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IN THE SUPREME COURT OF THE STATE OF MONTANA

<p>BESPOKE GROUP, LLC</p> <p style="text-align: center;">Appellant,</p> <p style="text-align: center;">-vs-</p> <p>STRICKS, LLC,</p> <p style="text-align: center;">Appellee.</p> <hr/> <p>Chester Rail Access, LLC,</p> <p style="text-align: center;">Intervenor.</p>	<p>Supreme Court Cause No. DA 25-0863</p> <p style="text-align: center;">UNOPPOSED MOTION TO STAY APPEAL</p>
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COMES NOW Appellant, Bespoke Group, LLC (“Bespoke”), by and through undersigned counsel, and hereby submits this Unopposed Motion to Stay Appeal pending completion of the Trial Transcript and to return jurisdiction to the District Court to allow rulings on the pending post-trial motions. Counsel for the Appellee, Stricks, LLC (“Stricks”), and Intervenor Chester Rail Access, LLC have been contacted and do not oppose this Motion.

I. STATEMENT OF ISSUE

A. Bespoke ordered the Trial Transcript prior to filing an appeal within the time period permitted pursuant to Mont. R. App. P. 4(5). To date, Appellant has not received the Trial Transcript necessary to submit its initial brief in support of the Appeal.

B. The District Court issued an Order of Abeyance on January 14, 2026, holding all pending filings, motions, and further proceedings in abeyance pending appeal (Doc. 199). Prior to issuing the Order, pending before the District Court were motions for the determination of costs and attorney fees awarded in this matter, and a renewed motion for judgment notwithstanding the verdict and new trial. Pursuant to Mont. R. App. P. 4(5)(a)(iii), the District Court is not deprived of jurisdiction of a premature filing of a notice of appeal and jurisdiction should be returned to the District Court to permit it to determine costs and attorney fees awarded.

II. ARGUMENT

A. Trial Transcript Necessary for Appeal has not been Received

Notice of Appeal in this matter was filed on December 15, 2025. Prior to the filing, the Trial Transcript was ordered with an understanding it would be received by early 2026. Based upon the last conversation with the court reporter on January 8, 2026, preparation of the transcript has not yet been completed.

From: Schmieder, Laura <Laura.Schmieder@mt.gov>
Sent: Thursday, January 8, 2026 10:13 AM
To: Lauri Shobe <LauriS@bigskylawyers.com>
Subject: Re: Bespoke v. Stricks - Request copy of trial transcript

Good morning Lauri. I hope you had a great holiday season!
I wanted to check in with you and make sure I had followed up on this.
If I haven't confirmed, yes, it's being prepared and that is the correct price range, but the final amount will be determined once it's done and we have a final page count.

Let me know if you have any additional questions.

Laura

The Trial Transcript is necessary to permit Appellant to submit its initial briefing in this matter. As such, Appellant respectfully request this Court stay the Appeal until the Trial Transcript is received.

B. District Court Retains Jurisdiction to Rule on Timely Motions for Fees and Cost

Prior to filing a Notice of Appeal, Stricks filed a Verified Cost Bill (Doc. 186), and Bespoke filed objections to Strick's requested Costs (Doc. 187). Bespoke also filed a request for an award of attorney fees (Doc. 188), as previously ordered by the District Court (Doc. 53), and Stricks filed a response (Doc. 191). Finally, Bespoke filed a renewed Motion Pursuant to Rule 50(b), M.R.Civ.P. and a Motion for New Trial pursuant to Rule 59, M.R.Civ.P. (Doc. 192). An unopposed motion was filed to permit Stricks time to respond following receipt of the Trial Transcript (Doc. 193, and the District Court granted the motion (Doc. 194).

Pursuant to Mont. R. App. P. 4(5)(a)(iii), the District Court is not deprived of jurisdiction to determine fees and costs by a premature Notice of Appeal. Based on a closer reading of the Rules, it appears that Bespoke's Notice of Appeal may have been premature as a Final Judgment requires the necessary determination of amount of costs and attorney fees awarded or sanction imposed. Mont. R. App. P. 4(1)(a).

Moreover, a significant basis of Bespoke's appeal centers on the District Court's denial of Bespoke's motion for a Directed Verdict pursuant to Rule 50, M.R.Civ.P. (Doc. 179) permitting clear issues of law to be determined by the jury.¹ The Trial Transcript is necessary for a proper determination of these issues by this Court. Therefore, Appellant respectfully requests this Court stay the Appeal until the Trial Transcript is received and return jurisdiction to the District Court to permit it to determine fees and cost, pursuant to Mont. R. App. P. 4(5)(a)(iii), and afford the District Court the opportunity to rule on the pending Motion for Judgment Not Withstanding the Verdict.

III. STATEMENT OF RELIEF SOUGHT

The Trial Transcript is necessary for Appellant to submit its initial brief, for Appellee to make an informed response, and for this Court to have a full record to consider and rule on the issues raised in the appeal. Despite continued efforts by Appellant to obtain the Trial Transcript, additional time is needed. As such, Appellant

¹ Likewise, an additional basis for appeal for either party will arise based upon the District Court's ruling on Bespoke's Renewed Motion pursuant to Rule 50(b), M.R.Civ.P. and request for new trial pursuant to Rule 59, M.R.Civ.P. (Doc. 192). An opportunity for Strick's to respond and the District Court to rule on this motion is dependent upon a Trial Transcript.

respectfully requests this Court issue a Stay of the Appeal to permit additional time to obtain the Trial Transcript prior to setting a briefing schedule.

Further the District Court has issued an Order of Abeyance holding all pending filings, motions, and further proceedings, including a determination of timely motions for fees and costs, and the renewed Motion pursuant to Rule 50, M.R.Civ.P. and a new trial pursuant to Rule 59, M.R.Civ.P. As such, the District Court is currently out of jurisdiction to rule on these pending motions despite the possible premature filing of the notice of appeal. Thus, Appellant respectfully requests this Court, in addition to issuing a Stay of the Appeal, issue an order returning jurisdiction to the District Court allowing it to issue orders the timely motions for fees and costs, and the opportunity to consider and rule on the pending renewed Motion pursuant to Rule 50, M.R.Civ.P. and a new trial pursuant to Rule 59, M.R.Civ.P.

DATED this 21st day of January, 2026.

MILODRAGOVICH, DALE
& STEINBRENNER, P.C.

By: /s/ Perry J. Schneider
Perry J. Schneider
Attorneys for Appellant

CERTIFICATE OF COMPLIANCE

The undersigned does hereby certify that pursuant to Mont.R.App.P. 16(3) 7.1(d)(2)(e), the Appellee and Plaintiff's Motion to Stay Appeal:

Does not exceed 1,250 words.

This Brief contains 833 words.

DATED this 21st day of January, 2026.

MILODRAGOVICH, DALE
& STEINBRENNER, P.C.

By: /s/ Perry J. Schneider
Perry J. Schneider
Attorneys for Appellant

CERTIFICATE OF SERVICE

I hereby certify that I have filed a true and accurate copy of the foregoing UNOPPOSED MOTION TO STAY APPEAL with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing UNOPPOSED MOTION TO STAY APPEAL upon the Clerk of the District Court, each attorney of record, and each party not represented by an attorney in the above-referenced District Court action, as follows:

CM/ECF

Email

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CM/ECF

Liberty County Clerk of Court
P.O. Box 549
Chester, MT 59522-0549

DATED this 21st day of January, 2026.

MILODRAGOVICH, DALE
& STEINBRENNER, P.C.

By: /s/Perry J. Schneider
Perry J. Schneider
Attorneys for Appellant

CERTIFICATE OF SERVICE

I, Perry J. Schneider, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 01-21-2026:

Isaac M. Kantor (Attorney)
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Service Method: eService

Julie Rachel Sirrs (Attorney)
Boone Karlberg P.C.
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Representing: Stricks, LLC
Service Method: eService

Electronically Signed By: Perry J. Schneider
Dated: 01-21-2026