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8 *Plaintiff in Propria Persona*

9 **EIGHTH JUDICIAL DISTRICT**

10 **CLARK COUNTY, NEVADA**

11) Case No. : A-21-829038-C
12	T. MATTHEW PHILLIPS)
13) PLAINTIFF'S
14	<i>Plaintiff,</i>) MOTION to STRIKE
15) NON-CONFORMING BRIEF.
16	vs.)
17) [<i>Plaintiff Requests Oral Argument</i>]
18	(1) JENNIFER V. ABRAMS)
19	(2) THE ABRAMS)
20	LAW FIRM, L.L.C.)
21	(3) MARK DICIERO)
22	(4) DAVE SCHOEN) <u>Next Hearing Date:</u> April 13, 2021
23	and DOES I – X) (on Defendants' motions to dismiss)
24)
25	<i>Defendant(s).</i>) <i>Hon. Timothy C. Williams</i>
26) Dept. No.: "16"

27 Comes now the Plaintiff with *Plaintiff's Motion to Strike Non-Conforming Brief.*

2
3 **I. BRIEF PROCEDURAL HISTORY—**

4 Next Hearing Date—April 13, 2021: A hearing on Defendants’ twin motions to
5 dismiss (and joinder) is set for April 13, 2021, (Dept. “16”).

6 Media Request—No Prior Notice: On March 17, 2021, the Court filed and served
7 a *Media Request and Order*.

8 Motion for Reconsideration: On March 30, 2021, Plaintiff filed a *Motion for*
9 *Reconsideration of Order Allowing Camera Access to Court Proceedings*; (hearing on
10 May 4, 2021).

11 Opposition to Motion for Reconsideration: In response to Plaintiff’s motion for
12 reconsideration, the following events happened—

- 13 ➤ March 30, 2021 – (11:20 p.m.): Alexander Falconi, a non-party, electronically
14 files an 51-page opposition to Plaintiff’s motion for reconsideration of the media
15 order; note: Plaintiff received no notice of this electronic filing!
- 16 ➤ March 31, 2021 – (5:11 p.m.): Defendant DICIERO posts at his Facebook page
17 a file-stamped copy of Falconi’s opposition brief; note: remarkably, DICIERO
18 publicly posted it “*before*” the court electronically served it on the parties!—which
19 begs the question—how did DICIERO obtain Falconi’s opposition brief “*before*”
20 the court served it on everybody else? (It doesn’t take a conspiracy theorist to
21 figure-out that Falconi is in cahoots with Defendants).
- 22 ➤ March 31, 2021 – (6:39 p.m.): The court electronically serves Falconi’s opposition
23 upon the parties; note: 19 hours passed from the time Falconi filed his brief—until
24 the time the court e-served it; Plaintiff is curious to learn “how” and “why” the
25 Clerk-of-Court accepted this non-party filing—and why the 19-hour time-lag? —
26 did Falconi receive special dispensation from the Clerk-of-Court?

27 ////

28 ////

1 **II. LEGAL ISSUE PRESENTED—**

2 Legal Issue Presented: May non-parties—such as Alexander Falconi—file
3 motions and oppositions into this lawsuit? (No!)

4 Rule-of-Law: Under Rule 11, every pleading, “must be signed by at least one
5 attorney of record ... or, by a party personally if the party is unrepresented,” [NRCP,
6 Rule 11(a); underscores added].

7 Legal Analysis: Alexander Falconi’s opposition brief has no signature from any
8 “party”—and no signature from any “attorney-of-record”—a clear Rule 11 violation.
9 Therefore, the opposition brief is deemed “unsigned,” and the Court “*must*” strike it for
10 non-compliance with Rule 11(a).

11 The Opposition “Must” Be Stricken: Here, there is no latitude for the Court to
12 exercise discretion. Rule 11 is clear and unambiguous—“The Court must strike an
13 unsigned paper,” [NRCP, Rule 11(a); (underscores added)].

14
15 **III. ATTEMPT TO INFORMALLY RESOLVE—**

16 Attempted Informal Resolution: On March 31, 2021, Plaintiff attempted informal
17 resolution. Plaintiff sent an email to Falconi asking him to explain the legal basis for his
18 non-party filing—

19 “Today, YOU filed an opposition to Plaintiff’s Motion for Reconsideration.

20 Curiously, the opposition YOU filed provides NO statutory basis that
21 authorizes YOUR “appearance.” --->> What is the legal basis that allows
22 YOU, a non-party, to file an opposition in the above captioned lawsuit?”

23 [Plaintiff’s email to Alexander Falconi, (March 31, 2021)]

24 Falconi—Non-Responsive: Not surprisingly, Alexander Falconi never responded
25 to Plaintiff’s email. Falconi never responded because, of course, no legal grounds
26 authorize non-party interlopers to randomly file briefs into other people’s cases.
27 (Candidly, it’s rather obvious that Defendant ABRAMS authored Falconi’s brief; in short,
28 Falconi is but a cog in Defendant ABRAMS’ defamation machine.)

1 Abuse of Process: Alexander Falconi must be held liable for “abuse of process.”
2 Falconi has actual knowledge that he is *not* an attorney—and *not* a party. Naturally,
3 Falconi has no explanation as to the legal basis that supposedly allows non-party filings.
4 Based on his furtive silence, the Court may infer that Falconi intentionally misuses these
5 legal proceedings. Monetary sanctions are appropriate.

6 O.S.C. re Sanctions: The Court is wise to set an O.S.C. re monetary sanctions.
7 Plaintiff has no time to waste—opposing frivolous motions from non-party interlopers.
8 The Court should order Alexander Falconi to pay sanctions for wasting Plaintiff’s time
9 in preparing the instant motion to strike. Falconi violates Rule 11(a), which serves only
10 to “needlessly increase the cost of litigation,” [NRCP, Rule 11(b)(1)].

11 Falconi Must Appear and Testify: Alexander Falconi’s putative opposition
12 challenges Plaintiff’s motion with “disputed facts,” which means the Court may properly
13 order Falconi to appear and to submit to able cross-examination by Plaintiff, [*see* EDCR,
14 Rule 2.21, “[T]he court may set the matter for a hearing at a time in the future and
15 require or allow oral examination of the affiants/declarants to resolve factual issues
16 shown by the affidavits/declarations to be in dispute.”].

17 Plaintiff Cannot Make a Sanctions Motion: Notably, Plaintiff cannot make a
18 Rule 11 sanctions motion against Falconi. Why?—because Falconi is neither an attorney,
19 nor a party, and therefore, Rule 11 “certification” requirements do not apply.

20 Rule 11—No Application to Non-Parties: The Code provides that, by presenting
21 papers to the court, “an attorney or unrepresented party certifies” the wholesomeness of
22 the pleadings, [*see* Rule 11(b)]. However, as a non-party, it’s legally impossible for
23 Falconi to make Rule 11 certifications, which means Falconi can never incur Rule 11
24 liability for his frivolous legal maneuvers—and this is unfair to Plaintiff who wishes to
25 hold Falconi liable for wasting everybody’s time.

26 The Court Must Strike Falconi’s Opposition: Once again, the Court must strike
27 Falconi’s opposition. Rule 11 provides: “The Court must strike an unsigned paper,”
28 [NRCP, Rule 11(a); (underscores added)].

1 **IV. MOTION TO STRIKE—**

2 Plaintiff’s Motion to Strike: “The court may strike from a pleading an insufficient
3 defense or any redundant, immaterial, impertinent, or scandalous matter, [NRCP, Rule
4 12(f).(2); (underscore added)]. Plaintiff contends that Falconi’s unsigned opposition is
5 “immaterial” within the meaning of NRCP, Rule 12(f).(2).

6 Alexander Falconi—No Appearance Fee: According to court records, Falconi
7 paid no appearance fee. If Falconi wishes to participate, he must pay a first appearance
8 fee—just like everybody else.

9
10 **V. SUMMARY & CONCLUSION—**

11 Unsigned Papers—Must Be Stricken: Falconi’s opposition brief must be stricken,
12 as per Rule 11— “ The Court must strike an unsigned paper,” [NRCP, Rule 11(a);
13 (underscores added)].

14 O.S.C. Monetary Sanctions: The Court should issue an O.S.C. requiring Falconi
15 to explain why monetary sanctions should not be issued. Falconi violates Rule 11(a)—
16 which serves only to “needlessly increase the cost of litigation,” [NRCP, Rule 11(b)(1)].

17 Disputed Facts: Falconi disputes Plaintiff’s material facts, and *vice-versa*;
18 therefore, because the parties present “disputed facts,” the Court may properly order
19 cross-examination, [*see* EDCR, Rule 2.21].

20 Conclusion: This Court must strike Falconi’s opposition brief and rescind the
21 media order issued March 17, 2021. This Court must DENY media access to Falconi.

22
23 Dated: **April 2, 2021**

LAW OFFICES OF T. MATTHEW PHILLIPS

24
25
26 

27 T. Matthew Phillips, Esq.
28 *In Propria Persona*

-CERTIFICATE-OF-SERVICE-

I am an individual over the age of eighteen and not a party to the within action. My business address is 4894 W. Lone Mtn. Rd., No. 132, Las Vegas, Nev. 89130. My phone number is (323) 314-6996.

On **April 2, 2021**, I served the following:

Plaintiff's Motion to Strike Non-Conforming Brief;

on an interested party in the above-entitled action by
 X via e-mail transmission,
 personal service on the person below listed,
 X depositing it in the U.S. Mail, postage prepaid,
and addressed to the person below listed,

**JOSHEPH P. GARIN, ESQ.
LIPSON NEILSON PC
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**MARC S. CWIK, ESQ.
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Marc.Cwik@lewisbrisbois.com
Adam.Pernsteiner@lewisbrisbois.com**

I declare under penalty of perjury under Nevada law, the foregoing is true and correct.

Dated: **April 2, 2021**

/s/ T. Matthew Phillips .
Declarant.