

Emily von Jentzen
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Counsel for Petitioner/Appellee

IN THE SUPREME COURT OF THE STATE OF MONTANA
No. DA 25-0831

IN RE THE MARRIAGE OF;

BARBARA KING KEARNS,
Petitioner/Appellee,
and

KENNETH MICHAEL KEANRS,
Respondent/Appellant,

**MOTION TO DISMISS APPEAL AND IMPOSE COSTS DUE TO
APPELLANT'S FAILURE TO COMPLY WITH RULE 7**

COME NOW Appellee, Barbara King Kearns, by and through Counsel of Record Emily von Jentzen of KAUFMAN VIDAL HILEMAN ELLINGSON PC and respectfully moves the Court to dismiss the pending appeal due and impose mediator costs upon Appellant due to Appellant's failure to comply with Rule 7 of the Montana Rules of Appellate Procedure. Pursuant to Rule 16 of the Montana Rules of Appellate Procedure, Appellant's counsel was contacted via email at 8:04

am on January 14, 2026, to ascertain his position on this Motion, and counsel for Appellant has indicated his objection to the Motion.

On December 1, 2025, Appellant Kenneth Kearns filed a *Notice of Appeal* with this Court. Pursuant to Rule 7 of the Montana Rules of Appellate Procedure, the Mandatory Appellate Alternate Dispute Resolution Process must be completed by February 14, 2026. (Mont. R. App. P. 7(3)(a).) This Court appointed mediator Vanessa Ceravolo on December 29, 2025. Appellant was required to submit a Statement of Position to the mediator and Appellee within fifteen (15) days, or January 13, 2026. (Mont. R. App. P. 7(5)(d).) The deadline for Appellant's submission of his Statement of Position has passed, and neither the undersigned nor the mediator has received Appellant's Statement of Position. (*Affidavit of Emily von Jentzen*, ¶¶ 5-6.)

Pursuant to Rule 7 of the Montana Rules of Appellate Procedure, Appellee respectfully requests that sanctions be imposed, including dismissal of this appeal and imposition of any costs accrued by Ms. Ceravolo to Appellant. (Mont. R. App. P. 8.)

DATED this 14th day of January, 2026.

KAUFMAN VIDAL HILEMAN ELLINGSON PC

By: 15/ Emily von Jentzen
Emily von Jentzen
Attorney for Appellee

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 16, Montana Rules of Appellate Procedure, the undersigned certifies that the foregoing *Motion to Dismiss Appeal and Impose Costs Due to Appellant's Failure to Comply with Rule 7* is printed with a proportionately spaced Times New Roman text typeface of 14 points, is double spaced, and contains 243 words, according to Word, the word processing program used to prepare this document.

DATED this 14th day of January, 2026.

KAUFMAN VIDAL HILEMAN ELLINGSON
PC

By: *151 Emily von Jentzen*
Emily von Jentzen
Attorney for Appellee

CERTIFICATE OF SERVICE

I, Emily A. Von Jentzen, hereby certify that I have served true and accurate copies of the foregoing Motion - Opposed to the following on 01-14-2026:

P. Mars Scott (Attorney)
PO Box 5988
Missoula MT 59806
Representing: Kenneth Michael Kearns
Service Method: eService

Vanessa M. Ceravolo (Mediator)
770 N. Main Street
Kalispell MT 59901-3629
Service Method: E-mail Delivery

Electronically Signed By: Emily A. Von Jentzen
Dated: 01-14-2026