

IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. DA 24-0547

IN RE THE PARENTING OF D.C.S.:

REBECCA JEAN TAYLOR
n/k/a REBECCA GROVE,
Petitioner/Appellant

vs

JOSH TAYLOR,
Respondent/Appellee,

and

DAVID SCOTT and JANICE SCOTT,
Third-Party Intervenors/Appellees.

On appeal from the Fifth Judicial District Court, in and for the County of Madison,
as Cause No. DR-1-2023-0014004-JD, Hon. L. Berger

THIRD PARTY APPELLEE'S UNOPPOSED MOTION FOR EXTENSION

S. Chase Rosario
MALCOM & PIERS pllc
P.O. Box 3614
Lewistown, MT 59457
Email: lawyer@alacarte.lawyer
Attorney for Petitioner/Appellant

Joshua Richard Taylor
P.O. Box 58712
Fairbanks, AK 99711
Respondent, pro se

Lori A. Harshbarger
Kylee A. Vara
HARSHBARGER LAW FIRM
P.O. Box 445
Twin Bridges, MT 59754
Email: lori@harshbargerlawfirm.com, kylee@harshbargerlawfirm.com,
Attorneys for Third Party Appellees/Third Party Petitioners

THIRD PARTY APPELLEE'S UNOPPOSED MOTION FOR EXTENSION

COME NOW, Third Party Appellees, DAVID SCOTT and JANICE SCOTT (hereinafter “Scotts”), by and through their counsel of record, Lori A. Harshbarger and Kylee A. Vara and submit this Motion for Extension of additional time to file *Third Party Appellee’s Response Brief and Brief in Support* pursuant to M. R. App. P. 26(1).

The Scotts move for a thirty-day extension of time to prepare, file, and serve their responsive opening brief that is currently due February 7, 2025. The Scotts request until 5:00 pm MST on March 10, 2025 to file and serve their responsive opening brief. Pursuant to M. R. App. P. 26(1), the undersigned states that opposing counsel was contacted and does not oppose this motion.

Pursuant to M. R. App. P (26)(1), the Supreme Court, for good cause shown, may upon motion extend the time prescribed by the rules or by its order for doing any act, and may thereby permit an act to be done after the expiration of such time if excusable under the circumstances. This is Appellee’s first request for extension.

Extension is necessary and excusable under the circumstances, as the undersigned counsel received an Unopposed Motion for Grant of Leave to Print and Mail Briefs on February 1, 2025. That Motion also contained a motion for leave to amend the Appellant’s Opening Brief within the body of the brief. Opposing counsel, Ms. Rosario sent the undersigned an email requesting leave to print and mail briefs, but she did not wait for any response prior to filing her *Motion*. The

undersigned counsel, Ms. Vara, is on maternity leave and automatic reply on email states such and further states that email will be checked sporadically and to please submit any inquiries to a legal assistant or co-counsel, Ms. Rosario instead opted to forego any responsive answer and file her *Motion* as “Unopposed.”

While the undersigned may not have opposed counsel’s request to serve her seven (7) copies of her opening brief, the undersigned certainly would not have agreed to further amendment of *Appellant’s Opening Brief*, as drafting in response to that opening brief is already nearing completion, and amendment of that brief, even for removal of symbols, paragraphs, issues with citations and other issues raised by Ms. Rosario will likely result in differences with formatting and page numbers that will result in reference and citation issues with the undersigned’s brief, and delays in the ability to address those issues prior to the February 7th deadline.

Until the undersigned receives Order from this Court on whether opposing counsel may amend her brief or file her required copies, the undersigned requests extension of the February 7, 2025 responsive deadline to avoid duplicative drafting and additional expense burdening the Scotts.


In all cases except those addressed in section (2) of Rule 26 M. R. App. P., a party may move for and be granted one (1) 30-day extension of time in which to file a brief required or allowed to be filed under these rules. The Clerk of the Supreme Court is authorized to act on any such motions for 30-day extension

requests which are unopposed, such as the present motion. *Id.* Section (2) of Rule 26 M. R. App. P. does apply, as this is a second request or a proceeding regarding an abused or neglected child or a parenting plan, however, opposing counsel's filing date necessitates this motion and waiver of the requirement to file within seven (7) days of the expiration of time prescribed for filing the brief.

The undersigned has attached an *Affidavit* to comply with Rule 26(2).

DATED this 5th day of February, 2025.

HARSHBARGER LAW FIRM

By: 

Kylee A. Vara
Attorney for
Respondent/Appellee

CERTIFICATE OF COMPLIANCE

I, the undersigned, hereby certify that pursuant to M. R. App. P. 11 and 16, this document is printed with proportionally spaced Times New Roman typeface of 14 points, double spaced, and the word count calculated by Microsoft Word is not more than 1,250 words.

DATED this 5th day of February, 2025.

HARSHBARGER LAW FIRM

By: 

Kylee A. Vara
Attorney for Respondent/Appellee

Lori A. Harshbarger
Kylee A. Vara
HARSHBARGER LAW FIRM
P.O. Box 445
Twin Bridges, MT 59754
Email: lori@harshbargerlawfirm.com
kylee@harshbargerlawfirm.com
maddy@harshbargerlawfirm.com
Attorneys for Third Party Appellees/Third Party Petitioners

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Declaration of Kylee A. Vara, ESQ.

I, KYLEE A. VARA declare and say:

1. I am an attorney licensed to practice in the State of Montana.

2. I am counsel of record for Third-Party Appellees David Scott and Janice Scott in the above-captioned matter.
3. Pursuant to M. R. App. P. 26(2), I hereby state as follows:
 - a. Appellant's opening brief was due January 9, 2025.
 - b. Appellee's opening brief is due February 7, 2025.
 - c. Appellee requests an additional 30 days to file opening/responsive brief.
 - d. Extension is necessary and excusable under the circumstances, as I received an *Unopposed Motion for Grant of Leave to Print and Mail Briefs* on February 1, 2025. That Motion also contained a motion for leave to amend the Appellant's Opening Brief within the body of the brief. Opposing counsel, Ms. Rosario sent the undersigned an email requesting leave to print and mail briefs on January 30, 2025, but she did not wait for any response prior to filing her *Motion*. I am currently on maternity leave and automatic reply on my email states such and further states that email will be checked sporadically and to please submit any inquiries to a legal assistant or co-counsel, Ms. Rosario instead opted to forego any responsive answer and file her *Motion* as "Unopposed."

- e. While I may not have opposed counsel's request to serve her seven (7) copies of her opening brief, I do not agree to further amendment of *Appellant's Opening Brief*, as drafting in response to that opening brief is already nearing completion, and amendment of that brief, even for removal of symbols, paragraphs, issues with citations and other issues raised by Ms. Rosario will likely result in differences with formatting and page numbers that will result in reference and citation issues with the undersigned's brief, and delays in the ability to address those issues prior to the February 7th deadline. I have exercised diligence in completing responsive briefing in this matter, but Ms. Rosario's untimely request has created substantial need for extension such that responsive briefing cannot be filed without ruling from the Court on whether amendment will be permitted by Ms. Rosario.
- f. Opposing counsel has been contacted and does not object to the request for extension.

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I, the undersigned, hereby certify that pursuant to M. R. App. P. 11 and 16, this document is printed with proportionally spaced Times New Roman typeface of 14 points, double spaced, and the word count calculated by Microsoft Word is not more than 1,250 words.

DATED this 5th day of February, 2025.

HARSHBARGER LAW FIRM

By: 

Kylee A. Vara
Attorney for Third Party
Petitioners/Appellees

CERTIFICATE OF SERVICE

I, Lori A. Harshbarger, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 02-05-2025:

S. Chase Rosario (Attorney)
PO Box 3614
Lewistown MT 59457
Representing: Rebecca Jean Grove
Service Method: eService

Kylee A. Vara (Attorney)
PO Box 445
Twin Bridges MT 59754
Representing: David Scott, Janice Scott
Service Method: eService

Joshua Richard Taylor (Appellee)
P.O. Box 58712
Fairbanks AK 99711-071
Service Method: Conventional

David L. Vicevich (Mediator)
3738 Harrison Avenue
Butte MT 59701
Service Method: Conventional

Electronically Signed By: Lori A. Harshbarger
Dated: 02-05-2025