

Jacquelyn M. Hughes  
Hughes Law, P.L.L.C.  
1690 Rimrock Road Suite F  
Billings, MT 59102  
Phone: (406) 855-4979  
jhughes@hugheslawmt.com

Attorney for Plaintiff Estate of Vernon R. Justice and  
Justice Oilfield Water Services, Inc.

**IN THE SUPREME COURT OF THE STATE OF MONTANA**

|   |  |
|---|--|
| <p>KRISTI OLSON as Personal<br/>Representative of the Estate of Vernon<br/>R. Justice, AND JUSTICE OILFIELD<br/>WATER SERVICES, INC.</p> <p style="text-align: center;">Plaintiffs/Appellees</p> <p style="text-align: center;">vs.</p> <p>TRACY JUSTICE, JUSTICE<br/>OILFIELD WATER, INC., J-6<br/>OILFIELD SERVICES, LLC, JUSTICE<br/>SWD, LLC, and JOHN DOES 1-5.</p> <p style="text-align: center;">Defendants/Appellants</p> <p style="text-align: center;">and</p> <p>RICHARD JUSTICE,</p> <p style="text-align: center;">Defendant/Appellee.</p> | <p style="text-align: center;">DA 25-0571</p> <p style="text-align: center;"><b>APPELLEES' RESPONSE TO<br/>APPELLANTS' EMERGENCY<br/>MOTION TO STAY<br/>JUDGMENT</b></p> |
|---|--|

Appellees hereby file *Appellees' Response to Appellant's Emergency Motion*. Appellant is not entitled to a stay of execution because the *Emergency Motion* was not filed in compliance with M.R.App. 22, she is actively disposing of assets, she is in violation of her obligations pursuant to the Montana Rules of Appellate Procedure and this Court's November 6, 2025 *Order*.

The “*Emergency Motion*” is not an emergency.

### TIMELINE

|                   |   |
|-------------------|---|
| December 31, 2024 | Appellee filed <i>JOWSI’s Motion for Partial Summary Judgment Regarding Breach of Contract Claims</i> . Dkt. 181. (corrected filing submitted containing exhibits on January 21, 2025, Dkt. 188.) This <i>Motion</i> was based on the facts deemed admitted, along with a twenty-five-page expert report submitted to Appellant with approximately 900 pages of supporting documentation. Dkts. 181 and 188, Pg. 5. |
| January 24, 2025  | Appellee’s response brief was due. Nothing was filed.   |
| May 18, 2025      | Trial is scheduled to start May 19, 2025. Appellee files a response to the December 31, 2025 <i>Motion for Partial Summary Judgment</i> . The only argument presented as to disputed facts is that the district court should have set aside the April 23, 2024 <i>Order on Motion to Deem Facts Admitted</i> . Dkt. 229.  |
| May 19, 2025      | Judge Laird advised the parties that all motions to which no response briefs had been filed by Friday, May 16, 2025 were granted. Tr. Transcr. 24:18-25:25 (May 19, 2025).  |
| May 20, 2025      | Judge Laird confirmed all motions for summary judgment to which responses had not been filed were granted on the record. Tr. Transcr. 17:1-17:17 (May 20, 2025).  |
| May 22, 2025      | Appellee files a proposed judgment reflecting the Court’s May 19, 2025 rulings. (No docket number issued. Appears in the record between Dkts. 230 and 233).   |
| July 10, 2025     | District court issued written ruling reflecting May 19, 2025 order granting December 31, 2024 <i>Motion for Partial Summary Judgment</i> . Dkt. 241.  |

|                   |  |
|-------------------|--|
| July 10, 2025     | District court issues proposed <i>Judgment</i> . Dkt. 242.   |
| October 30, 2025  | Appellant files <i>Emergency Motion</i> asking the district court to stay judgment and reverse seizures. Dkt. 257.   |
| November 5, 2025  | District court holds a hearing on the <i>Emergency Motion</i> . Appellant does not propose a bond and no hearing is had as to the amount of an appropriate bond. |
| November 6, 2025  | District court issues written order denying <i>Emergency Motion</i> . Dkt. 260.  |
| November 10, 2025 | Sheriff issues notice of sale of property identified in the May 22, 2025 proposed judgment and July 10, 2025 <i>Judgment</i> .                                   |

As the Court can see, the district court did not issue the *Judgment* at issue without notice and without warning. The Montana Rules of Civil Procedure were filed. The Rules of Civil Procedure lend operational expression to the abstract constitutional promise of due process. *Brigham Young Univ. v. Tremco Consultants, Inc.*, 2007 UT 17 (S. Ct. Utah). A motion was filed. Appellants failed to respond. The district court granted the *Motion* on the record. A proposed judgment was submitted. The district court then issued a written order reflecting the bench ruling. A *Judgment* was then issued. The *Judgment* reflects the exact amounts stated on Page 20 of the December 31, 2024 *Motion*.

**I. Appellant is not entitled to a stay of execution under M.R.App. 22.**

An appellant must file a motion to stay with the district court prior to filing for a motion to stay with this Court. She was then required to file the motion to stay with this Court within eleven days of the district court's denial of her motion to stay. M.R.App. 22. On October 30, 2025, Appellant filed her *Emergency Motion to Stay Seizure of Property* before the district court. Dkt. 257. The district court denied Appellant's *Emergency Motion* on November 5, 2025 from the bench.

The district court then issued a written order denying a stay on November 6, 2025. *Order Following Exemption Hearing*, Dkt. 260 (Nov. 6, 2025).

Pursuant to M.R.App. 22, Appellants needed to file their motion for relief from the district court's denial of the motion to stay no later than November 17, 2025. Appellants have shown no reason why they should be allowed to file for relief two-weeks after a clearly stated deadline. Appellant's *Emergency Motion* must be denied.

If the district court *Emergency Motion* was not a motion to stay, the current *Emergency Motion* is procedurally defective on the basis that it was not filed with the district court first. M.R.App. 22(1)(a)(i). Moreover, an appellant *must* obtain approval of "a supersedeas bond which shall have 2 sureties or a corporate surety as may be authorized by law." The bond must be sufficient to cover the entire judgment, together with costs, interest and damages for delay. M.R.App. 22(1)(b). M.R.App. 22(4) requires summary denial of motions that do not comply with M.R.App. 22(1) and (2). Appellants have significant real property and over 300 horses. Appellees are willing to negotiate the bond amount. Appellant refuses to post *any* bond. The *Emergency Motion* must be denied.

## **II. There is not good cause to stay the judgment.**

The general idea behind the requirement to post a bond is that a judgment debtor will be highly motivated to dispose of assets or hide them to avoid payment of the judgment. That is already going on in this case. Not only is there a *Judgment*, but the district court expressly ordered Tracy not to dispose of or sell any of her assets until this matter is fully resolved.

One of the assets upon which JOWSI is trying to collect is a herd of 333 horses. In working with Sheriff Lonnie Johnson and Department of Livestock employees to execute against the horse herd, JOWSI has learned that Tracy sold

quite a few horses since the May 20, 2025 order directing Tracy not to dispose of her assets. It is not clear yet how many of the horses were transferred after the May 20, 2025 order. According to Ben Walden and Wes Seward of the Montana Department of Livestock, there are a few hundred bills of sale by which Tracy purportedly transferred her horses to her daughter, Victoria Justice. The bills of sale were not signed as of November 18, 2025. Tracy executed them sometime between November 18, 2025 and November 24, 2025. *Report to the Court*, Dkt. 266. Declaration of Bob Walden, Dkt. 267. Declaration of Wes Seward, Dkt. 268.

In addition to the ownership issues caused by Tracy transferring ownership of her horses to her daughter in violation of a court order, Tracy refused to turn over keys a saltwater injection well. JOWSI filed a motion with the district court to address that issue pursuant to Mont. Code Ann. § 25-14-102, which allows for arrest of a non-cooperative debtor in some circumstances. Dkt. 263. Only after the motion was filed did Tracy turn over the keys. The reason given to law enforcement was that her attorney would be able to obtain a stay on the sale. *Id.*

She was disposing of assets before the July 10, 2025 *Judgment*. She was expressly directed by the district court not to dispose of assets on May 20, 2025 and she is violating that order. She continues to dispose of assets. Her “agreement” that she won’t dispose of assets is of no meaning under the circumstances of this case. Her conduct requires denying a stay or she will render the *Judgment* moot.

### **III. Emergency relief is not warranted.**

This is not an emergency issue. Peter Maltese contacted counsel on November 24, 2025 advising that an emergency motion to stay would be filed. Appx. 3. Appellants waited until after 5:00 on December 1, 2025, one business day before the sale, to file their *Emergency Motion*. The *Judgment* was issued four months ago. The *Writ of Execution* was issued three months ago. The *Notice of*

*Appeal* was filed over three months ago. The *Notice of Sale* was issued three weeks ago on November 10, 2025. This is not an emergency situation.

Emergency relief is also unwarranted because Appellants have made no efforts to comply with their appellate obligations. As noted in the *Motion to Compel Appellant to Procure and Produce Transcripts*, In the four months since the *Notice of Appeal* was filed, Appellants have not filed the transcripts as required by M.R.App. 9. The court reporter advised that she completed the transcripts and transmitted them to Peter Maltese by November 10, 2025. Nonetheless, they have not been filed. On November 6, 2025, this Court ordered Appellants to file a supplement responding to Appellee's supplemental filing within seven days of Appellee's filing. Appellant's *Supplement* was due on November 20, 2025. Appellants disregarded that *Order*.

### CONCLUSION

Appellants have not complied with the requirements of M.R.App. 22 and the present *Emergency Motion* is time barred. Appellants won't post a bond and are actively disposing of assets. Appellants are trying to keep this matter from moving forward by refusing to file the hearing transcripts and not complying with the Court's November 6, 2025 *Order*. Appellants are not entitled to a stay of judgment and the *Emergency Motion* must be denied.

Dated this 1st day of December 2025.

HUGHES LAW, P.L.L.C.

/s/ Jacquelyn M. Hughes

Attorney for Appellees

## **APPELLANT'S CERTIFICATE REGARDING COMPLIANCE**

I hereby certify that the required portions of the following brief are double spaced and printed in Times New Roman, proportionately spaced, fourteen-point typeface. The brief contains with a total word count of 1,494, exclusive of caption, date and signature line, as calculated by this party's word processing system.

/s/ Jacquelyn M. Hughes

## CERTIFICATE OF SERVICE

I, Jacquelyn Marjorie Hughes, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Response to Motion to the following on 12-02-2025:

Katherine Delaney Berst (Attorney)  
2722 Third Ave N, Ste 325  
Billings MT 59101  
Representing: Richard Justice  
Service Method: eService

Peter O. Maltese (Attorney)  
PO Box 883  
1015 13th Street SW  
Sidney MT 59270  
Representing: Tracy Justice  
Service Method: eService

Electronically Signed By: Jacquelyn Marjorie Hughes  
Dated: 12-02-2025