

1 **REP**

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7 *For Our Nevada Judges*

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 THE STATE OF NEVADA,  
11 Plaintiff,

12 vs.

13 MICHAEL LEE MCDONALD,  
14 Defendant.

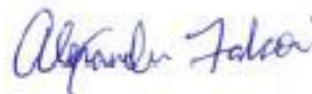
) Case No.: C-18-333684-1

) Dept. No.: 9

15 **REPLY TO OBJECTION TO MEDIA REQUEST**

16 COMES NOW, Our Nevada Judges<sup>1</sup>, appearing in proper person, and hereby files a reply  
17 to Defendant's *Objection to Notification of Media Request* filed October 15, 2019. This reply is  
18 based upon the following memorandum of points and authorities and all pleadings on file herein.

19 DATED this 16 day of October, 2019.



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22 Alexander M. Falconi  
23 Our Nevada Judges  
24 Administrator

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<sup>1</sup> This organization is not a business entity; it is a sole proprietorship, owned, operated, and controlled by the individual, Alexander M. Falconi.

## Memorandum of Points and Authorities

### 1. Summary

Defendant repeats same bald assertions twice raised in *State of Nevada vs. Michael McDonald*, Eighth Jud. Dist. Ct. docket number C-18-335284-1. District Judge Ronald Israel denied Defendant's request to revoke Our Nevada Judges' media access both times. This attempt rehashes virtually the same arguments, with the only exception being that the attempt can be made before a new judge. Our Nevada Judges has covered several proceedings, many of them live, with approval from District Judges Michelle Leavitt, Jerry Wiese, Ronald Israel, Michael Montero; and, Justice of the Peace Joe Bonaventure. All coverage has been published, with many of these proceedings broadcast live. Public interest in coverage is substantial, with analytics indicating an excess of 72,800 views and 970,400 watch-time minutes; and, continued coverage projected to garner an excess of 140,000 views and 3 million watch-time minutes.

### 2. Factual Background

On August 26, 2019, a media request and order granting same was filed in *The State of Nevada vs. Michael McDonald*, Eighth Jud. Dist. Ct. docket number C-18-335284-1 ('The Perjury Case').

On August 28, 2019, Defendant filed *Motion for Reconsideration* in The Perjury Case, seeking to revoke Our Nevada Judges' media access.

On September 3, 2019, Parties convened before District Judge Ronald Israel in The Perjury Case on a hearing and Defendant's motion was denied.

On October 2, 2019, Defendant orally and without notice, brought an objection before the Court in The Perjury Case; District Judge Ronald Israel again refused to revoke Our Nevada Judges' media access.

1 On October 15, 2019, Defendant filed *Objection to Notification of Media Request*,  
2 reiterating the same arguments before this Court that were raised before District Judge Ronald  
3 Israel.

4 This reply follows.

5 **3. Argument**

6 Defendant seeks revocation generally under SCR 229-247, by literally pasting the entire  
7 section of the Supreme Court Rules into his objection and alleging, falsely, that Our Nevada  
8 Judges is a “political pressure group” which intimidates “litigants and parties”. Our Nevada  
9 Judges, which provides information and statistics analysis on every judicial district and their  
10 corresponding judicial departments of this State, back to 1864, was founded in Reno in 2014 and  
11 has, throughout the entirety of its existence, maintained a fact-intensive focus on the information  
12 provided to the public. Coverage of judicial proceedings is an extension of this aim. By  
13 providing articles, cases, analytics, statistical details, and trial coverage, Our Nevada Judges  
14 satisfies the definition of a “news reporter”. SCR 229(c). Compare *Solid v. Eighth Jud. Dist. Ct.*,  
15 133 Nev. 118, 393 P. 3d 666 (2017).

16 Defendant’s counsel, Mr. Mueller, does not appear to understand, despite having it been  
17 repeatedly explained to him by District Judge Ronald Israel, that individuals, groups, and pages  
18 on Facebook can share posts. A number of social media organizations which are following Our  
19 Nevada Judges’ trial coverage share links and post comments which offend Mr. Mueller. Our  
20 Nevada Judges cannot control what these groups and individuals do or say, which is not unlike  
21 what frequently occurs when coverage is shared by FOX, CNN, NBC, KTNV, KOLO 8, and any  
22 other mainstream media outlet. Any revocation under SCR 230(2) in this case, based on what  
23 individuals like “Nevada Court Watchers” and “Marshal Willick” are alleged to be doing on  
24 social media, would likewise provide a basis to revoke media access by any of the other  
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1      aforementioned mainstream media outlets merely over what their viewers and followers do with  
2      the content provided. This is an inane conclusion.

3             The *Solid* Court thoroughly addressed SCR 230(2) and emphasized the “presumption that  
4      all courtroom proceedings that are open to the public are subject to electronic coverage.” *Id.*  
5      Defendant would “fail[] to overcome the presumption” for the same reasons Mr. Solid failed;  
6      namely, that “[t]he record does not support [his] argument[s].” *Id.* Like Mr. Solid, Defendant has  
7      not “present[ed] evidence showing how [Our Nevada Judges’s] cameras affect the fairness of the  
8      [hearing], [or] the dignity of the proceedings[.]” *Id.* Our Nevada Judges has already provided  
9      coverage of several<sup>2</sup> proceedings to the public in a professional, courteous, and dignified manner,  
10     all of which has been published, and none of which has been offered by Defendant as proof<sup>3</sup>  
11     implicating anything that might rebut the presumption our high court has set forth in favor of  
12     providing electronic coverage of judicial proceedings to the public.  
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15             Typically, media entities record proceedings, but summarize a “story” and provide  
16     snippets of footage to the public. This is an information first, education secondary, approach,  
17     which usually amounts to coverage of “sensational” cases, but is nevertheless consistent with  
18     SCR 241(1). Our Nevada Judges provides a minimal summary, no “story”, and coverage of the  
19     entire proceeding to the public. This is an education first, information secondary, approach,  
20     which while unusual, is also consistent with SCR 241(1). While Defendant is not accustomed to  
21     this type of comprehensive coverage, it nonetheless does not run afoul of the public policy of this  
22     State and is as meaningful if not more so to a viewership that is interested in understanding the  
23     judicial process in this State. Trial coverage of the *State of Nevada vs. Michael Lee McDonald*<sup>4</sup>  
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27             <sup>2</sup> E.g. *State of Nevada v. Michael McDonald*, Eighth Jud. Dist. Ct., Case No: C-18-335284-1.

28             <sup>3</sup> *Nev. Ass'n Servs., Inc. v. Eighth Judicial Dist. Court*, 130 Nev. 949, 957, 338 P.3d 1250, 1255  
(2014) (noting that arguments of counsel are not evidence and do not establish [] facts).

<sup>4</sup> A number of other cases have been covered, but this case provides the most comprehensive  
example of the aim and objective of Our Nevada Judges.

1 emphasized the educational approach, providing detailed overlays such as the phase of trial,  
2 whether the jury was present, the specific judicial district and department being covered, as well  
3 as names and roles of counsel, judicial officers, and witnesses.

4 Defendant's claims are barred by issue preclusion. Rather than seek writ review on  
5 District Judge Ronald Israel's findings and conclusions, consistent with SCR 243, Defendant  
6 regurgitates same arguments now before a different judge. "[I]ssue preclusion<sup>5</sup> is applied to  
7 conserve judicial resources, maintain consistency, and avoid harassment or oppression of the  
8 adverse party." *Alcantara v. Wal-Mart Stores, Inc.*, 321, \_\_\_ P. 3d 912, 916 (2014) citing  
9 *Berkson v. LePome*, 126 Nev. \_\_\_, \_\_\_, 245 P.3d 560, 566 (2010). This issue has been decided  
10 in a prior litigation, is identical to the issue presented in the current action, a ruling has been  
11 made on the merits and become final, the party against whom the ruling was asserted is same  
12 party here as was in the prior litigation, and the issue was actually and necessarily litigated. *Id.*  
13 All of the elements of issue preclusion have been satisfied here, and Defendant's objection is  
14 more appropriately before the Supreme Court than before yet another District Judge. SCR 243.

#### 15 **4. Conclusion**

16 While it is the SCR that specifically entitled Our Nevada Judges to cover these  
17 proceedings, what is truly at stake here is the right of the public to view them. A revocation of  
18 media access' does little harm to Our Nevada Judges, but would constitute a disservice to the  
19 citizenry of this State.

20 DATED THIS 16 day of October, 2019.

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22 \_\_\_\_\_  
23 Alexander M. Falconi  
24 Our Nevada Judges  
25 Administrator

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27 <sup>5</sup> This is also known as "collateral estoppel."  
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**Declaration of Alexander M. Falconi**

I, Alexander M. Falconi, do hereby that I am over the age of 18 and have read the foregoing reply, and the factual claims and allegations it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, and as to those matters, I believe them to be true.

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

EXECUTED THIS 16 day of October, 2019.



\_\_\_\_\_  
Alexander M. Falconi

**Certificate of Service**

I, Alexander M. Falconi, hereby certify that I am over the age of 18 and have placed a true and correct copy of this *Reply* into a sealed envelope, and mailed it, postage prepaid, via United States Postal Service, addressed as follows:

Clark County District Attorney's Office  
200 Lewis Ave., Third Floor  
Las Vegas, NV 89155

Craig Mueller, Esq.  
723 South Seventh St.  
Las Vegas, NV 89101

SERVED THIS 16 day of October, 2019.



\_\_\_\_\_  
Alexander M. Falconi  
Our Nevada Judges  
Administrator