

Case No.: DC-FM-25-
Dept. No. 2

AFFIRMATION
Pursuant to NRS 239B.030,
This document contains no
Social Security Numbers

IN THE FOURTH JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

Plaintiff,

v.

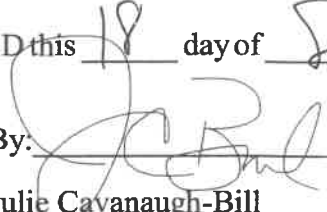
Defendant.

**RESPONSE TO REQUEST FOR
PERMISSION TO PROVIDE
ELECTRONIC COVERAGE OF
PROCEEDING AND REQUEST FOR
PRIVATE PROCEEDING**

COMES NOW, Plaintiff, by and through his attorney, Julie Cavanaugh-Bill,
and hereby responds to the Request for Permission to Provide Electronic Coverage of Proceeding
and submits this Request for Private Proceeding.

This Response and Request is based upon the attached Memorandum of Points and
Authorities and the declaration of Plaintiff which will be filed separately.

DATED this 18 day of September, 2025.

By: 

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MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTUAL BACKGROUND

Plaintiff, [REDACTED] (herein "Father"), and Defendant, [REDACTED] (herein "Mother"), were re-married April 19, 2023 in Grand Junction Colorado. The parties have three (3) minor children together, to wit, [REDACTED] born [REDACTED] 2013, [REDACTED] born [REDACTED] 2015 and [REDACTED] born [REDACTED] 2023 (herein "Minor Children").

Father opposes the Media Request and Order Allowing Camera Access to Court Proceedings and is asking the Court to prohibit media coverage in the divorce proceeding, as this Court has the discretion to grant that request.

Factual Statement:

This case involves an already contentious and very litigious proceeding involving mainly disputes over the three children and allegations of parental alienation, child abuse, drug and alcohol use and mental health issues, to which the Court has addressed and ordered both parent to address with therapy, evaluations and co-parenting education. Most, if not all, of these allegations and continued emergency motions have been raised by Mother as she similarly raised in the prior divorce proceeding, all of which were later unsubstantiated against Father. In the instant case, she has already attempted a restraining order, police involvement and child protective services involvement. Father has consistently denied the allegations and raised concerns regarding Mother's mental health and her motivations to eventually "wear him down" and allow her to relocate out of state. See Exhibit ("Ex.") 1 (recent social media posts by Mother regarding Father, his place of work and the court process). Bringing his workplace and their personal issues into her social posts is very embarrassing and concerning to Father and he believes that involving the media is yet another attempt by Mother to embarrass, humiliate and harass him into conceding. Let alone, the attorney fees that Father continues to accumulate due to Mother's continued allegations. In fact, after the June 25th, 2025 hearing wherein the Court ordered mental health and substance abuse evaluations for both parents, Mother fired her attorney and then after proceeding to harass and intimidate Father's acquaintance, hired a new attorney, Mr. Richard Davies. The timing of this request is also suspect as it was submitted barely two weeks after the last hearing when Mother raised her new allegations against Father and the Court ordered Coparenting and Divorce and Active Parenting for

both parents

Regardless of who prompted the media inquiry into this matter, Father opposes it as being unnecessary, not in the best interests of the Minor Children and with privacy concerns outweighing any public interest.

Legal Analysis:

Although Nevada law includes a presumption that Court proceedings are open to the public, this right is not absolute and can be balanced against the parties' right to privacy. *See Falconi v. Eighth Jud. Dist. Ct.*, 543 P.3d 92 (Nev. 2024) and *Nester v. Eighth Jud. Dist. Ct.*, 562 P.3d 1071 (Nev. 2025) (clarifying *Falconi* in a case involving the opposing parent's interests in protecting the minor children's medical records and Child Protective Services records and the custody evaluation). Father is requesting that the divorce trial and any hearings be private pursuant to NRS 125.080.¹ NRS 125.080 (3) provides:

The Court may, upon oral or written motion of either party, order a hearing to determine whether to exclude the parents, guardians or siblings of either party, or witnesses for either party, from the Court or chambers wherein the action is tried.

Pursuant to *Falconi*, the test to determine whether a closure is warranted is at the district court's discretion and involves the following test:

1. Whether the closure serves a compelling interest;
2. Whether there is a substantial probability that, in the absence of closure, this compelling interest could be harmed; and
3. Whether there are no alternatives to closure that would adequately protect the compelling interest.

Falconi, at 99, citing *Press-Enter. Co. v. Superior Ct.*, 478 U.S. 1, 13-4 (1986). This decision by the district court must be made on a "case-by-case basis". *Id.* at 99-100. In order to

¹In *Falconi*, the Nevada Supreme Court stated that NRS 125.080, as written, was unconstitutional, however, in *Nester*, the Supreme Court found that *Falconi* did not stand for the proposition that family law proceedings cannot be closed and determined that when a party demonstrates that privacy interests outweigh the public's right to court access that the proceedings could in fact be closed. The Court in *Nester* entertained the reconsideration on the extraordinary writ of mandamus given the "substantial issue of public policy...[and that a] later appeal from a custody determination would not rectify the possible harm inflicted upon the parties' children if the evidentiary hearing were improperly opened to the public." *Nester* at 1074.

Effective October 1, 2025, NRS 125.080 will be repealed and replaced by SB 432 (attached hereto as Exhibit ("Ex.") 2), however the Request for Media Coverage at issue in this case is specific to a status hearing scheduled for September 23, 2025 accordingly, this Response will apply the standards set forth prior to the enactment date of SB 432.

1 close a divorce or custody proceeding, the order will need to be narrowly tailored to serve the
2 compelling state interest in the Public's right to observe a trial.

3 A district court can close a divorce or custody proceeding:

4 (1) The party seeking to close the hearing must advance an overriding interest that
5 is likely to be prejudiced; (2) the closure must be no broader than necessary to protect
6 the overriding interest; (3) the trial court must consider reasonable alternatives to
closing the proceeding; (4) the trial court must make findings adequate to support the
closure."

7 *Feazell v. State*, 111 Nev. 1446, 1449, 906 P.2d 727, 729 (1995) (internal quotation marks
8 omitted).

9 As the Supreme Court noted in *Nester*, "Just because mental health considerations may
10 be widespread in these proceedings [referencing custody cases] does not automatically indicate
11 that closures are unobtainable. To the contrary, that characteristic might be a reason more of these
12 types of proceedings are closed." *Nester* at 1077. This is exactly why the Supreme Court made
13 it clear in *Falconi* that closure must be determined on a case-by-case basis and judicial discretion
14 is to be exercised. At 99-100 (emphasis in the original). The Court also noted that the district
15 court had failed to consider the best interests of the child. *Id.* At 1075, citing *Falconi*, at 94-95.
16 The Court further noted that there can be a compelling interest in protecting children's mental
17 health in particular cases, regardless of the source of the mental health concerns. *Nester* at 1076.
18 The case at hand is the type of case that should be closed.

19 Under the test of either *Press-Enterprise* or *Feazel*, the balance in this particular case
20 weighs in favor of closing the proceedings. Father's compelling and overriding interest is
21 protecting the privacy and best interests of the children and himself and if not closed, it is very
22 likely that Mother will continue to publicly degrade him and air these personal and damaging
23 allegations. Thus not only prejudicing the reputation of the parties but also potentially affecting
24 his job and livelihood. This closure is not overly broad to protect these interests and there are no
25 reasonable alternatives available.

26 In addition, Plaintiff notes that even outside of his ability to request the proceedings be
27 private, that with media requests SCR 230 (2) sets forth the following factors:

28 (a) The impact of coverage upon the right of any party to a fair trial;

Father believes this media request is yet another tactic by the Defendant, to create

1 chaos, harassment and further alienation of the Minor Children and Father. Father
2 is already fending off the plethora of allegations by Mother without adding in the
3 intimidation of being filmed by a third party which was apparently prompted by
4 Mother to take notice of this contested divorce action.

5 (b) The impact of coverage upon the right of privacy of any party or witness;

6 This case involved highly sensitive information regarding the parties' mental
7 health and the Minor Children's therapeutic interactions. The Court has ordered
8 the parties into co-parenting courses already.

9 (c) The impact of coverage upon the safety and well-being of any party, witness or juror;

10 Mother has already tried to bring the Minor Children into the proceedings by
11 involving them with CPS and law enforcement in their last divorce and in this
12 divorce and by bringing the children to every court proceeding.

13 (d) The likelihood that coverage would distract participants or would detract from the
14 dignity of the proceedings;

15 Bringing the media into these proceedings will distract and add to the chaos that
16 Mother is trying to create - turning her "story" into a broadcast drama which
17 definitely would detract from the dignity of the proceedings.

18 (e) The adequacy of the physical facilities of the court for coverage; and

19 Unknown

20 (f) Any other Factor affecting the fair administration of justice.

21 The parties reside in a small town and Father works for a mining company that if
22 the request to film or photograph is granted, could affect Father's employment.
23 Even with retractions or if faces were blurred or names removed, it is more than
24 likely that people would recognize the parties and Mother's allegations would be
25 aired for the community to see and to question Father.

26 Under SCR 240, the Court has the discretion to prohibit the filming or photographing of
27 any participant who does not consent. Father does not consent to any filming or photographing.
28 The Court must evaluate specific factors such as the potential impact on a party's right to a fair
trial, privacy, safety and the overall fairness of justice in family law cases. The Court must also
prioritize the "best interests of each child involved". The Minor Children are already being
estranged and alienated from Father. The oldest child is in therapy and the two younger kids are
being put in the middle of this high conflict situation. Adding fuel to the fire by allowing media
to intervene in these proceedings will more than likely embolden Mother to create even greater
conflict and hostility which is detrimental to these children.

The Supreme Court has also discussed alternatives that may exist to complete closure of
an entire proceeding. *Nester* at 1076. These may include holding it in camera or "closing only

those parts of the hearing that jeopardize the interests advanced.” *Id.* (Citing to *Wallace v. Georgia*, 467 U.S. 39, 48-49, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984). However, “any alternative must be both practical and feasible.” *Id.* (Citing, e.g. *In re M.B.*, 819 A.2d 59, 65-66 (Pa. Super. Ct. 2003))(rejecting a party’s suggestions to control or limit references to “specific confidential or harmful materials” while the press is present or grant the press limited access to the “non-confidential portions of the proceedings” because it would impose a significant burden on the court and parties). In this proceeding, there is no compelling public interest in going to either of those extreme measures and incurring additional resources and time from the court in a matter that involves two private individuals with no extraordinary public interest.

Wherefore, [REDACTED], is seeking the following relief from this Court:

1. That this Court deny the Request for Permission to Provide Electronic Coverage of Proceeding;
2. That this Court grant Father’s Request for a private proceeding; and
3. For such further relief the Court deems proper under the circumstances.

DATED this 18 day of September, 2025.

CAVANAUGH-BILL LAW OFFICES, LLC

By: 

Julie Cavanaugh-Bill
NV Bar No.: 11533
(Attorney for Plaintiff)