

IN THE SUPREME COURT OF THE STATE OF NEVADA

ALEXANDER FALCONI D/B/A
OUR NEVADA JUDGES,

Petitioner,

vs.

CLARK COUNTY EIGHTH
JUDICIAL DISTRICT COURT,

Respondent.

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Case No.:

**PETITION FOR WRIT OF MANDAMUS OR IN THE
ALTERNATIVE PROHIBITION AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

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NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following persons and entities as described in NRAP 26.1(a) must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Our Nevada Judges is a private, independent, and neutral entity, the objective of which is to bridge the gap between the public and the judiciary. Our Nevada Judges does not have corporate status nor does it have any parent corporations. Our Nevada Judges conducts statistical analysis on all judicial districts and their corresponding judicial departments, provides electronic coverage of and reports on judicial proceedings, and conducts interviews with judges, lawyers, and others who have interacted meaningfully with the legal community.

The American Civil Liberties Union (ACLU) of Nevada is a state affiliate of the national ACLU, a nonprofit, nonpartisan organization that has been our nation's guardian of liberty for over 100 years. The ACLU works to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. Protecting freedom of expression is a core tenet of the

ACLU's work, and the ACLU has frequently appeared before the Supreme Court and Ninth Circuit in free speech cases, both as direct counsel and as *amicus curiae*.¹ Because the First Amendment rights of a Nevada citizen are at stake in this case, its proper resolution is of particular interest to the ACLU of Nevada and its members.

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¹ See, e.g., *Elonis v. United States*, 575 U.S. 723 (2015); *Virginia v. Black*, 538 U.S. 343 (2003); *United States v. Hansen*, No. 17-10548, 2022 WL 424827 (9th Cir. 2022); *Koala v. Khosla*, 931 F.3d 887 (9th Cir. 2019); *Yahoo! Inc. v. La Ligue Contre Le Racisme Et L'Antisemitisme*, 433 F.3d 1199 (9th Cir. 2006).

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PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF PROHIBITION

The Petitioner/Plaintiff, ALEXANDER FALCONI d/b/a OUR NEVADA JUDGES, hereby brings this Petition for Writ of Mandamus or, in the alternative, a Writ of Prohibition (NRS Chapter 34) and Complaint for declaratory (NRS Chapter 30) and injunctive relief (NRS Chapter 33). Petitioner is seeking an order declaring EDCR 5.207 and 5.212 facially unconstitutional and directing Respondent/Defendant, the EIGHTH JUDICIAL DISTRICT COURT (“EJDC” or “Respondent”),² to refrain from implementing the amended Part V, specifically amended EDCR 5.207 and EDCR 5.212 (now former EDCR 5.210), as well as any additional provisions that allow for, without a showing of good cause, the closure of court hearings and trials to the public or the sealing of court

² NRS 12.105 State and local governmental agencies may be sued without naming members of their governing bodies; service. Any political subdivision, public corporation, special district, or other agency of state or local government which is capable of being sued in its own name may be sued by naming it as the party without naming the individual members of its governing body in their representative capacity. In addition to any other method which may be provided by statute or rule of court, service may be made upon the clerk or secretary of the political subdivision, corporation or agency.

pleadings, of the Rules of Practice for the Eighth Judicial District Court as currently written, as approved and ordered by ADKT 0590.

INTRODUCTION

Even before the First Amendment was ratified, there has been a right to access to the courts available to any member of the public.³ Pursuant to the First Amendment, there is a presumed public right of access to court proceedings. *See Oregonian Publ'g Co. v. U.S. Dist. Court*, 920 F.2d 1462, 1465 (9th Cir. 1990). Secret proceedings are the exception rather than the rule in our courts. *See Id.* The "First Amendment does not distinguish between criminal and civil proceedings, but rather protects the public against the government's arbitrary interference with access to important information." *N.Y. Civil Liberties Union v. N.Y.C. Transit Auth.* ("NYCTA"), 684 F.3d 286, 298 (2d Cir. 2012). Once the court finds that a qualified First Amendment right of access to certain judicial documents exists, documents may still be sealed, but only if "specific, on the record findings are made demonstrating that closure is

³ Historically, at common law, "both civil and criminal trials have been presumptively open." *E*Trade Fin. Corp. v. Deutsche Bank AG*, 582 F. Supp. 2d 528, 531 (S.D.N.Y. 2008) (citing *Richmond Newspapers v. Virginia*, 448 U.S. 555, 580 n.17 (1980)).

essential to preserve higher values and is narrowly tailored to serve that interest." *In re N.Y. Times Co.*, 828 F.2d 110, 116 (2d Cir. 1987). The Tenth Circuit best described the factors weighing in favor of public disclosure of court documents: "First is the general interest in understanding disputes that are presented in a public forum for resolution. Second is the public's interest in assuring that the courts are fairly run and judges are honest." *Crystal Grower's Corp. v. Dobbins*, 616 F.2d 458 (10th Cir. 1980).

I. EDCR 5.207

The amended EDCR 5.207⁴ now classifies all custody and child support cases as paternity matters under NRS Chapter 126. Under NRS 126.211,⁵ enacted in 1979, all hearings are held in closed court and all

⁴ Rule 5.207 Complaints for custody. Unless otherwise ordered, a case involving a complaint for custody or similar pleading addressing child custody or support between unmarried parties shall be construed as proceeding pursuant to NRS Chapter 126 (Parentage), and the issues of parentage shall be addressed at the first hearing and in a written order in the case.

⁵ NRS 126.211 Hearings and records: Confidentiality. Any hearing or trial held under this chapter must be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the Division of Welfare and Supportive

documents are filed under seal unless ordered by the court upon the consent of the parties or, in exceptional cases, for a showing of good cause.⁶ This is true whether or not paternity is in dispute.

This rule is the inverse of the case law holding that 1) the courts are a public forum and that 2) access to the court is a fundamental constitutional right, the access of which can only be denied when there is a showing of good cause.

II. EDCR 5.212

Services of the Department of Health and Human Services or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

⁶ NRS 126.211 is likely unconstitutional, however, the statute itself is not the subject of this matter.

The now former EDCR 5.210,⁷ (with the exception of subsections (d) and (e)) largely mirrored the language of NRS 125.080⁸ with respect to a

⁷ Rule 5.210. Trial and hearings may be private pursuant to [NRS 125.080](#).

(a) Except as otherwise provided by another rule or statute, the court shall, upon demand of either party, direct that the hearing or trial in an action for divorce be private.

(b) Except as otherwise provided in subsections (c) or (d), upon such demand of either party, all persons must be excluded from the court or chambers wherein the action is tried, except:

- (1) The officers of the court;
- (2) The parties;
- (3) The counsel for the parties and their staff;
- (4) The witnesses (including experts);
- (5) The parents or guardians of the parties; and
- (6) The siblings of the parties.

(c) The court may, upon oral or written motion of either party or on its own motion, exclude the parents, guardians, or siblings of either party, or witnesses for either party, from the court or chambers wherein the hearing or trial is conducted. If good cause is shown for the exclusion of any such person, the court shall exclude any such person.

(d) If the court determines that the interests of justice or the best interest of a child would be served, the court may permit a person to remain, observe, and hear relevant portions of proceedings notwithstanding the demand of a party that the proceeding be private.

(e) The court shall retain supervisory power over its own records and files, including the electronic and video records of proceedings. Unless otherwise ordered, the record of a private hearing, or record of a hearing in a sealed case, shall be treated as confidential and not open to public inspection. Parties, their attorneys, and such staff and experts as those attorneys deem necessary are permitted to retain, view, and copy the record of a private hearing for their own use in the representation. Except as otherwise provided by rule, statute, or court order, no party or agent shall distribute, copy, or facilitate the distribution or copying of the

party being able to request that the proceedings be private in a divorce case. Additionally, under the now former EDCR 5.210 (and current NRS 125.080) either party or the court itself could move to exclude those with a vested interest in the matter (e.g., parents, guardians or siblings, and witnesses) if good cause is shown for the exclusion.

record of a private hearing or hearing in a sealed case (including electronic and video records of such a hearing). Any person or entity that distributes or copies the record of a private hearing shall cease doing so and remove it from public access upon being put on notice that it is the record of a private hearing.

⁸ NRS 125.080 Trial of divorce action may be private.

1. In any action for divorce, the court shall, upon demand of either party, direct that the trial and issue or issues of fact joined therein be private.

2. Except as otherwise provided in subsection 3, upon such demand of either party, all persons must be excluded from the court or chambers wherein the action is tried, except:

- (a) The officers of the court;
- (b) The parties;
- (c) The counsel for the parties;
- (d) The witnesses for the parties;
- (e) The parents or guardians of the parties; and
- (f) The siblings of the parties.

3. The court may, upon oral or written motion of either party, order a hearing to determine whether to exclude the parents, guardians or siblings of either party, or witnesses for either party, from the court or chambers wherein the action is tried. If good cause is shown for the exclusion of any such person, the court shall exclude any such person from the court or chambers wherein the action is tried.

Now, under the broader language of EDCR 5.212, the ability for a single party to demand private proceedings and exclude those not involved directly in the case now applies to all family law matters, and there is no longer a “good cause” requirement for exclusion of parents, guardians, siblings, and witnesses.

Even prior to the new, broader language of EDCR 5.212, Nevada had the least accessible, most restrictive, statute in the country with regards to access to divorce matters.⁹

Due to the lack of any “good cause” language or the presence of any balancing test weighing a party’s potential privacy interest with the First Amendment rights of both freedom of the press and public interest in access to the courts, which should be determined on a case-by-case basis, both EDCR 5.207 and EDCR 5.212, as well as any other rules requiring privacy without a showing of good cause, are facially unconstitutional.¹⁰

In addition to the unconstitutionality of the court rules (the related statutes are not at issue here), closing the courts by blanket rule or based

⁹ https://www.rcfp.org/journals/news-media-and-law-spring-2015/white-paper-access-divorce/#_edn30

¹⁰ It is Plaintiff’s position that NRS 125.080 is also unconstitutional, however, Plaintiff is not seeking relief from the statute in this present matter.

upon the wishes of one party, or the court itself, can have extremely detrimental real-world consequences.¹¹ “Public access to civil proceedings serves to (i) demonstrate that justice is meted out fairly, thereby promoting public confidence in such governmental proceedings; (ii) provide a means by which citizens scrutinize and check the use and possible abuse of judicial power; and (iii) enhance the truth finding function of the proceeding.” *In re Marriage of Tamir*, 72 Cal. App. 5th 1068, 1085 (2021).

PARTIES

1. Petitioner, ALEXANDER FALCONI d/b/a Our Nevada Judges, is, and was at all times relevant herein, a resident of the State of Nevada, County of Clark, City of Henderson.

2. Respondent, EIGHTH JUDICIAL DISTRICT COURT, is an entity created by and operating under the Constitution and laws of the State of Nevada and, pursuant to NRS 12.105, may be served with

¹¹ E.g., the domestic violence victim whose abusive partner/spouse, in a further attempt to exercise control, requests the closure of the case, denying the victim the opportunity to have any type of support system in the courtroom.

process herein by service upon the Clark County Clerk, located at 200 Lewis Ave., Las Vegas, Nevada 89011.

JURISDICTION & VENUE

3. The transactions and occurrences that give rise to the Petitioners' claims against Respondent, the Eighth Judicial District Court, occurred in the City of Las Vegas, Clark County, Nevada.

4. This Court has the authority to grant the writ relief requested herein pursuant to Article 6, Section 4 of The Constitution of the State of Nevada and NRS 34.330.

5. This Court has original subject matter jurisdiction over this request for declaratory and injunctive relief under Article 6, Section 4, of The Constitution of the State of Nevada. *See also* NRS 30.030 (Uniform Declaratory Judgments Act).

6. Venue is proper in this Las Vegas, Nevada pursuant to NRS 13.020 and NRS 13.040 because Respondents operate and/or reside in Clark County.

STANDING

7. "In First Amendment cases, 'it is sufficient for standing purposes that the plaintiff intends to engage in a course of conduct

arguably affected with a constitutional interest and that there is a credible threat that the challenged provision will be invoked against the plaintiff.”¹²

8. The U.S. Supreme court has held:

where threatened action by *government* is concerned, we do not require a plaintiff to expose himself to liability before bringing suit to challenge the basis for the threat—for example, the constitutionality of a law threatened to be enforced. The plaintiff's own action (or inaction) in failing to violate the law eliminates the imminent threat of prosecution, but nonetheless does not eliminate Article III jurisdiction.

MedImmune, Inc. v. Genentech, Inc., 549 U.S. 118, 128–29, 127 S. Ct. 764, 772, 166 L. Ed. 2d 604 (2007) (Emphasis in original).¹³

9. Because Alexander Falconi d/b/a Our Nevada Judges operates as a media outlet that covers various family law matters, the implementation of EDCR 5.207 and 5.212 will prevent him from having access to the courts, in violation of his First Amendment rights.

¹² *Am. C.L. Union of Nevada v. Heller*, 378 F.3d 979, 984 (9th Cir. 2004)(citing *LSO, Ltd. v. Stroh*, 205 F.3d 1146, 1154–55 (9th Cir.2000))

¹³ *See also Steffel v. Thompson*, 415 U.S. 452, 58-60 (1974) (The Supreme Court did not require the plaintiff to attempt to distribute handbills and risk prosecution to have standing for a declaratory judgment action regarding the constitutionality of the statute prohibiting distribution).

STATEMENT OF RELEVANT FACTS

1. Our Nevada Judges is a media entity that covers Nevada courts with the mission to bridge the gap between the public and the courts, provide transparency of the court system, and help the public understand the courts. *See* Declaration of Alexander Falconi d/b/a Our Nevada Judges in Support of Writ of Mandamus or Prohibition, attached hereto, ¶5.¹⁴

2. This mission necessarily involves live observation of court proceedings and reviewing court records.

3. Our Nevada Judges provides media coverage for all types of legal matters that occur in Nevada courts, including non-divorce Eighth Judicial District Court family law matters. Decl. in Supp., ¶6.

¹⁴ NRS 53.045 Use of unsworn declaration in lieu of affidavit or other sworn declaration; exception. Any matter whose existence or truth may be established by an affidavit or other sworn declaration may be established with the same effect by an unsworn declaration of its existence or truth signed by the declarant under penalty of perjury, and dated, in substantially the following form:

1. If executed in this State: “I declare under penalty of perjury that the foregoing is true and correct.”

Executed
on.....
(date) (signature)

4. Because of (now former) EDCR 5.210 and NRS 125.080, Our Nevada Judges refrains from covering divorce cases. Decl. in Supp., ¶7.

5. However, if (now former) EDCR 5.210 and NRS 125.080 were not in place, Our Nevada Judges would include divorce matters in its coverage. Decl. in Supp., ¶8.

6. Our Nevada Judges is currently covering several custody matters. Decl. in Supp., ¶9.

7. With the adoption of the new EDCR 5.207 and EDCR 5.212, and its expansion to all family court matters, Our Nevada Judges will be denied access to all family law matters. Decl. in Supp., ¶10.

8. Neither the new EDCR 5.207 or EDCR 5.212 provide for any type of balancing test or requirement of “good cause” prior to closing these matters. *See* EDCR 5.207 and EDCR 5.212.

STANDARD OF REVIEW

9. A writ of mandamus may be issued by the court “to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded by such inferior

tribunal, corporation, board or person,” when there is no plain, speedy, and adequate remedy in the ordinary course. *See* NRS 34.160; NRS 34.170.¹⁵

10. A writ of mandamus can require a board or official to affirmatively act in a manner which the law compels that board or official to act. *See State v. Second Jud. Dist. Ct. ex rel. Cnty. of Washoe*, 118 Nev. 609, 614, 55 P.3d 420, 423 (2002).

11. Writ relief is an extraordinary remedy, and therefore, it is within the court’s sound discretion whether to grant such relief. *Segovia v. Eighth Judicial Dist. Court*, 133 Nev. 910, 911, 407 P.3d 783, 785 (2017). “Extraordinary writ relief may be available where there is no ‘plain, speedy and adequate remedy in the ordinary course of law.’” *Id.* (quoting NRS 34.170 and NRS 34.330).

¹⁵ “The writ may be issued by ... a district court or a judge of the district court, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station; or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or person. When issued by a district court or a judge of the district court it shall be made returnable before the district court.” NRS 34.160.

12. However, even when a legal remedy is available, the court can “still entertain a petition for writ ‘relief where the circumstances reveal urgency and strong necessity.’” *Segovia*, 133 Nev. at 911, 407 P.3d at 785, quoting *Barngrover v. Fourth Judicial Dist. Court*, 115 Nev. 104, 111, 979 P.2d 216, 220 (1999).

13. The court must examine each request for writ relief individually. *Jeep Corp. v. Second Judicial Dist. Court*, 98 Nev. 440, 443, 652 P.2d 1183, 1185 (1982).

14. The court will generally exercise its discretion to consider an extraordinary writ where an important legal issue that needs clarification is raised or to promote judicial economy and administration. *State Office of the Attorney General v. Justice Court of Las Vegas Township*, 133 Nev. 78, 80, 392 P.3d 170, 172 (2017).

CAUSES OF ACTION

I. Writ of Mandamus or Prohibition

15. Here there is no plain, speedy and adequate remedy in the ordinary course of law. There is no other method to challenge the implementation of amended Part V, specifically amended EDCR 5.207 and EDCR 5.212 (former EDCR 5.210), of the Rules of Practice for the

Eighth Judicial District Court as currently written, as approved and ordered by ADKT 0590.

16. The U.S. Supreme Court has acknowledged, “The explicit, guaranteed rights to speak and to publish concerning what takes place at a trial would lose much meaning if access to observe the trial could, as it was here, be foreclosed arbitrarily.” *Richmond Newspapers v. Virginia*, 448 U.S. 555, 576-77, 100 S. Ct. 2814, 2827 (1980).

17. The Second, Third, and Seventh Circuits have long recognized a First Amendment right to of access to civil proceedings. *See Westmoreland v. CBS*, 752 F.2d 16 (2d Cir. 1984),¹⁶ *Publicker Industries Inc. v. Cohen*, 733 F.2d 1059 (3d Cir. 1984)(“Therefore, to limit the public's access to civil trials there must be a showing that the denial serves an important governmental interest and that there is no less

¹⁶ ... the First Amendment does secure to the public and to the press a right of access to civil proceedings in accordance with the dicta of the Justices in *Richmond Newspapers*, because public access to civil trials "enhances the quality and safeguards the integrity of the factfinding process," *Globe Newspaper*, 457 U.S. at 606, "fosters an appearance of fairness," *Id.*, and heightens "public respect for the judicial process," *Id.*, while permitting "the public to participate in and serve as a check upon the judicial process -- an essential component in our structure of self government," *Id. Westmoreland v. CBS*, 752 F.2d 16, 23 (2d Cir. 1984).

restrictive way to serve that governmental interest.”), and *In re Cont'l Ill. Sec. Litig.*, 732 F.2d 1302, 1308 (7th Cir. 1984)(“The public's right of access to judicial records has been characterized as ‘fundamental to a democratic state.’”).

18. More recently, the Ninth Circuit has recognized the same First Amendment Rights. *Courthouse News Serv. v. Planet*, 947 F.3d 581, 590 (9th Cir. 2020)(“Indeed, every circuit to consider the issue has uniformly concluded that the right applies to both civil and criminal proceedings.”).¹⁷

19. The California Court of Appeals has also recognized this fundamental constitutional right:

A strong presumption exists in favor of public access to court records in ordinary civil trials. That is because the public has an interest, in *all* civil cases, in observing and assessing the performance of its public judicial system, and that interest strongly supports a general right of access in ordinary civil

¹⁷ “We agree with the Seventh Circuit that although ‘the First Amendment does not explicitly mention a right of access to court proceedings and documents, ‘the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents,’ and that this right extends to civil complaints.” *Courthouse News Serv. v. Planet*, 947 F.3d 581, 591 (9th Cir. 2020).

cases. Because orders to seal court records implicate the public's right of access under the First Amendment, such orders are subject to ongoing judicial scrutiny, including at the trial court level.

In re Marriage of Tamir, 72 Cal. App. 5th 1068, 1078, 288 Cal. Rptr. 3d 48, 56 (2021)(emphasis in original).

20. Because orders to seal court records implicate the public's right of access under the First Amendment, such orders are subject to ongoing judicial scrutiny, including at the trial court level. *Id.*

21. Here, neither EDCR 5.207 or EDCR 5.212 allow for any test or good cause finding on behalf of the court prior to declaring the matter private, whether at the request of one party or the court itself, or closing not only the courtroom, but also sealing the filings.

22. Because of this lack of any balancing of First Amendment interests, EDCR 5.207 and 5.212 are unconstitutional.

II. Declaratory Relief

23. Alternatively, under the Nevada Uniform Declaratory Judgments Act, NRS 30.010 to 30.160, this Court has the power to declare the rights, status and other legal relations of the parties whether or not further relief is or could be claimed, and a declaration may be

either affirmative or negative in form and effect, and such declarations have the force and effect of a final judgment or decree. *See* NRS 30.030.

24. More specifically, with respect to contracts, statutes, and other writings, NRS 30.040(1) provides:

Any person interested under a deed, written contract or other writings constituting a contract, or whose rights, status, or other legal relations are affected by statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

25. The provisions of the Act are to be liberally construed and administered, and are intended to be remedial, in order to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations. NRS 30.140.

26. Such declarations have the force and effect of a final judgment or decree. NRS 30.030.

27. This matter satisfies the four elements that must be met for declaratory relief to be granted, as described below. *Kress v. Corey*, 65 Nev. 1, 25–26, 189 P.2d 352, 364 (1948).

28. The facts stated above herein reveal a justiciable controversy

in which a claim of right is asserted against one who has an interest in contesting it.

29. The controversy is between persons whose interests are adverse.

30. Our Nevada Judges has a legally protectable interest in the controversy.

31. The issue involved in the controversy is ripe for determination as EDCR 5.207 and EDCR 5.212 will go into effect on June 11, 2022.

32. Thus, Our Nevada Judges seeks an order declaring its First Amendment rights, and the rights of all those who want to observe the Nevada courts, specifically family court, with respect to the enforcement of EDCR 5.207 and EDCR 5.212.

III. Injunctive Relief

33. Injunctive relief is a historical equitable remedy that has been codified in Nevada law at NRS 33.010,

34. Our Nevada Judges does not have an adequate remedy at law.

35. NRS 33.010 states that an injunction may be granted:

1. When it shall appear by the complaint that the plaintiff is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of the

act complained of, either for a limited period or perpetually.

2. When it shall appear by the complaint or affidavit that the commission or continuance of some act, during the litigation, would produce great or irreparable injury to the plaintiff.

3. When it shall appear, during the litigation, that the defendant is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the plaintiff's rights respecting the subject of the action, and tending to render the judgment ineffectual.

36. As discussed above, Our Nevada Judges is entitled to relief regarding the First Amendment right of access to the courts.

37. Allowing what amounts to a blanket closure of the family courts will cause irreparable injury to Our Nevada Judges by denying it, and all others their First Amendment right of access to the courts, a right to which they are entitled as a matter of law.

38. Our Nevada Judges request injunctive relief, stopping the Eighth Judicial Court from implementing and enforcing amended EDCR 5.207 and EDCR 5.212.

REQUEST FOR RELIEF

WHEREFORE, Petitioner, Alexander Falconi d/b/a Our Nevada Judges, asks for the following relief:

- A. A Writ of Mandamus or Prohibition ordering that 1) the Petitioner is entitled to writ relief; 2) that the newly enacted EDCR 5.207 and EDCR 5.212 are void as unconstitutional; 3) directing the Eighth Judicial District Court to require a showing of good cause and applying the appropriate balancing test before declaring a matter private;
- B. All equitable declaratory relief and/or statutory declaratory relief that arises from or is implied by the facts, whether or not specifically requested, including but not limited to: that 1) a declaration that the Petitioner is entitled to writ/injunctive relief; 2) that the newly enacted newly enacted EDCR 5.207 and EDCR 5.212 are void as unconstitutional; and 3) directing the Eighth Judicial District Court to require a showing of good cause and applying the appropriate balancing test before declaring a matter private;
- C. All equitable injunctive relief that arises from or is implied by the facts, whether or not specifically requested, including an injunction against the Eighth Judicial District Court from declaring proceedings private, other than for good cause;

- D. Award Petitioner its reasonable attorney's fees and costs incurred in this action as provided by NRS 18.010; and
- E. Such other and further relief as the court deems just and equitable.

DATED this 29th day of June 2022.

Respectfully submitted:

**AMERICAN CIVIL LIBERTIES
UNION OF NEVADA**

/s/ Sophia A. Romero

Sophia A. Romero, Esq.

Nevada Bar No.: 12446

Christopher M. Peterson, Esq.

Nevada Bar No.: 13932

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Counsel for Petitioner

VERIFICATION

Declaration of Alexander Falconi d/b/a Our Nevada Judges in Support of Writ of Mandamus or Prohibition

I, Alexander Falconi d/b/a Our Nevada Judges, under penalty of perjury declare:

1. I am over the age of 18 and I am competent to testify.
2. I have personal knowledge of the facts set forth in this declaration.
3. I make this declaration in support of the Petition for Writ of Mandamus or Alternatively Prohibition and Complaint for Declaratory and Injunctive Relief.
4. I am, and was at all times relevant hereto, a resident of the State of Nevada, County of Clark, City of Henderson.
5. Our Nevada Judges is a media entity that specifically covers Nevada courts to bridge the gap between the public and the courts, provide transparency of the court system, and help the public understand the courts.

6. Our Nevada Judges provides media coverage for all types of legal matters that occur in Nevada courts, including non-divorce Eighth Judicial District Court family law matters.
7. Because of (now former) EDCR 5.210 and NRS 125.080, Our Nevada Judges refrains from covering divorce cases.
8. However, if (now former) EDCR 5.210 and NRS 125.080 were not in place, Our Nevada Judges would include divorce matters in its coverage.
9. Our Nevada Judges is currently covering several custody matters.
10. With the adoption of the new EDCR 5.207 and EDCR 5.212, and its expansion to all family court matters, Our Nevada Judges will be denied access to all family law matters.

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

Dated June 23, 2022.



Alexander Falconi d/b/a Our Nevada Judges

CERTIFICATE OF COMPLIANCE

I hereby certify that I have read this petition, and to the best of my knowledge, information, and belief it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, including the requirement of Rule 28(e), which requires that every assertion in the brief regarding matters in the record be supported by a reference to the page and volume number, if any, of the appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

I further certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14 point Century Schoolbook.

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Finally, I hereby certify that this brief complies with the type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more and contains 4,457 words.

DATED this 29th day of June 2022.

Respectfully submitted:

**AMERICAN CIVIL LIBERTIES
UNION OF NEVADA**

/s/ Sophia A. Romero

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Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of June 2022, I caused a true and correct copy of the foregoing **PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE PROHIBITION AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** to be served via U.S. Mail delivery to the following:

Chief Judge Linda Bell
Eighth Judicial District Court
200 Lewis Ave.,
Las Vegas, Nevada 89101

Andres Moses, Esq.
General Council
Eighth Judicial District Court
200 Lewis Ave.,
Las Vegas, Nevada 89101

/s/Courtney Jones
An employee of ACLU of Nevada