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11 **CLARK COUNTY and GEORGINA STUART**

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DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON,

CASE NO. A-16-748919-C
DEPT. NO. 23

GEORGINA STUART; CLARK COUNTY,
NEVADA; LISA CALLAHAN; BRIAN
CALLAHAN; AND DOES I THROUGH 100,
INCLUSIVE,

**DEFENDANT CLARK COUNTY'S
MOTION FOR LEAVE TO FILE
MOTION TO DISQUALIFY THE
HONORABLE JUDGE JASMIN
LILLY-SPELLS UNDER SEAL**

Defendants.

HEARING REQUESTED

COMES NOW Defendant CLARK COUNTY, by and through its counsel of record of the law firm of OLSON CANNON GORMLEY & STOBERSKI, and hereby seeks leave of this Court to file its Motion To Disqualify The Honorable Judge Jasmin Lilly-Spells (Motion To Disqualify) under seal pursuant to the Nevada Rules for Sealing and Redacting Court Records (SRCR) and NRS 432B.280. This Motion is made and based upon all the pleadings and papers on file herein, the attached points and authorities, and any oral argument which the Court may choose to entertain at the hearing of this Motion.

1 Defendant understands that “[h]istorically, courts have recognized a general right to
2 inspect and copy public records and documents, including judicial records and documents” and
3 a motion to seal documents that are part of the judicial record, or filed in connection with a
4 dispositive motion, as they are here, must meet the “compelling reasons” standard outlined
5 in Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir.2006); Williams v.
6 Nevada Dep't of Corr., 2014 WL 3734287, at *1 (D. Nev). A party seeking to seal judicial
7 records must show that “compelling reasons supported by specific factual findings...outweigh
8 the general history of access and the public policies favoring disclosure.” Id. citing
9 Kamakana, 447 F.3d at 1178–79. The court must weigh relevant factors including “the public
10 interest in understanding the judicial process and whether disclosure of the material could
11 result in improper use of the material for scandalous or libelous purposes or infringement upon
12 trade secrets.” Id. citing Pintos v. Pacific Creditors Ass'n, 605 F.3d 665, 679 n. 6 (9th
13 Cir.2010).

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16 The Motion To Disqualify and its Exhibits, attached hereto as Exhibit A, is based on
17 Nevada Code of Judicial Conduct 2.11 Disqualification, and pertains to Judge Lilly-Spells, her
18 family and a related Department of Family Services (DFS) Child Protective Services (CPS)
19 matter and documents, including regarding her children. The Motion To Disqualify does not
20 pertain to Plaintiff and/or his Action. The Motion To Disqualify contains documents and
21 “information maintained by an agency which provides child welfare services, including,
22 without limitation, reports and investigations made pursuant to this chapter, is confidential”
23 and are **presumptively confidential and non-public**. Policy For Handling Filing, Lodged,
24 and Presumptively Confidential Documents, Rule 2 Procedures for the Clerk’s Office, 5.
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1 Documents considered presumptively confidential and non-public, (8) Child abuse or child
2 neglect investigation reports (NRS 432B).

3 Under Rule 3(1) of the Nevada Rules Governing Sealing and Redacting, “[a]ny person
4 may request that the court seal or redact court records for a case.” Under Rule 3(4), Grounds to
5 Seal or Redact:
6

7 the court may order the court files and records in a civil action to be sealed or redacted,
8 provided the court makes and enters written findings that the specific sealing or
9 redaction is justified by identified compelling privacy or safety interests that outweigh
10 the public interest in access to the court record... The public interest in privacy or
11 safety interests that outweigh the public interest in open court records include findings
12 that:

- 13 (a) The sealing or redaction is permitted or required by federal or state law;
- 14 (b) The sealing or redaction furthers an order entered under...a protective order entered
15 under NRCP 26(c)...;
- 16 (c) The sealing or redaction furthers an order entered in accordance with federal or state
17 laws that serve to protect the public health and safety;
- 18 (d) The redaction includes only restricted personal information contained in the court
19 record;
- 20 ...
- 21 (h) The sealing or redaction is justified or required by another identified compelling
22 circumstance.

23 **The Ninth Circuit has held that there is a presumption of public access to judicial
24 files and records, and that parties seeking to maintain the confidentiality of
25 documents attached to non-dispositive motions must make a “particularized
26 showing” of “good cause.”** See Kamakana v. City and County of Honolulu, 447 F.3d
27 1172, 1180 (9th Cir.2006) (quoting Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d
28 1122, 1137 (9th Cir.2003)); see also Pintos v. Pac. Creditors Assoc., 605 F.3d 665, 678
(9th Cir.2010). A party seeking to file documents under seal bears the burden of
overcoming that presumption of public access. See, e.g., Foltz, 331 F.3d at 1130. To the
extent any confidential information can be easily redacted while leaving meaningful
information available to the public, the Court must order that redacted versions be filed
rather than sealing entire documents. Id., at 1137.

29 Hologram USA, Inc. v. Pulse Evolution Corp., , 2015 WL 105793, at *1 (D. Nev.) (emphasis
30 added). There, the motion for leave to file documents under seal stated that the Asset Sale
31 Agreement and the Assignment of Goodwill and Intellectual Property Rights were both subject
32 to confidentiality clauses that obligated the parties to keep their terms confidential. The

1 plaintiffs represented that the documents contained “sensitive, proprietary, and technical
2 information regarding the entirety of the intellectual property portfolio.” Id. The Court
3 concluded the documents contained information that could injure the plaintiffs' competitive
4 posture in the industry, which warranted keeping them sealed. The Court found that good
5 cause existed to seal the information which overcame the presumption of public access, and
6 that the documents could not be easily redacted while leaving meaningful information
7 available to the public. Id. at 2.

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10 There is good cause here to seal the Motion To Disqualify because it is based on
11 DFS/CPS records and information that are confidential pursuant to NRS 432B.280, which
12 provides that “information maintained by an agency which provides child welfare services,
13 including, without limitation, reports and investigations made pursuant to this chapter, is
14 confidential[,]” and relate to Judge Lilly-Spells and her family, including her minor children –
15 all nonparties, impacting their privacy and confidentiality rights; and under Rule 3(4)(a) and
16 (h). As in Hologram USA, Inc., supra, the information and records are private, confidential and
17 could impact Judge Lilly-Spells, her family and/or her children, which warrants keeping the
18 Motion to Disqualify sealed. The is good cause to seal the Motion To Disqualify and its
19 Exhibits which overcomes the presumption of public access, and the private and confidential
20 documents could not be easily redacted while leaving meaningful information available to the
21 public. Thus, the public interest in the judicial process is outweighed by all of the above and
22 by NRS 432B.280 making such records confidential and the underlying public policies of the
23 Statute to protect information and abuse and neglect records regarding minors. Both the
24 United States District Court and this Court have previously recognized that the need to protect
25 the privacy rights of minors, pursuant to Katakana, supra, and/or NRS 432B.280, has qualified
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1 as a “compelling reason,” for sealing records in connection with various motions. The Motion
2 To Disqualify at issue here contains such information. Balancing the need for the public's
3 access to information about minors, the confidentiality of DFS records re minors and the fact
4 that these Exhibits relate to a Motion to Disqualify Judge Lilly-Spells, not Plaintiff or this
5 Action – the need and statutory mandate to maintain the confidentiality of that information and
6 that information and records weighs in favor of sealing the Motion To Disqualify.
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8 Pursuant NRS 432B.280, and Kamakhana, Defendant respectfully requests that it be
9 granted leave to file the Motion under seal.
10

11 **Clark County Defendants are providing this Court only, not Plaintiff, with the**
12 **Motion To Disqualify and its Exhibits filed under seal for this Court to review and**
13 **determine whether to grant this Motion to Seal the Motion to Disqualify and Exhibits. When**
14 **and if Plaintiff files a motion to obtain the Motion to Disqualify and confidential Exhibits**
15 **and if this Court grants any such motion, Defendant will comply with any order issued by**
16 **this Court regarding serving the Motion and/ Exhibits consisting of Judge Lilly-Spells’**
17 **and her family’s confidential and private DFS/CPS information and records as this Court**
18 **might require.**
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21 DATED this 17th day of May, 2022.

22 OLSON CANNON GORMLEY & STOBERSKI

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2 **CERTIFICATE OF SERVICE**

3 **I HEREBY CERTIFY** that on the 17th day of March, 2022, the undersigned, an
4 employee of Olson Cannon Gormley & Stoberski, hereby served a true copy of **DEFENDANT**
5 **CLARK COUNTY'S MOTION FOR LEAVE TO FILE MOTION TO DISQUALIFY**
6 **THE HONORABLE JASMIN LILLY-SPELLS UNDER SEAL** to the parties
7 listed below via the EFP Program, pursuant to the Court's Electronic Filing Service Order
8 (Administrative Order 14-2) effective June 1, 2014, via U.S. Mail and via e-mail; and served
9 the foregoing Motion only, not Exhibit A thereto (consisting of the Motion To Disqualify
10 and its Exhibits) via U.S. Mail, first class, postage pre-paid, and e-mail on the following:
11

12 Paola M. Armeni, Esq.
13 CLARK HILL, LLP.
14 3800 Howard Hughes Pkwy.
15 Las Vegas, NV 89169
16 parmeni@clarkhill.com
17 Telephone: 702/697-7509
18 Fax: 702/682-8400

19 **Pursuant to NRS 1.235(4), the following are being served in their Chambers with**
20 **the complete DEFENDANT CLARK COUNTY'S MOTION FOR LEAVE TO FILE**
21 **MOTION TO DISQUALIFY THE HONORABLE JASMIN LILLY-SPELLS**
22 **UNDER SEAL, including Exhibit A, the Motion To Disqualify and its Exhibits:**

23 The Honorable Chief Judge Linda Marie Bell
24 Eighth Judicial District Court
25 Department 7
26 200 E. Lewis Ave.
27 Las Vegas, Nevada 89155

28 The Honorable Judge Jasmin Lilly-Spells
Eighth Judicial District Court
Department 23
200 E. Lewis Ave.
Las Vegas, Nevada 89155



/s/ Ida Sedlock

An employee of Olson Cannon Gormley & Stoberski

EXHIBIT "A"

MOTION TO

DISQUALIFY JUDGE

WITH ITS EXHIBITS

FILED UNDER SEAL