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APPELLEE/ATTORNEY

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.	Cause No.: DA 21-0630 MOTION TO DISMISS & REQUEST FOR SANCTIONS
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Comes now Appellee Steve Williams and moves the Court for an order dismissing this appeal based on the failure of Appellant Davina Attar-Williams (Davina) to file her opening brief. Appellee additionally requests that the Court impose sanctions pursuant to Mont. R. App. Proc., Rule 19(5).

On February 17, 2022 Davina requested an extension of the deadline to file her opening brief in this appeal. The Court granted this extension on February 18th, extending the briefing deadline to March 23rd. This extension date has passed with Davina failing to file an opening brief. Davina's failure to file a brief warrants a dismissal as a second extension has not been requested, nor is there evidence of diligence or substantial need. Further, any request for extension at this point would

be untimely. Mont. R. App. Proc., Rule 26(2) states that for extensions of time in proceedings regarding either parenting plans or second extensions “[t]here shall be a presumption against granting motions for extension of time to file briefs.” Additionally, “[s]uch a motion shall be filed at least 7 days before the expiration of the time prescribed for filing the brief...” *Id.* Although Davina is representing herself, she is an attorney and aware of the filing requirements outlined in the rules of appellate procedure.

If this matter is dismissed, Appellee requests that the Court award sanctions pursuant to Mont. R. App. Proc., Rule 19(5). Under this rule, the Supreme Court may award sanctions, including attorney fees or other monetary penalty, for an appeal “determined to be frivolous, vexatious, filed for purposes of harassment or delay, or taken without substantial or reasonable grounds.” Mont. R. App. Proc., Rule 19(5). Davina’s appeal is the most recent in a series of vexatious and harassing appeals regarding the parenting plan between the parties. To this point, Davina has had three related appeals dismissed for failure to file an opening brief within the past year, all involving the same parenting plan and related contempt findings. *See* DA 21-0350; DA 21-0039; & DA 20-0460. In each of these instances, Davina initiated an appeal, but then failed to properly file opening briefs, ultimately resulting in dismissal. Despite these matters being dismissed, each of these filings has caused undersigned to expend substantial resources in opposing. The present case is

similarly harassing and vexatious, with no purpose other than to waste the resources of the Court and undersigned.

Undersigned requests that either attorney fees or a monetary penalty be assessed against Davina pursuant to Rule 19(5). While undersigned is appearing pro se, case law holds that pro se attorneys are entitled to be paid attorney fees where an award for legal fees is proper. *See Shors v. Branch*, 221 Mont. 390, 402, 720 P .2d 239, 246, 1986 Mont. LEXIS 921, * 17 (“a *pro se* attorney is entitled to be paid for his legal services, in a case in which award of attorney fees is proper.”) Through the filing of the present motion, undersigned has spent 4.5 hours opposing this appeal, and bills \$190 per hour.

Based on the foregoing, Appellee respectfully requests that the Court dismiss Davina’s appeal and impose monetary sanctions.

DATED this 28th day of March, 2022.

By: /s/ Steven T. Williams
Steven T. Williams
Respondent/Appellee

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 20(4)(c), undersigned affirms that this brief complies with Rule 20(3), and contains 508 words (excluding caption, certifications, and signatures) as calculated by Microsoft Word.

DATED this 28th day of March, 2022.

By: /s/ Steven T. Williams
Steven T. Williams
Respondent/Appellee

CERTIFICATE OF SERVICE

I, Steven Thomas Williams, hereby certify that I have served true and accurate copies of the foregoing Motion - Dismiss to the following on 03-28-2022:

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

Steven Thomas Williams (Appellee)
2950 Rockrim Lane
Billings MT 59012
Service Method: Conventional

Electronically Signed By: Steven Thomas Williams
Dated: 03-28-2022