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**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

In the Matter of the; DOE 1 TRUST _____ /	CASE NO: PR23-00813 DEPT NO: PR
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OPPOSITION TO MOTION TO SEAL

COMES NOW, Our Nevada Judges, Inc. (hereinafter ‘ONJ’), a Nevada non-profit corporation, by and through the undersigned counsel, and hereby files an opposition to the motions to seal and the several joinders thereto filed February 19, 2026.

This opposition is based upon the following memorandum of points and authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

This Court has stated its intent to unseal all papers and pleadings in this matter unless Parties filed motions to seal. *Recommendation for Order* filed January 14, 2026. Our Nevada Judges, Inc. (hereinafter ‘ONJ’), a non-party news reporter, may file a motion to unseal. SRCR 4(2). It logically follows that as a non-party it may file an opposition to a motion to seal. See also *United States v. James*, 663 F. Supp. 2d 1018, 1020 (W.D. Wash. 2009) (“[d]omestic press outlets unquestionably have

standing to challenge access to court documents.”) (citation omitted). See also *Neb. Press Ass’n v. Stuart*, 427 U.S. 539, 560-61 (1976) (the right to access judicial proceedings and records recognized by the Supreme Court, the United States Supreme Court, and courts across the country, is a right of contemporaneous access).

ONJ does not oppose Parties request to redact email addresses, phone numbers, and residential addresses. The communications themselves should not be wholly sealed, but instead redacted consistent with SRCR 3(4)(d) and SRCR 2(6) (mandating confidentiality of specifically delineated “restricted personal information”).

The March 1, 2024 Stipulated Confidentiality Agreement and Protective Order is binding on Parties but has no bearing on this Court’s analysis as to public access. “The parties’ agreement alone does not constitute a sufficient basis for the court to seal or redact court records.” SRCR 3(4). Indeed, even plain statutory language articulating the Legislature’s emphatic intent that divorces are so private that a single party alone could demand closed proceedings violated the First Amendment. *Falconi v. Eighth Jud. Dist. Ct.*, 543 P.3d 92, 99 (Nev. 2024). The Court should recognize Parties agreements as a measure of their intent alone, and redact information consistent with SRCR 3(4)(d), SRCR 2(6), and *New York Times Company, et al. v. Second Judicial District Court*, 141 Nev. Adv. Op. 71 (2025).

ONJ does not oppose the sealing of the entire Marital Settlement Agreement (hereinafter ‘MSA’) consistent with SRCR 4(e) if, and only if, this Court did not rely upon it to render any of its decisions. If the Court relied on portions of the MSA for determination of any issue, public disclosure may be warranted despite it being of a personal, familiar, and otherwise private nature. Compare NRS 432B.290(2)(e) (recognizing that the “determination of an issue before [a court]” may warrant public disclosure of sensitive issues.)

1 ONJ opposes the notion that “trust instruments” are “expressly determined to
2 be ‘confidential information’ under both NRS 164.041 and NRS 664A.256.” Indeed,
3 NRS 164.041(4)(a), NRS 669A.256(1)(a), NRS 164.041(4)(d), can contain language as
4 plain, emphatic, and peremptory as the Legislature intends, and such language
5 would be as unconstitutional as NRS 125.080 was because while it is generally the
6 role of the Court to consider the Legislature’s intent in its interpretation of statutory
7 language, this Court must adhere to an exception when that language violates the
8 Constitution. *Falconi, Id.* (conceding that NRS 125.080¹ mandated closure, but that
9 in doing so, violated the First Amendment and was unconstitutional.) If a trust is
10 contested or litigated (disputes over validity, interpretation, breach of fiduciary duty),
11 the trust instrument typically becomes part of the court record, which is subject to
12 the strict scrutiny analysis required under *Falconi*.

13 Where a statute interferes² with the exercise of judicial discretion to conduct a
14 strict scrutiny analysis in the context of public access to these proceedings, it is
15 likely unconstitutional; as the Constitution is the supreme law of the land. U.S.
16 Const. art. VI, § 2. See also *Howard v. State*, 128 Nev. 736, 291 P. 3d 137 (2012)
17 (“A court’s authority to limit or preclude public access to judicial records and
18 documents stems from three sources: constitutional law, statutory law, and
19 common law.”) The public interest in the operation of the trust instruments in this
20 case becomes even more poignant where this Court relies upon them to make its
21 determinations, and this Court’s opinion as to the public interest in this matter is
22 supplanted by the Supreme Court’s unanimous, en banc opinion. *Murdoch, Id.*
23

24 ¹ Indeed even court rules EDCR 5.207 and EDCR 5.212 as promulgated by the Eighth
25 Judicial District Court and approved by the Supreme Court were struck down.

26 ² To the extent statutory language confers a degree of discretion, this Court must still
27 interpret that language consistent with the constitution, because “when the language of
28 a statute admits of two constructions, one of which would render it constitutional and
valid and the other unconstitutional and void, that construction should be adopted
which will save the statute.” *State v. Castaneda*, 126 Nev. 478, 481, 245 P.3d 550, 553
(2010).

1 (rejecting the notion that “the public’s interest [is] “*de minimis*, at best”). This is
2 because “there is an interest in protecting litigants' privacy rights in family law
3 proceedings, as those proceedings apply wholly to their private lives, [h]owever, a
4 litigant's privacy interests do not automatically overcome the press's and the
5 public's right to access court proceedings...when there are no extraordinary
6 circumstances present, the public's right to access family law proceedings
7 outweighs the litigants' privacy interests.”) *Falconi Id. at* 543 P.3d 92, 99.

8 While the Objectors Prudence MacLeod, Elisabeth Murdoch, James Murdoch,
9 Richard Oldfield, Mark Devereux, and Jesse Angelo claim that attorney client
10 privilege was not waived to certain records in the proceeding because those records
11 were disclosed in an unredacted form during the course of litigation while the matter
12 was sealed, this claim is inconsistent with the distinct rule that attorney-client
13 privilege is waived if privileged communications are voluntarily disclosed to third
14 parties or used in litigation.

15 [W]here a party seeks an advantage in litigation by revealing part of a
16 privileged communication, the party shall be deemed to have waived
17 the entire attorney-client privilege as it relates to the subject matter of
18 that which was partially disclosed. *United States v. Jones*, 696 F.2d
1069, 1072 (4th Cir. 1982).

19 *Wardleigh v. Second Judicial Dist. Court*, 111 Nev. 345, 354, 891 P.2d 1180, 1186
20 (1995).

21 The case cited by the Objectors, *Gibbs v. State*, 543 P.3d 1185, 11187 (Nev.
22 2024), involving a recording of a phone call between defendant and his defense
23 investigator on a recorded phone line, does not support the argument that a client
24 may be deemed to have not waived privilege when a legal memorandum was filed
25 by the party in a previously sealed case. Unlike the inadvertent disclosure of a
26 privileged communication over a recorded jail phone line, the deliberate filing of a
27 legal memorandum in a court proceeding is a voluntary act by the party itself,
28

1 constituting the very type of strategic disclosure that waives the privilege as to the
2 entire subject matter.

3 The importance of public access to our courts is of such importance that the
4 Supreme Court has imposed a mandatory duty on this Court to "sua sponte
5 consider possible alternatives to [the] closure even when they are not offered by the
6 parties." *Nester v. Dist. Court*, 141 Nev. Adv. Op. 4 (Jan. 30, 2025). See also SRCR
7 4(2).

8 "The free press is the guardian of the public interest, and the independent
9 judiciary is the guardian of the free press." *Leigh v. Salazar*, 668 F.3d 1126 (9th Cir.
10 2012).

11 THEREFORE, ONJ hereby requests Parties motions to seal be denied, with
12 redactions allowed to the extent SRCR 2(6) mandates and as consistent with the
13 *Murdoch*, *Nester*, and *Falconi* Court's holdings.

14 *Pursuant to NRS 239B.030 the undersigned hereby affirms that this document*
15 *does not contain the social security number of any person.*

16 DATED this Feb 24, 2026

17
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I declare under penalty of perjury that the foregoing is true and correct.

Alexander Felsow

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CERTIFICATE OF SERVICE

I certify that on the date shown below, I caused service to be completed of a true and correct copy of the foregoing document by:

_____ personally delivering;

_____ delivery via Reno/Carson Messenger Service;

_____ sending via Federal Express (or other overnight delivery service);

_____ depositing for mailing in the U.S. mail, with sufficient postage affixed thereto;

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