

Nicholas D. Connor
Mathew M. Stevenson
Kimberly J. Wein
STEVENSON LAW OFFICE
1640 South Avenue West
Missoula, Montana 59801
Telephone: (406) 721-7000
Facsimile: (406) 830-3031
E-Mail: nconnor@bigskylegal.com
Attorneys for Appellant Jacob Handy

**IN THE SUPREME COURT OF THE STATE OF MONTANA
SUPREME COURT CASE NO. 25-0318**

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| <p>IN RE THE MARRIAGE OF:</p> <p>HEATHER HANDY n/k/a HEATHER MILLER, Petitioner and Appellee,</p> <p>And</p> <p>JACOB HANDY, Respondent and Appellant.</p> | <p>APPELLANT’S RESPONSE IN OPPOSITION TO APPELLEE’S MOTION TO DISMISS APPEAL</p> |
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COMES NOW, Appellant Jacob Handy (Jacob), by and through his attorney of record Nicholas D. Connor of Stevenson Law Office, and pursuant to Mont. R. App. P. 16(2) hereby provides his Response in Opposition to Appellee Heather Miller’s (Heather) Motion to Dismiss Appeal filed herein on July 23, 2025. As detailed below, Jacob respectfully requests that this Honorable Court deny the relief requested in Heather’s Motion to Dismiss Appeal, and further requests that this

Honorable Court permit the correction and supplementation of the appellate record pursuant to Mont. R. App. P. 8(6).

BACKGROUND

As the record reflects, Jacob timely filed his Notice of Appeal on April 29, 2025, along with his Request for Production of Transcripts as required under Rule 8(3). However, due to Jacob's then *pro se* status and lack of formal legal education or experience with the appellate process, the form filed inadvertently did not identify any specific hearing dates or proceedings for transcription. On July 23, 2025, Heather filed a Motion to Dismiss Appeal on the grounds that the transcript requested by Jacob were vague or deficient due to Jacob's failure to specifically request the transcript from the status hearing conducted by the Lincoln County District Court on October 15, 2024. While Jacob agrees that the record is currently insufficient for this Court to fully consider the merits of his appeal, rather than dismiss the appeal, Montana law permits Jacob to correct the error he made as a then *pro se* litigant.

DISCUSSION

It is well established in Montana that *pro se* litigants are extended latitude during legal proceedings and are held to "less stringent standards" than lawyers. *Eldridge v. Block*, 832 F.2d 1132, 1137 (9th Cir. 1987) (citing *Hughes v. Rowe*, 449 U.S. 5, 9, 101 S. Ct. 173, 66 L. Ed. 2d 163 (1980)). The Court in *Eldridge* specifically

said “Moreover, before dismissing an action, a court should always be certain that other less drastic alternatives are not available.” *Id.* (Citing *Nevijel*, 651 F.2d at 674). The Court in *Eldridge* held that the District Court’s decision to dismiss the case due to a lack of sufficient facts was an abuse of discretion. *Id.* at 1137. The Court held that Eldridge should have been given an extension and allowed to amend his complaint, and further stated that had that still been insufficient, Eldridge should have been allowed to file a second amended complaint, and the failure to do so constituted an abuse of discretion. *Id.*

While Heather requests that this Honorable Court dismiss Jacob’s appeal as a result of an insufficient record, Rule 8(3)(a) requires only substantial compliance with Form 9 in the Appendix of Forms, not perfect compliance as Heather purports in her Motion. Jacob was a *pro se* litigant at the time this appeal was initiated and made a good faith effort to comply with the rules of appellate procedure when procuring transcripts for this appeal. Jacob clearly intended to order transcripts of the October 15, 2024, status hearing as it was the only hearing held by the District Court pertaining to this instant appeal. Even a precursory review of Jacob’s Request for Production of Transcripts shows his substantial compliance with Form 9 as required by Rule 8(3)(a).

Moreover, Montana law allows for the record to be supplemented or corrected in such circumstances. Rule 8(6) provides in part: “If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the district court, on motion of a party or upon its own motion, either before or after transmission of the record to the supreme court, may order that the omission or misstatement be corrected and, if necessary, that a supplemental record be certified and transmitted.” This rule allows the record to be amended before or after the transmission to the Montana Supreme Court.

As Heather states in her Motion to Dismiss Appeal, “the October 15, 2024 hearing directly pertains to the issues being raised by the appellant” and “the transcript from that hearing is a necessary and important part of the record on appeal.” As such, the transcript is a material part of the record. It was inadvertently omitted from the record by Jacob when initiating his appeal as a *pro se* litigant.

The omission of the specific date on Jacob’s Request for Production of Transcripts was an error that can be remedied under Rule 8(6). Jacob has simultaneously filed an Amended Request for Production of Transcripts with this Honorable Court and the Lincoln County District Court. Jacob has also filed a Motion to Supplement Record on Appeal with the Lincoln County District Court to permit correction of the omitted date for the requested transcripts.

In accordance with *Nevijel* and *Eldridge*, this Honorable Court should first consider less drastic alternatives before dismissing the matter. Rule 8(6) allows for such alternatives in so far as it allows for the record to be amended as a result of error or mistake, as is clear in this case. As noted above, Jacob now seeks to correct the error or mistake in the record made by a then *pro se* litigant by filing the requisite Motion and Amended Request for Production of Transcripts with the Lincoln County District Court.

PRAYER FOR RELIEF

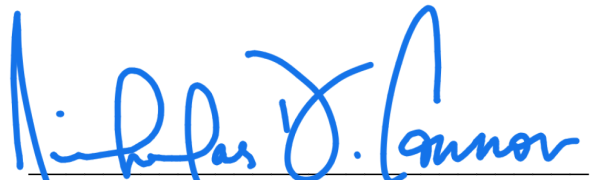
WHEREFORE, Appellant respectfully requests this Court to:

- I. DENY Appellee's pending Motion to Dismiss Appeal;
- II. PERMIT Appellant's correction or supplementation of the record as permitted by Mont. R. App. P. 8(6); and
- III. ACCEPT Appellant's Amended Request for Transcripts filed simultaneously herewith (and also simultaneously filed with the Lincoln County District Court).

RESPECTFULLY SUBMITTED this 4th day of August 2025.

STEVENSON LAW OFFICE

By:



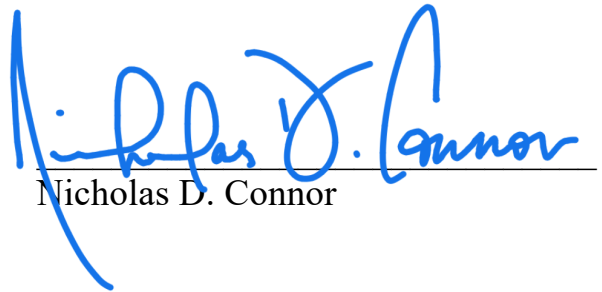
Nicholas D. Connor
Attorneys for Appellant Jacob Handy

CERTIFICATE OF COMPLIANCE

Pursuant to Montana Rules of Appellate Procedure 11(4)(e) and 16(2), I certify that this Response in Opposition is printed with proportionally spaced Times New Roman text typeface of 14 points; it is double-spaced; and the word count calculated by Microsoft Word is 1,026 words, excluding this Certificate of Compliance and the Certificate of Service.

STEVENSON LAW OFFICE

By:



Nicholas D. Connor

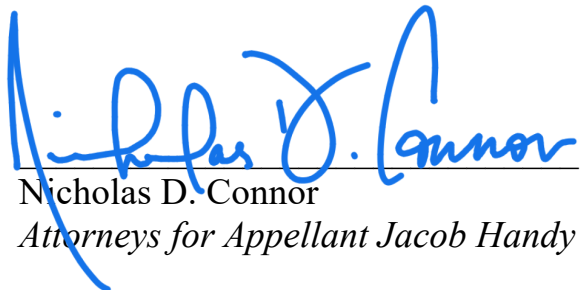
CERTIFICATE OF SERVICE

I hereby certify that I sent via mail and electronic mail a true and accurate copy of the foregoing APPELLANT'S RESPONSE IN OPPOSITION TO APPELLEE'S MOTION TO DISMISS APPEAL to the following:

- (1) Mary Kate Moss, GRAVIS LAW, PLLC, *Attorneys for Respondent/Appellee Heather Miller*; 911 Wisconsin Avenue, Ste. 103, Whitefish, Montana 59937.
- (2) Jacob Handy, *Respondent/Appellant*, PO Box 1995 Eureka, Montana 59917.

DATED this 4th day of August 2025.

STEVENSON LAW OFFICE

By: 
Nicholas D. Connor
Attorneys for Appellant Jacob Handy

CERTIFICATE OF SERVICE

I, Nicholas David Connor, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Response to Motion to Dismiss to the following on 08-04-2025:

Mary Kate Moss (Attorney)
911 Wisconsin Ave. Ste. 103
Whitefish MT 59937
Representing: Heather Miller
Service Method: eService

Electronically Signed By: Nicholas David Connor
Dated: 08-04-2025