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Attorney for the Plaintiff in Intervention

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

* * *

STATE OF NEVADA,

Plaintiff,

Case No.: CR19-1535A and B

vs.

Dept. No.: 8

STEWART EVANS HANDTE and ROGER
HILLYGUS,

Defendant.

ALEXANDER FALCONI D/B/A OUR NEVADA
JUDGES,

Plaintiff in Intervention,

vs.

STEWART EVANS HANDTE, ROGER
HILLYGUS, and THE STATE OF NEVADA,

Defendants in Intervention.

**REPLY TO RESPONSE TO MOTION FOR LIMITED INTERVENTION TO
PROVIDE ELECTRONIC COVERAGE UNDER SCR 230**

1 COMES NOW, Plaintiff in Intervention ALEXANDER FALCONI D/B/A OUR
2 NEVADA JUDGES, by and through the undersigned counsel, and hereby submits
3 the following Reply to the November 12, 2021 Response to Motion filed by the State
4 of Nevada.

5 This Reply is made and based upon all the pleadings and records on file for
6 this proceeding together with every exhibit that is mentioned herein or attached
7 hereto (each of which is incorporated by this reference as though it were set forth
8 here in haec verba), if any there be, as well as the points and authorities set forth
9 directly hereinafter.
10

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 The State of Nevada argues that Rule 230(1) requires notice of a filing of a
13 media request, and that it did not receive any notice of Our Nevada Judges' October
14 26, 2021 media request. Our Nevada Judges does not dispute whether this occurred,
15 but this issue highlights why limited intervenor status should be granted in this case.
16 If limited intervenor status is granted, Our Nevada Judges may file media requests in
17 the docket through eflex, which would clearly obviate any notice issues. Further it
18 would give the parties an opportunity to respond to any media request in a timely
19 manner and in the docket itself if they believed a response is necessary, to which
20 Our Nevada Judges could reply.
21

22 The State of Nevada also argues that the current situation does not justify
23 intervention because it is likely attributable to an oversight. Our Nevada Judges is
24 unaware of the reason why it's October 26, 2021 media request was not granted or
25 denied, based on the representation of the State (*See Response at 2*) it appears the
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1 Court was not aware of the request. Once again limited intervener status would
2 resolve this issue as the Court see the request in the docket as soon as it were filed,
3 as a practical matter.

4 The State of Nevada also argues that so long as Our Nevada Judges complies
5 with the procedural requirements of SCR 230, intervenor status is not necessary, and
6 that the Court should consider each media request individually and separately. The
7 State of Nevada makes this argument based on a literal reading of SCR 230(1), due
8 to the use of the term “a proceeding.” At a minimum, this language is ambiguous,
9 and is inconsistent with the stated purpose of SCR 230(2), i.e. the “...presumption
10 that all courtroom proceedings that are open to the public are subject to electronic
11 coverage.” “[I]ntent, when ascertained will prevail over the literal sense.” *Department*
12 *of Ins. v. Humana Health Ins., Inc*, 112 Nev. 356, 360 (Nev. 1996) citing *Moody v.*
13 *Manny's Auto Repair*, 110 Nev. 320, 325, 871 P.2d 935, 938 (1994), (quoting *Welfare*
14 *Div. v. Washoe Co. Welfare Dep't*, 88 Nev. 635, 637-38, 503 P.2d 457, 458-59
15 (1972)).

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19 Further, Our Nevada Judges has already missed the opportunity to record one
20 proceeding before the Court. In *Stephens Media, LLC v. Eighth Judicial Dist. Court*
21 *of State ex rel. County of Clark*, 125 Nev. 849, 860, 221 P.3d 1240, 1248 (2009), the
22 Nevada Supreme Court clearly intended to create a mechanism whereby a member
23 of the news media could seek limited intervention to support the First Amendment
24 right to open court proceedings. This should especially be the case where access to
25 a proceeding has been denied in some form. While not absolute, there is a
26 presumption that the public has a right to access criminal proceedings in both
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1 *Stephens Media* and SCR 230. The *Stephens Media* Court held that limited
2 intervention should be sought to “to advance or argue constitutional claims
3 concerning access to court proceedings.” *Stephens Media*, 125 Nev. at 860 (2009).

4 This is precisely what Our Nevada Judges is doing here before the Court.

5
6 The ruling in *Stephens Media* complements the provisions of SCR 230, and
7 the holding and the rule clearly have the same purpose. Insofar as they could be
8 interpreted to be inconsistent, the holding in *Stevens Media* would prevail. Under
9 NRS 2.120(1), “the Supreme Court may make rules not inconsistent with the
10 Constitution and laws of the State for its own government, the government of the
11 district courts, and the government of the State Bar of Nevada.”

13 The State of Nevada also argues that for future hearings, the State would like
14 to present evidence and argument under SCR 230 and SCR 240. Granting limited
15 intervention to Our Nevada Judges would not prevent the State from filing a motion
16 to preclude or restrict public access to the proceedings in this case. It would in fact
17 support the State’s request for notice and a hearing (about which it complains in
18 footnote 2 of its Response) in a much more efficient manner if such future issues
19 arise.
20

21
22 WHEREFORE, the Plaintiff in Intervention respectfully request that the Court
23 grant its motion to intervene and allow electronic coverage of the proceedings in this
24 case by Our Nevada Judges.

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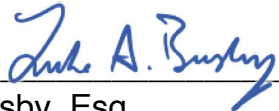
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Affirmation

The undersigned does hereby affirm that this Motion filed herein does not contain the social security number of any person.

DATED this Friday, November 19, 2021:

By: 
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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; or,
- delivery via electronic means (fax, eflex, NEF, etc.) to:

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Defendant Pro Per

By: 
Luke Busby

Dated: 11/19/2021