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**IN THE SUPREME COURT FOR THE STATE OF MONTANA  
DA-23-0412**

IN RE THE MARRIAGE OF:  
ACACIA JENSEN,  
Petitioner and Appellant,  
v.  
TIMOTHY JENSEN,  
Respondent and Appellee.

**APPELLEE’S COMBINED  
RESPONSE TO MOTION FOR  
EXTENSION OF TIME TO  
ORDER TRIAL TRANSCRIPT  
AND FILE OPENING BRIEF AND  
REQUESTS FOR LEAVE TO  
CORRECT CLERICAL ERRORS  
AND FOR LEAVE TO ENFORCE  
FINANCIAL OBLIGATION**

COMES NOW, Respondent and Appellee Timothy Jensen (“Tim”), and respectfully submits his combined response to Petitioner and Appellant Acacia Jensen’s (“Acacia”) Motion for Extension of Time to Order Trial Transcript and File Opening Brief (“Motion for Extension”), Request for Leave to Correct Clerical Errors (“Request Regarding Clerical Errors”), and Request for Leave to Enforce Financial Obligations (“Request Regarding Financial Obligations”).

## I. Factual Background

Acacia initiated this appeal on or about July 31, 2023 by filing a Notice of Appeal. In her Notice of Appeal, Acacia indicated:

[t]hat all available transcripts of the proceedings in this case have been ordered from the court reporter contemporaneously with the filing of this notice of appeal. If all available transcripts have not been ordered, that Appellant has complied with the provisions of Mont. R. App. P. 8(3) contemporaneously with the filing of this notice of appeal.

Now, over three (3) months after initiating this appeal, Acacia admits that the certification signed by her attorney was not accurate. She failed to order the necessary transcripts, and now shifts the blame for her false certification to Tim. Acacia is attempting to tie her failure to prosecute to the fact that Tim has not yet made payments on the property settlement portion of the Final Decree. (Dkt. 80.) She fails to note that Tim is current on his child support obligations and has met the obligation to pay for the children's education as ordered by the Court. She also fails to note that during the pendency of the dissolution, Tim transferred \$141,751.00 to her in the form of child support, maintenance, and partial property distribution. *See* Dkt. 74 and Trial Exhibit U.

As set forth in Tim's Motion to Dismiss filed on November 7, 2023, Tim moved this Court to dismiss Acacia's appeal for her failure to prosecute the same. Her current pleadings underscore the fact that she has in fact failed to prosecute.

Acacia is also asking this Court to remand the matter to the District Court to correct what she is referring to as clerical errors. Acacia, nearly five (5) months after the Court issued its Final Decree, and over three (3) months since she filed her Notice of Appeal, is communicating for the first time about what she sees as deficiencies with the Findings of Fact, Conclusions of Law, and Final Decree of Dissolution (Dkt. 80). Instead of moving through the appellate process to identify erroneous findings of fact, or abuse of discretion, or incorrect conclusions of law, she is asking for the chance to reform the Final Decree before appealing it. She cannot substantiate that it is a clerical error to assign Tim his attorney fee balance at the time of trial (which has since increased) in the worksheet that distributes the marital estate when the Final Decree specifies that he is to be responsible for that debt.

She next believes it is a clerical error for the Final Decree to not include a timeframe by which Tim is to make payment to Acacia. Beyond addressing this as an alleged clerical error, she is also requesting leave of this Court to allow the District Court to enforce the financial obligation. Such a request is not proper. The Final Decree acts as a judgment against real property held in the county in which the decree is issued. Mont. Code Ann. § 25-9-301. And, the payment due to Acacia is subject to judgment interest. Mont. Code Ann. § 25-9-205. Her rights

under the Final Decree are protected and she cannot establish it was a clerical error to not establish a timeframe for payment and cannot establish that it is proper to remand to create a new term of the Final Decree that would make payments immediately due. Acacia claims that if she is not granted the relief she cannot afford to proceed with her appeal. Acacia has received significant funds during the course of the dissolution, and the District Court specifically found that Acacia has made no efforts to obtain employment other than self-employment and she admitted to not actively engaging in self-employment. *See* Dkt. 80, Finding of Fact 117. Acacia cannot now blame Tim for her failure to manage her time and resources to prosecute the appeal she is seeking.

## **II. Conclusion**

Based on the foregoing, Tim respectfully requests that Acacia's Motion for Extension, Request Regarding Clerical Errors, and Request Regarding Financial Obligations be denied and this appeal dismissed with prejudice.

DATED this 28th day of November, 2023.

LAIRD COWLEY, PLLC

By: /s/ Jane E. Cowley  
Jane E. Cowley  
Attorneys for Timothy Jensen

## **CERTIFICATE OF SERVICE**

I, Jane E. Cowley, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Response to Motion to the following on 11-28-2023:

Clifford B. Irwin (Attorney)  
P.O. Box 9437  
Missoula MT 59807  
Representing: Acacia Jensen  
Service Method: eService

Electronically signed by Stephenie Dunwell on behalf of Jane E. Cowley  
Dated: 11-28-2023