

<b>DISTRICT COURT, JEFFERSON COUNTY, COLORADO</b> 100 Jefferson County Parkway Golden, Colorado 80401 Telephone: (303) 271-6130	
<b>In re the Marriage of:</b>  Petitioner: <b>CHRISTY HARRINGTON,</b> <b>n/k/a                    CHRISTY</b> <b>RYAN</b>  and  Respondent: <b>SEAN L. HARRINGTON</b>	
Sean Harrington, <i>Pro Se</i> 197M Boston Post Road, West Suite #151 Marlborough, MA 01752	↑ <b>COURT USE ONLY</b> ↑  Case Number: 99DR3717 Jefferson County Case No. 30-192795-44-8A
<b>19 JULY 2004 MOTION FOR STAY OF EXECUTION</b>	

**COMES NOW**, Harrington, the Respondent, pursuant to C.R.C.P. §62 and C.A.R. §8(a) for the purpose of submitting his MOTION FOR STAY OF EXECUTION, and in support thereof, states as follows:

1. Harrington hereby certifies, that he is of full and competent knowledge that this motion is not frivolous, vexatious, abusive, harassing or stubbornly litigious.<sup>1</sup> This motion is appropriate and based on sound principles of law.
2. Harrington is required to file the instant motion with the trial court pursuant to C.A.R. §8(a), which requires that, “*application for stay of the judgment or order of a trial court pending appeal...must ordinarily be made in the first instance in the trial court.*” As such, the

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<sup>1</sup> : Arbitrary, vexatious, abusive, or stubbornly litigious conduct by a *pro se* litigant may serve as the basis for awarding attorney fees although the action or defense is not itself frivolous or groundless. Bockar v. Patterson, 899 P.2d 233 (Colo. App. 1994). A good faith presentation of a legal theory which is arguably meritorious is sufficient to avoid an award of attorney fees. SaBell's, Inc. v. City of Golden, 832 P.2d 974 (Colo. App. 1991), cert. denied, 846 P.2d 189 (Colo. 1993). Pro se litigants are entitled to protection of subsection (6) of [§13-17-102] unless trial court makes an express finding that such litigants knew or reasonably should have known that their claims lacked substantial justification. Artes-Roy v. Lyman, 833 P.2d 62 (Colo. App. 1992).

trial court is vested with the authority to issue a stay, and may occur after a notice of appeal has been filed: See Odd Fellows Bldg. \* Inv. Co. v. City of Englewood, 667 P.2d 1358 (Colo. 1983)

3. Harrington herewith asks this court to take **judicial notice** of Respondent's June 1<sup>st</sup> 2004 Disclosure of Exhibits. Exhibit A of the said document details Bill Fyfe's offer to waive the additional fees that he had earlier applied to this court for. Exhibit B again references his offer, wherein he claims that, "we have settled this." On p. 6 his Report to this court, dated June 11<sup>th</sup> 2004, Fyfe wrote, "the SA has decided to write off these fees."

4. The allegations made in Paragraph 3, hereinabove, corroborate each other and are contained in the Record before the trial court. As such, and by this definition, they constitute competent evidence (see In re Marriage of Lester, 647 P.2d 688, 690 (Colo. App. 1982). See also Kraftco v. Charnes, 636 P.2d 1300, 1304 (Colo. App. 1981); Harris Park, Inc. v. Church, 381 P.2d 459, 461 (Colo. 1963)).

5. Based on the competent evidence contained in Paragraph 3, hereinabove, this court's May 4<sup>th</sup> order changing Harrington's retrospective and prospective portion of fees from 50% to 100%, is now moot and would be pointless to enforce and should be stayed during the pendency of this appeal.

**WHEREFORE**, Harrington requests that the order for the retrospective portion of fees to the Special Advocate be stayed during the pendency of the appeal.

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Sean Harrington

**CERTIFICATE OF MAILING**

I hereby certify that I did place, in the United States mail, postage prepaid this \_\_\_\_\_ day of \_\_\_\_\_, 2004, a true and correct copy of the foregoing instrument addressed to:

Madeline Wilson, Esq.  
501 S. Cherry Street, Suite 610  
Denver, CO 80206

Jefferson County District Court  
100 Jefferson County Parkway  
Golden, CO 80401

