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6 *For Our Nevada Judges*

EIGHTH JUDICIAL DISTRICT
CLARK COUNTY, NEVADA

7 [REDACTED]
8 Plaintiff,
9 vs.
10 [REDACTED]
11 Defendant.

Case No.: [REDACTED]
Dept. No.: I

**OPPOSITION TO MOTION TO STRIKE;
AND, OPPOSITION TO MOTION TO
VACATE**

12 COMES NOW, Alexander Falconi of Our Nevada Judges¹, appearing in proper person,
13 and hereby files an opposition to Defendant's *Motion to Strike; Motion to Vacate* filed May 9,
14 2022. This opposition is based upon the following memorandum of points and authorities and all
15 pleadings on file herein.
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17 DATED THIS 20 day of May, 2022.



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20 Alexander M. Falconi
21 Our Nevada Judges
22 Administrator
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28 ¹ Alexander M. Falconi owns, operates, and controls the Our Nevada Judges organization, including but not limited to the website, YouTube, Facebook, and Twitter platforms.

1 Memorandum of Points and Authorities

2 **I. Applicability of SRCR**

3 Defendant asserts erroneously that domestic relations matters are excluded from the scope
4 of the SRCR. The SRCR apply “to all court records in civil actions”. The law does not partition
5 domestic relations matters out from civil law. Rather, family law cases are a type of civil case.
6 Compare *Dean v. Kimbrough*². SRCR 1(4) provides further “[t]hese rules do not apply to the
7 sealing or redacting of court records **under specific statutes**” (emphasis added). This simply
8 points out that there may be statutes, enacted by the legislature, that handle “sealing or redaction
9 of court records” and to resolve a conflict in favor of those statutes. A list of chapters is provided,
10 with the phrase “such as” indicating, non-exhaustively, a number of examples as to where those
11 “specific statutes” might possibly be found. Defendant does not cite to a specific statute on sealing
12 or redaction that would override the SRCR here.
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15 Defendant also appears to argue that this action was brought under Chapter 125 or 126,
16 presumably *via* NRS 126.071. As far as Our Nevada Judges is aware, paternity actions are
17 confidential under NRS 126.211, but a review of the docket does not indicate that this is a paternity
18 action. Nor does this appear to be a divorce action. The docket indicates this is a “Child Custody
19 Complaint” and on December 4, 2019, a “Complaint for Custody” was filed. There do not appear
20 to be any references to paternity, paternity disputes, the filing of a paternity action, or NRS 126.211
21 either.
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23 SRCR 4(2) authorizes the filing of the motion to unseal by “a named party or another
24 person”, which specifically contemplates non-party filing, and is consistent with the whole of the
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26 ² *Dean v. Kimbrough*, 88 Nev. 102, ___, 492 P.2d 988, 989 (1972) (“A child custody contest
27 partakes in its nature that of a private suit in which the state is not a party as in a criminal action.
28 The rights of the parties are decided as in any **civil action** and the judgment rendered is a final
adjudication on the facts and circumstances existing at the time of the judgment.” Emphasis
added.)

1 SRCR in recognizing non-party public interest in the redaction and sealing of records. SCR 44
2 also recognizes a person’s right to appear “in his own behalf in any court in this state except the
3 supreme court”. See also *Guerin v Guerin*, 116 Nev. 210, ___, 993 P.2d 1256, 1258 (2000), citing
4 *Salman v Newell*, 110 Nev. 1333, 1336, 885 P.2d 607, 608 (1994) (“a person is entitled to represent
5 himself or herself in the district court[.]”) NRCP 11(a) conflicts not only with those rules, but the
6 notion of due process³, and runs afoul of appellate review principles that trigger waiver⁴. There are
7 serious issues with Defendant’s NRCP 11(a) interpretation given EDCR 2.20(e) requires the filing
8 of opposition, and the failure of filing opposition potentially constituting “an admission that the
9 motion [] is meritorious”. See also DCR 13(3). Under Defendant’s interpretation, a non-attorney
10 non-party would not be able to file opposition, thusly allowing a movant to prevail on a motion
11 simply by depriving the non-movant of a voice and locking him or her out of the briefing process.
12 Ironically, Defendant’s interpretation of NRCP 11(a) would also, if read consistently, preclude any
13 award of sanctions to a non-attorney non-party under NRCP 11(c)(1). The interpretation raises
14 serious other areas of civil practice as well. Take for example, NRCP 45(c)(3); is a non-attorney
15 non-party unable to file a motion to quash a subpoena? What about NRCP 24(a), which provides
16 that “the court must permit anyone to intervene” based on certain rights allowing same? Would
17 NRCP 11(a) forbid non-attorney non-parties from intervening? The purpose of NRCP 11(a) is
18 obvious; to require signature and certification that a filing has merits. The rule contemplates
19 attorneys and unrepresented parties signing these papers, and it is likely that unrepresented non-
20 parties were simply overlooked when the language was drafted. This is why we have rules of
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26 ³Compare *Price v. Dunn*, 106 Nev. 100, 787 P.2d 785, 786 (1990) (conceding the movant
27 “complied with the procedural requirements of [] NRCP 4(e)(1)(i)”, but nevertheless reversed
28 given the non-movant’s “fundamental right to due process” was violated.)

⁴*Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) (points not urged at the
trial level are waived on appellate review.)

1 statutory construction⁵, which apply to court rules⁶; to resolve conflicts like these by harmonious⁷
2 construction. Lastly, Defendant's interpretation burdens the Court by depriving it of thorough
3 briefing.

4 **II. Attorney Representation, Generally**

5 Our Nevada Judges understands Defendant would prefer an attorney sign these papers,
6 consistent with his NRCP 11(a) interpretation. But attorneys, including but not limited to The
7 American Civil Liberties Union⁸ and Luke Busby⁹, provide free services to Our Nevada Judges
8 as their limited resources allow. Our Nevada Judges, in appreciation of their time and generosity,
9 tries to resolve matters like these through *propria persona* filings as the issues are far less
10 complex. There is no need, at this time, to disturb *pro bono* counsel with this matter.

11 **III. Opposition to Vacatur**

12 The Clerk is in compliance with the SRCR, as the docket has reappeared on the public
13 index and Our Nevada Judges can now monitor for hearing dates and times. This Court need not
14 take any further action on the matter. The interpretation of statutes and rules concerning sealing
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17 ⁵ *Williams v. United Parcel Servs.*, 129 Nev. 386, 391, 302 P.3d 1144, 1147 (2013) (recognizing
18 that issues of statutory construction are reviewed de novo).

19 ⁶ *Webb v. Clark County School Dist.*, 145 Nev. 47, 218 P.3d 1239, 1244 (2009) ("rules of statutory
20 construction apply to court rules[.]")

21 ⁷ *Monahan v. Hogan*, 138 Nev. Adv. Op. 7 (2022), citing *Steward v. Steward*, 111 Nev. 295, 302,
22 890 P.2d 777, 781 (1995) ("When interpreting a statute, any doubt as to legislative intent must be
23 resolved in favor of what is reasonable, and against what is unreasonable, so as to avoid absurd
24 results.") See also *S. Nev. Homebuilders Ass'n v. Clark Cty.*, 121 Nev. 446, 449, 117 P.3d 171, 173
(2005) ("[I]t is the duty of this court, when possible, to interpret provisions within a common
25 statutory scheme `harmoniously with one another in accordance with the general purpose of those
26 statutes' and to avoid unreasonable or absurd results, thereby giving effect to the Legislature's
27 intent.")

28 ⁸ The American Civil Liberties Union ('ACLU') is representing Our Nevada Judges on the issue
of the constitutionality of impending EDCR 5.212 (successor to EDCR 5.210) and NRS 125.080.

⁹ Luke Busby is counsel of record for Our Nevada Judges in *Eggleston vs. Clark County*, Eighth
Jud. Dist. Ct. docket no. A-16-748919-C, a civil case implicating the conduct of the ...
Department of Family Services and a child protection services worker. Mr. Busby defeated the
County's attempt to revoke camera access. He is also counsel of record in *State of Nevada vs Roger
Hillygus & Stewart Handte*, Second Jud. Dist. Ct., docket nos. CR19-1535A&B, on a First
Amendment motion to intervene.

1 and redaction requires strict interpretation. Compare *Johanson v. Dist. Ct.*, 124 Nev. 245, ___,
2 182 P. 3d 94, 95 (2008). SRCR 3(7)(a)(1), requires the preservation of the docket. SRCR 3(4)
3 requires written findings, which must be made available. SRCR 3(7)(a)(3). SRCR 3(5)(c) forbids
4 sealing an entire file.

5 **IV. Initial Appearance Fee Inapplicable**

6 A news reporter is not a party. SCR 229(1)(c) (definition). Compare SCR 243
7 (distinguishing news reporters from parties). Compare SRCR 4(2) (distinguishing parties from
8 “another person”). See also *Valley Bank of Nevada v. Ginsberg*, 110 Nev. 440, ___, 874 P.2d 729,
9 734 (1994), (in contemplating an “aggrieved party” and its right to appeal, adopting a narrow rule
10 that mentions parties as “named as such in the record” and who “enter an appearance.”) See also
11 *Ogawa v. Ogawa*, 125 Nev. 660, ___, 221 P. 3d 699, 707 (2009) (defining “an appearance as [a]
12 coming into court as party to a suit, either in person or by attorney”). As a non-party, a news
13 reporter does not file appearances and become a party to the lawsuit they are trying to unseal or
14 provide electronic coverage of, any more than a witness who files a motion to quash a subpoena
15 does. Likewise, a motion to intervene is filed by a non-party, and the intervenor does not “become
16 a party to the lawsuit unless and until the district court grants a motion to intervene”. *Aetna Life &*
17 *Casualty Insurance Company v Rowan*, 107 Nev. 362, 812 P.2d 350 (1991). For these several
18 reasons, the appearance fees contemplated under NRS 19.013(1), NRS 19.0302(1)(b) & (1)(e) &
19 (f)(2), NRS 19.0303, NRS 19.031(1) & (2), NRS 19.0312(1)(a), NRS 19.0313(1) & (3), NRS
20 19.03135(1), NRS 19.0315 (1), and NRS 19.033(3)(a), do not apply to non-parties.
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24 **V. Conclusion**

25 Our Nevada Judges has been recognized as a news reporter by Districts 1, 2, 5, 6, 8, 9,
26 and 10; the Reno, Sparks, Henderson, Boulder City, Las Vegas, Beatty, Virginia City, and
27 Pahrump Justice Courts; the Reno Municipal Court; the Court of Appeals; the Supreme Court of
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1 Nevada; the Parole Board; and the Commission on Judicial Discipline. Several judges have made
2 voluntary appearances on the Perspectives program, the highest of which are Chief Court of
3 Appeals Judge Michael Gibbons and Court of Appeals Judge Bonnie Bulla. The public has
4 observed an excess of 20 million watch-time minutes. "The operations of the courts and the
5 judicial conduct of judges are matters of utmost public concern." *Del Papa v. Steffen*, 112 Nev.
6 369, ___, 915 P.2d 245, 249. "[S]ecret judicial proceedings pose [a threat] to public confidence
7 in this court and the judiciary" *Id.* at 915 P.2d 245, 248.

9 The Court should deny Defendant's motions in their entirety.

10 **AFFIRMATION:** This document does not contain a social security number of any
11 person.

12 DATED THIS 20th day of May, 2022.

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15 Alexander M. Falconi
16 Our Nevada Judges
17 Administrator
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1 **DECLARATION OF ALEXANDER FALCONI**

2 I, Alexander M. Falconi, state that I have read this *Opposition* and that the contents are true
3 and correct of my own personal knowledge, except for those matters I have stated that are not of
4 my own personal knowledge, but that I only believe them to be true, and as for those matters, I do
5 believe they are true.
6

7 *I declare¹⁰ under penalty of perjury that the foregoing is true and correct.*

8 EXECUTED this 20 day of May, 2022.

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¹⁰ NRS 53.045 (declaration in lieu of affidavit).