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*Attorneys for Wesley and Karen Tuscano*

**IN THE SUPREME COURT OF THE STATE OF MONTANA**  
**No. DA 23-0656**

**WESLEY and KAREN TUSCANO,**

Appellants, Defendants,  
and Counter-Plaintiffs,

v.

**SIDNEY and JULIAN HELVIK,**

Appellees, Plaintiffs,  
and Counter-Defendants,

**WESLEY and KAREN TUSCANO,**

Appellants, Third-Party  
Plaintiffs

v.

**JACQUELINE CONNER,**

Appellee, Third-Party  
Defendant.

**NOTICE OF ERROR IN  
M.R.APP.P. 9(4) FOURTH  
MOTION FOR AN EXTENSION  
OF TIME TO TRANSMIT THE  
TRANSCRIPTS**

COME NOW, Appellants Wesley and Karen Tuscano (“Tuscanos”) by and  
through their attorneys of record, the undersigned, and hereby notify the Court that

Lund Law just discovered that our statement that “Counsel for Appellee Jacqueline Conner has been contacted and did not respond. Counsel for Appellees, Sidney and Julian Helvik, has been contacted also and did not respond,” is an error. September 9, 2024, email from Barbara Harris to Hertha Lund, attached as Exhibit 1. Counsel for Sidney and Julian Helvik emailed Hertha Lund, counsel for Tuscanos this morning and stated that her records do not show that she was contacted. *Id.*

Upon receiving her email this morning, Lund Law checked its records and realized that the email that was drafted and sent to opposing counsel for some technical reason got stuck in an email outbox on Thursday and did get to opposing counsel. September 9, 2024 email from Hertha Lund to Barbara Harris, attached as Exhibit 2. This same problem occurred with one other email on Thursday. *Id.*

Ms. Harris said that if Lund Law did not let the Court know about Lund Law’s email problems, she would let the Court know Lund Law’s representations were “inaccurate.” September 9, 2024 email from Barbara Harris to Hertha Lund, attached as Exhibit 3.

DATED this 9<sup>th</sup> day of September, 2024.

Lund Law PLLC

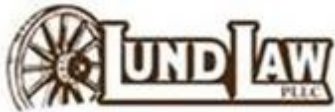
/s/ Hertha L Lund  
Hertha L. Lund  
*Attorney for Tuscanos*

**From:** [Hertha Lund](#)  
**To:** [Genevieve Martin](#)  
**Subject:** FW: Supreme Court No. DA 23-0656: Order  
**Date:** Monday, September 9, 2024 9:36:03 AM  
**Attachments:** [Order - Grant - Extension of Time.pdf](#)

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?????

Hertha L. Lund



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**From:** Barbara Harris <bharris@mtlsa.org>  
**Sent:** Monday, September 9, 2024 9:20 AM  
**To:** Hertha Lund <Lund@Lund-Law.com>  
**Cc:** Michael McGuinness <mmcguinness@ppbglaw.com>; Justin Oliveira <joliveira@ppbglaw.com>  
**Subject:** Fwd: Supreme Court No. DA 23-0656: Order

Ms. Lund,

I see that you represented to the Montana Supreme Court that you contacted me regarding the motion for an extension of time that resulted in the attached order. My records show no such contact. Can you please clarify for me why your statement to the Court was made?

Sincerely,

Barbara C. Harris

----- Forwarded message -----

**From:** <[clerkofsupremecourt@mt.gov](mailto:clerkofsupremecourt@mt.gov)>  
**Date:** Mon, Sep 9, 2024 at 8:18 AM  
**Subject:** Supreme Court No. DA 23-0656: Order

**EXHIBIT 1**

To: <[bharris@mtlsa.org](mailto:bharris@mtlsa.org)>

Attached is a filed and docketed Order - Grant - Extension of Time in Supreme Court Case No. DA 23-0656.

Sincerely,

Bowen Greenwood  
Clerk of the Supreme Court

**From:** [Hertha Lund](#)  
**To:** [Barbara Harris](#)  
**Cc:** [Genevieve Martin](#)  
**Subject:** FW: Helvik v. Tuscano - Court Reporter Affidavit  
**Date:** Monday, September 9, 2024 10:07:11 AM  
**Attachments:** [Helvik Affidavit for Extension of time.docx](#)  
[24.9.5 Rule 9\(4\) Fourth Motion for an Extension \(to counsel\).docx](#)

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Ms. Harris,

We checked our records and apparently my assistant's email from Lund Law to you and others got stuck in her outbox. We heard from Robin after lunch that day, and then we drafted a motion for another extension and thought we sent it to you asking for your response. It was not until hearing from you today that we realized the email to you got stuck in our system. We now realize that the same thing happened with another email to someone else that day. We will check with our internet provider.

Thank you for letting me know about this problem.

Sincerely,  
Hertha

Hertha L. Lund



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**From:** Genevieve Martin <paralegal@lund-law.com>  
**Sent:** Monday, September 9, 2024 9:44 AM  
**To:** Hertha Lund <Lund@Lund-Law.com>  
**Subject:** Helvik v. Tuscano - Court Reporter Affidavit

Hertha,

This email was in my unsent Outbox! It never went through on the 5<sup>th</sup>!

**EXHIBIT 2**

Good Afternoon Counsel,

I am reaching out on behalf of Hertha to ask if you oppose a motion for extension with the Supreme Court to file the Transcripts. I know the turnaround time is tight, but please let me know before 4 today so we can file the Motion with your position noted. I've attached Ms. Lee's affidavit. Thank you for your attention to this

Kindly,

**GENEVIEVE J. MARTIN**  
PARALEGAL



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**From:** Lee, Robin <[Robin.Lee@mt.gov](mailto:Robin.Lee@mt.gov)>  
**Sent:** Thursday, September 5, 2024 2:19 PM  
**To:** Genevieve Martin <[paralegal@lund-law.com](mailto:paralegal@lund-law.com)>  
**Subject:** RE: Tuscano Appeal

Hi,  
Attached is the affidavit. Thank you!  
Robin

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**From:** Genevieve Martin <[paralegal@lund-law.com](mailto:paralegal@lund-law.com)>  
**Sent:** Thursday, September 5, 2024 1:48 PM  
**To:** Lee, Robin <[Robin.Lee@mt.gov](mailto:Robin.Lee@mt.gov)>  
**Subject:** [EXTERNAL] RE: Tuscano Appeal

Good Afternoon Robin,

**EXHIBIT 2**

Yes, please send an affidavit as soon as possible so we can send to opposing counsel to see if they oppose another extension. Thanks! We will need to file it with the Court today as well.

Kindly,

**GENEVIEVE J. MARTIN**

PARALEGAL



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**From:** Lee, Robin <[Robin.Lee@mt.gov](mailto:Robin.Lee@mt.gov)>

**Sent:** Thursday, September 5, 2024 1:29 PM

**To:** Genevieve Martin <[paralegal@lund-law.com](mailto:paralegal@lund-law.com)>

**Subject:** Tuscano Appeal

Hi there,

I just wanted to reach out and let you know that I am not quite finished the Appeal. I finished a huge appeal (1100 pages) and since then I've been in hearings including a five-day jury trial all last week. I have been working on it diligently in the evenings and on weekends, but it's not ready to be filed today, as much as I hoped it would be. I think I need to send an affidavit to you today so you can file a motion with the Supreme Court for more time.

Let me know what you need from me.

**From:** [Hertha Lund](#)  
**To:** [Genevieve Martin](#)  
**Subject:** FW: FW: Helvik v. Tuscano - Court Reporter Affidavit  
**Date:** Monday, September 9, 2024 10:29:41 AM

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Hertha L. Lund



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**From:** Barbara Harris <bharris@mtlsa.org>  
**Sent:** Monday, September 9, 2024 10:15 AM  
**To:** Hertha Lund <Lund@Lund-Law.com>  
**Cc:** Michael McGuinness <mmcguinness@ppbglaw.com>; Justin Oliveira <joliveira@ppbglaw.com>  
**Subject:** Fwd: FW: Helvik v. Tuscano - Court Reporter Affidavit

Ms. Lund,

Do you intend to complete the record with the Montana Supreme Court, letting the Court know your representations are inaccurate? If not, I will.

Sincerely,

Barbara C. Harris

----- Forwarded message -----

**From:** Hertha Lund <[Lund@lund-law.com](mailto:Lund@lund-law.com)>  
**Date:** Mon, Sep 9, 2024 at 10:07 AM  
**Subject:** FW: Helvik v. Tuscano - Court Reporter Affidavit  
**To:** Barbara Harris <[bharris@mtlsa.org](mailto:bharris@mtlsa.org)>  
**Cc:** Genevieve Martin <[paralegal@lund-law.com](mailto:paralegal@lund-law.com)>

**EXHIBIT 3**



Ms. Harris,

We checked our records and apparently my assistant's email from Lund Law to you and others got stuck in her outbox. We heard from Robin after lunch that day, and then we drafted a motion for another extension and thought we sent it to you asking for your response. It was not until hearing from you today that we realized the email to you got stuck in our system. We now realize that the same thing happened with another email to someone else that day. We will check with our internet provider.

Thank you for letting me know about this problem.

Sincerely,  
Hertha

Hertha L. Lund



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## **CERTIFICATE OF SERVICE**

I, Hertha Louise Lund, hereby certify that I have served true and accurate copies of the foregoing Notice - Errata to the following on 09-09-2024:

Michael Francis McGuinness (Attorney)  
2817 2nd Avenue North Suite 300  
Billings MT 59101  
Representing: Jacqueline Conner  
Service Method: eService

Justin Oliveira (Attorney)  
2817 2nd Ave. N, Ste. 300  
Billings MT 59101  
Representing: Jacqueline Conner  
Service Method: eService

Barbara C. Harris (Attorney)  
616 Helena Avenue  
Suite 100  
Helena MT 59601  
Representing: Julian Helvik, Sidney Helvik  
Service Method: eService

Peter B. Taylor (Attorney)  
662 S. Ferguson Ave, Unit 2  
Bozeman MT 59718  
Representing: Karen Tuscano, Wesley Tuscano  
Service Method: eService

Electronically signed by Genevieve Martin on behalf of Hertha Louise Lund  
Dated: 09-09-2024