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Attorneys for Defendant/Counterclaimant/Appellant/Cross-Appellee

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Case No. DA 23-0716

RODNEY BRANDT and HEIDI
BRANDT, MARSHALL FLADAGER and
NEVA FLADAGER, and LARRY
LAUTARET and RENA LAUTARET,

Plaintiffs/Counter-Defendants/
Appellees/Cross-Appellants,

-vs-

R&R MOUNTAIN ESCAPES, LLC, a
Montana Limited Liability Company,

Defendant/Counterclaimant/
Appellant/Cross-Appellee.

**AFFIDAVIT OF
STEPHANIE DENTON
BAUCUS
IN SUPPORT OF
APPELLANT'S
RESPONSE OPPOSING
APPELLEES' MOTION FOR
LEAVE TO FILE
SUPPLEMENTAL BRIEF
AND
CROSS MOTION TO FILE
OVERLENGTH BRIEF AND
SET BRIEFING SCHEDULE,
IF APPELLEES' MOTION IS
GRANTED**

STATE OF MONTANA)

: ss.

County of Yellowstone)

Stephanie Denton Baucus, being duly sworn upon oath, deposes and says:

1. I am over eighteen years old, and along with my colleagues at Moulton Bellingham PC, I am counsel for Appellant R&R Mountain Escapes LLC (“Appellant” or “R&R”) in the above-referenced matter.

2. In my capacity as counsel in this matter, I have reviewed the facts provided in R&R’s Response Opposing Appellees’ Motion for Leave to File Supplemental Brief and Cross Motion to File Overlength Brief and Set Briefing Schedule if Appellees’ Motion is Granted, and they are true and correct.

3. I am providing this affidavit in support of Appellants’ contingent request to file an overlength brief, in the event that the Court grants Appellees’ Motion and permits Appellees to file a supplemental brief not to exceed 500 words.

4. If the Court denies Appellees’ Motion, then R&R does not plan to seek leave to file an overlength brief and is not requesting that the Court adjust the current briefing schedule.

5. After Appellees reached out to me last week in my capacity as R&R’s counsel for R&R’s position on its proposal to provide a supplemental brief to address the Court’s recent decision in *Myers v. Kleinhans*, 2024 MT 208, 418 Mont. 113, we exchanged emails to consider Appellees’ proposal.

6. After Appellees' filed their Notice of Supplemental Authority, I explained to Appellees' counsel that R&R did not believe a supplemental brief would be appropriate under the circumstances. However, even considering that position, I noted that R&R might consider withdrawing its objection to Appellees' planned motion for leave to file a supplemental brief if Appellees would not oppose R&R having 500 extra words in its forthcoming Combined Reply and Response to the Cross Appeal and if Appellees would not object to R&R seeking to file R&R's brief at least two weeks after Appellees' file any permitted supplemental brief or until the current deadline of October 21, 2024, whichever is later.

7. In response, Appellees' counsel expressed that he would not agree to an additional 500 words, as R&R has already made an argument regarding whether its short-term rental was consistent with a commercial use prohibition. He also indicated that he would include unopposed briefing deadlines in his Motion.

8. Before I could respond, Appellees filed their Motion for Leave to file a Supplemental Brief.

9. Appellees' Motion did not include any requests for briefing deadlines.

10. In my capacity as counsel in this matter, I have reviewed Appellees' Combined Response to R&R's Opening Brief and Cross Appeal.

11. In my belief, addressing the existing arguments in Appellees' Combined Response to R&R's Opening Brief and Cross Appeal will necessitate

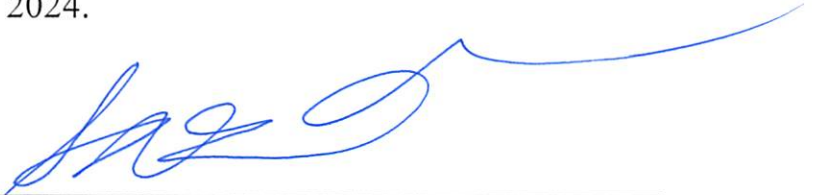
approximately 5,000 words of briefing in R&R's Reply Brief and Response to Cross Appeal, the maximum number of words allowed under Mont. R. App. P. 11(4)(a), before responding to any supplemental briefs.

12. If the Court affords Appellees an additional 500 words of briefing to address new arguments that are not already fleshed out in their existing briefing, I believe R&R will need an additional 500 words of briefing to address these new arguments. If the Court does not grant R&R an additional 500 words of briefing, I believe R&R would be prejudiced.

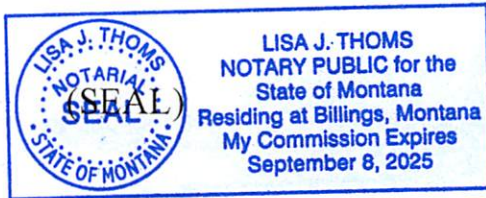
13. R&R's request for an Overlength Combined Reply Brief and Response to Cross Appeal is entirely contingent on the Court's grant of Appellees' Motion for Supplemental Briefing.

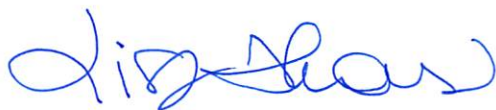
14. If the Court does not grant Appellees' Motion, I do not believe R&R will need an additional 500 words of briefing in this matter.

DATED this 2nd day of October, 2024.


STEPHANIE BAUCUS

Subscribed and sworn to before me this 2nd day of October, 2024.




Notary Public for the State of Montana