

IN THE SUPREME COURT
OF THE STATE OF MONTANA

SUPREME COURT CAUSE NO. DA 23-0165

IN RE THE MARRIAGE OF
CHELSEA RENAE WILSON,
Petitioner/Appellee,
and
MARK ALAN WILSON,
Respondent/Appellant.

**AFFIDAVIT IN SUPPORT OF
NOTICE TO COURT AND
UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE
OPENING BRIEF**

On Appeal from the Montana Thirteenth Judicial
District Court, Yellowstone County
Lower Court Docket No. DR-56-2021-409
Before District Judge Donald L. Harris

[illegible]

I, Daniel Ball, depose and state under oath as follows:

1. I am counsel for the Respondent/Appellant in the above-entitled matter.

2. I submit this affidavit in accordance with Rule 26(2), Mont. R. App. P. In support of Respondent/Appellant's Notice to the Court and Unopposed Motion for Extension of Time to File Opening Brief on Appeal.

3. Respondent/Appellant's opening brief on appeal was originally due April 19, 2023. Pursuant to Rule 26(1) Mont. R. App. P., Respondent/Appellant was granted a 30 day extension until May 19, 2023, in which to file the opening brief on appeal.

4. Respondent/Appellant is not in possession of the complete district court record. Counsel for Respondent/Appellant submitted Respondent's Statement of Unavailable Evidence on behalf of Respondent in the district court matter on April 28, 2023. Counsel for Petitioner in the district court matter submitted a Verified Response to Respondent's Statement of Unavailable Evidence on May 1, 2023. As of the filing of this Affidavit and Notice and Unopposed Motion for Extension, District Court Judge Donald L. Harris has not yet ruled on the matter of unavailable evidence.

5. Rule 8(7)(d) Mont. R. App. P. provides that the district court shall examine the statement of unavailable evidence and any response thereto, may hold hearing on the matter of unavailable evidence, and shall promptly file with the clerk of the district court an order adopting or rejecting, in whole or in part, the statement of unavailable evidence. Pursuant to Rule 8(7)(e) Mont. R. App. P., the district court's order entered pursuant to section (7)(d) shall then constitute the record on appeal as to the unavailable evidence.

6. Pursuant to Rule 8(7)(f) Mont. R. App. P., following the district court's entry of an order adopting or rejecting, in part or in whole, the statement of

unavailable evidence, including all timely objections together with all available portions of the record and transcripts, shall be transmitted by the clerk of district court to the clerk of the supreme court upon the expiration of the time for filing objections. The appellant's opening brief on appeal is due 45 days following such transmission.

7. The district court has not yet entered its order adopting or rejecting, in whole or in part, the statement of unavailable evidence.

8. Following entry of the district court's order on Respondent/Appellant's statement of unavailable evidence, the district court clerk is to transmit the record, timely objections, and transcripts to the clerk of the supreme court. The transmission by the district court clerk has not yet occurred. The appellant's opening brief on appeal is due 45 days following such transmission.

9. Undersigned counsel for Respondent/Appellant's respectfully requests an extension of 90 days in which to file Respondent/Appellant's opening brief on appeal.

10.. Counsel for Petitioner/Appellee in the District Court matter has been contacted regarding the requested continuance and does not oppose this motion.

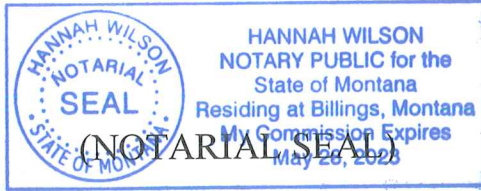
DATED this 19th day of May 2023.

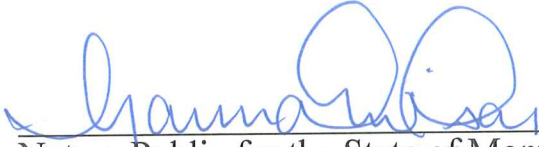
HENDRICKSON LAW FIRM, P.C.
P.O. Box 2502
Billings, MT 59103-2502
Attorneys for Respondent/Appellant

By: 

DANIEL BALL

SUBSCRIBED AND SWORN TO this 19th day of May 2023.





Notary Public for the State of Montana

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of May 2023 a true and correct copy of the within and foregoing was served by electronic filing and mail upon all the parties or opposing attorneys of record at their address or addresses as follows:

James Graves
Attorney at Law
2722 3rd Avenue North, Suite 301
Billings, MT 59101

HENDRICKSON LAW FIRM, P.C.

By: /s/ Daniel Ball
DANIEL BALL