant agree to submit to all of Appellee's wants and expectations – no matter how unreasonable and/or inappropriate – while also forfeiting everything Petitioner expected be included in any potential settlement

arrangements. There would be no advantage to mandating the parties undergo another occasion to waste everyone's time, energy, money, efforts and resources once again on appeal.

Accordingly, Appellant Davina Attar-Williams requests that the Montana Supreme Court will waive the Rule 7 mediation requirement for the current appeal due to the domestic abuse exception to the mediation requirement described under Rule 7(2)(b) of the Montana Rules of Appellate Procedure.

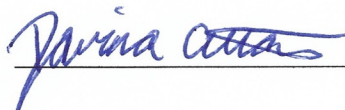
RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of September, 2020.

BY:   
Appellant Davina Attar-Williams

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 28<sup>th</sup> day of September 2020, a true and correct copy of the foregoing fully-executed **Motion to Waive Required Mediation Pursuant to the Domestic Abuse Exception described in Rule 7(2)(b) of the Montana Rules of Appellate Procedure and Brief in Support** was duly served on:

Kelly Varnes  
Hendrickson Law Firm  
208 N Broadway #324  
Billings, MT 59101  
[Kelly@hendricksonlawmt.com](mailto:Kelly@hendricksonlawmt.com)  
Attorney for Appellee



A handwritten signature in blue ink, appearing to read "Javina Carter", is written over a horizontal line.



**SUPREME COURT NO. DA 20-0460**

**ORDER GRANTING  
PETITIONER'S MOTION TO  
WAIVE RULE 7 MEDIATION  
REQUIREMENT PURSUANT TO  
THE DOMESTIC ABUSE  
EXCEPTION UNDER RULE 7(2)(b)  
OF THE MONTANA RULES OF  
APPELLATE PROCEDURE**

Justice

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Justice

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Justice

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Justice

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Justice

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Justice

## **CERTIFICATE OF SERVICE**

I, Davina Attar, hereby certify that I have served true and accurate copies of the foregoing Rulings - Commissions to the following on 09-28-2020:

Kelly J. Varnes (Attorney)  
208 North Broadway  
Suite 324  
Billings MT 59101  
Representing: Steven Thomas Williams  
Service Method: eService

Davina Attar-Williams (Appellant)  
4210 Arrowwood Drive  
Billings MT 59106  
Service Method: E-mail Delivery

Electronically Signed By: Davina Attar  
Dated: 09-28-2020