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Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

ALEXANDER M FALCONI,  
Petitioner,  
  
vs.  
  
EIGHTH JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA IN AND  
FOR THE COUNTY OF CLARK; AND  
THE HONORABLE CHARLES  
HOSKIN, DISTRICT COURT JUDGE,  
Respondents,  
TROY A MINTER, JENNIFER R  
EASLER,  
Real-Parties in Interest.

Case No.:

**\*\*\*EMERGENCY PETITION UNDER NRAP 27(e)\*\*\***

**PETITION FOR WRIT OF MANDAMUS**

**\*\*\*Relief requested by August 22, 2022, end of business.\*\*\***

COMES NOW, Alexander Falconi d/b/a/ Our Nevada Judges, by and through the undersigned counsel, and hereby files a petition for writ of mandamus.

### **NRAP 27(e)(3) Certificate**

If this writ petition is not considered and granted prior to August 23, 2022, any opportunity to deploy cameras will have been missed. This constitutes “irreparable harm” given this Court and Respondent would be unable to take any action to reverse error, and monetary awards would be insufficient because the purpose of electronic coverage is to educate and inform the public. Judge Hoskin denied electronic coverage today, and this writ petition was prepared as soon as possible, mere hours following denial.

The Hon. Charles Hoskin was notified via email at [deptelc@clarkcountycourts.us](mailto:deptelc@clarkcountycourts.us) and by mail to Eighth Judicial District Court, 601 N. Pecos Rd., Las Vegas, NV 89101; Frank J Toti, Esq., counsel for Ms. Easler, was notified via email at [frank@fjtesq.com](mailto:frank@fjtesq.com), by phone at 702-364-1604, and by mail at 6900 Westcliff Dr., Suite 500, Las Vegas, Nevada 89145; and, Rena Hughes, Esq., counsel for Mr. Minter, was notified via email at [RHGroup@tamlf.com](mailto:RHGroup@tamlf.com), by phone at 702-222-4021, and by mail at 6252 S. Rainbow Blvd., Suite 100, Las Vegas, Nevada 89118.

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DATED this Aug 19, 2022

By: /s/ Luke Busby, Esq.

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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.

Hon. Charles Hoskin is a judge at the Eighth Judicial District Court in Clark County.

Jennifer Easler is an individual and a party in the underlying matter.

Frank J Toti, Esq., is counsel for Ms. Easler.

Troy Minter is an individual and a party in the underlying matter.

Rena Hughes, Esq., counsel for Mr. Minter.

Alexander M. Falconi is an individual, the sole operator, owner, and controller of Our Nevada Judges.

Luke Busby, Esq. is counsel for Our Nevada Judges.

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No other law firms, partners, or associates, are appearing on behalf of Alexander Falconi d/b/a/ Our Nevada Judges.

DATED this Aug 19, 2022

By: /s/ Luke Busby, Esq.

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## **I. Routing Statement**

This matter should be retained by the Supreme Court under NRAP 17(a) because the matter involves a question of first impression under the First Amendment to the United States Constitution and Article 1 Section 9 of the Nevada Constitution, i.e. whether electronic coverage of domestic relations matters in open court can be closed to the press and public by the sealing of filings under NRS 125.110(2) . It is frequently cited by Family Division judges in District 8 as a potential mechanism to bar camera access. This matter would most appropriately remain before the Supreme Court as the Family Divisions of both District 2 and 8 need guidance on this issue.

## **II. Summary**

Our Nevada Judge filed a request to provide electronic coverage of a child custody matter. The mother did not object. The father objected. District Court Judge Charles Hoskin ordered the case sealed pursuant to NRS 125.110(2) and cited same sealing, while also alluding to EDCR 5.207 and EDCR 5.212, as a basis to deem the proceedings closed to the public.

Judge Hoskin abused its discretion in closing the courtroom to the public merely because certain filings were sealed pursuant to NRS

125.110(2). Additionally, the statute relied upon, NRS 125.110(2), applies to divorce actions, and the Real Parties in Interest here were never married; the underlying litigation involves a child custody dispute between unmarried persons.

### **III. Parties**

Petitioner is Alexander Falconi d/b/a Our Nevada Judges, a natural person, at all times a resident of the State of Nevada, County of Clark, City of Henderson.

Respondent is the Second Judicial District Court, Eighth Judicial District Court, and District Court Judge Charles Hoskin.

Real Parties in Interest are Troy Minter and Jennifer Easler, non-married parents to the underlying child custody action.

### **IV. Jurisdiction & Standing**

This Court has original jurisdiction. Article 6, Section 4 of the Nevada Constitution. See also NRS 34.330. SCR 243 confers standing.

### **V. Relief Requested**

Petitioner requests this Court issue a writ of mandamus directing Respondent to allow electronic coverage of the underlying child custody proceedings.

## **VI. Issues Presented**

1. Whether the sealing of a non-divorce proceeding is proper under NRS 125.110(2);
2. Whether the sealing of certain filings in a case warrants closing hearings in the same proceeding to the press and the public; and,
3. Whether generic privacy concerns, without specific findings, justifies denial of a request for electronic coverage based on SCR 230(2)(b).

## **VII. Facts**

An SCR 230(1) media request was submitted on August 17, 2022. PA-0001. Judge Hoskin apparently directed an unfiled, unsigned copy served on August 18, 2022. PA-0001. Mr. Minter objected to camera access and urged sealing. PA-0002. On August 18, 2022, Mr. Falconi emailed counsel for the parties and the judicial assistant for Judge Hoskin informing the parties and the Court that Our Nevada Judges was going to respond to the objection of Mr. Minter. PA-0011. On August 18, 2022, Judge Hoskin ordered certain records sealed pursuant to NRS 125.110(2). PA-0006. On August 19, 2022, Judge Hoskin cited the aforementioned



sealing order in denying camera access, as well as generic privacy concerns under SCR 230(2)(b). PA-0009.

### **VIII. Reasons Why the Writ Should Issue**

A writ of mandamus may be issued “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. NRS 34.160; NRS 34.170. SCR 243 expressly forbids direct appeal of an order denying camera access, and mandates any challenge to the denial of electronic coverage occur *via* a writ petition.

#### ***a. Procedure on Media Request for Electronic Coverage***

The Supreme Court has clearly established the procedure available to news reporters if they seek to view and record public proceedings before Nevada Courts. SCR 229(1)(c). Our Nevada Judges has been recognized as a news reporter by Districts 1, 2, 5, 6, 8, 9, and 10; and, the Court of Appeals and Supreme Court; and, the Commission on Judicial Discipline; and, the Las Vegas, Reno, Beatty, Pahrump, Dayton, Sparks,

and Virginia City Justice Courts; and, the Reno and Henderson Municipal Courts.

The press is not a party to the action, nor an adversary, and the purpose of electronic coverage is to educate and inform. SCR 241. Typically, a media request is filed and considered *ex parte*. SCR 230(1). *Solid v. Eighth Jud. Dist. Ct*, 133 Nev. 118, 393 P.3d 666 (2017). If a written request under SCR 230 is granted, parties may object via motion for reconsideration. *Id.* The consent of parties and other participants is not required. SCR 240(1). Generally, objections are resolved by the SCR 230(2) analysis; in this matter, Judge Hoskin also deprived the public of access to these proceedings, thus attempting an end run around the SCR 230(2) presumption that unless confidential, proceedings before courts in Nevada are public matters.

There is a presumption under SCR 230(2) that “all courtroom proceedings” that are open to the public are subject to electronic coverage, and this Court has further ruled that participant conduct in proceedings are a matter of public interest. *Abrams v Sanson*, 136 Nev. \_\_\_, 458 P.3d 1062 (2020) (on the public interest in attorney courtroom

conduct). "The operations of the courts and the judicial conduct of judges are matters of utmost public concern." *Del Papa v. Steffen*, 112 Nev. 369, 374, 915 P.2d 245, 249 (1996). "[S]ecret judicial proceedings pose [a threat] to public confidence in this court and the judiciary." *Id.* at 915 P.2d 248. "Furthermore, open court proceedings assure that proceedings are conducted fairly and discourage perjury, misconduct by participants, and biased decision making." *Id.* at 915 P.2d 245. "Openness promotes public understanding, confidence, and acceptance of judicial processes and results, while secrecy encourages misunderstanding, distrust, and disrespect for the courts." *Id.*

**b. Statutory Interpretation, Harmonious Construction**

"[R]ules of statutory construction apply to court rules[.] *Nelson v. Nelson*, 466 P.3d 1249, 1252 (Nev. 2020). "When the language of a statute is clear on its face, this court will not go beyond the statute's plain language." *J.E. Dunn Nw., Inc. v. Corus Constr. Venture, LLC*, 127 Nev. 72, 79, 249 P.3d 501, 511 (2011). The EDCR do not supersede the SCR nor the SRCR. Such conflict in the rules should resolve in favor of the Supreme Court's rules, and where rules are in conflict, "a harmonious

interpretation is preferred.” *Allianz Ins. Co. v. Gagnon*, 109 Nev. 990, 993, 860 P.2d 720, 723 (1993).

Setting aside the conflict between the language of NRS 1.090, SCR 241, SCR 240(1), and SCR 230(2); and, EDCR 5.304 and EDCR 5.212(e); there are discretionary exceptions within EDCR 5.304 and 5.212(e) that would both allow this court to permit electronic coverage and simultaneously protect the privacy of parents and children. When covering domestic relations matters, Our Nevada Judges has a standard policy to blur faces and redact identities *via* audible of any parents and children on camera or even mentioned. District Court Judges Tamatha Schreinert, Egan Walker, Linda Marquis, Dawn Throne, Mary Perry, Cynthia Lu, Heidi Almase, Shell Mercer, and David Gibson Jr., of the Family Divisions in Districts 2 and 8, have all accepted this protective mechanism and allowed electronic coverage of their proceedings.

***c. The Effect of Sealing and Redacting on Camera Access***

Initially, Our Nevada Judges would point out to this Court that this matter was apparently sealed under NRS 125.110(2). The aforementioned statute only applies to divorce actions. As it does not appear that the

parties in this case were married, these are not divorce proceedings. Further, a non-party can challenge a sealing. SRCR 4(2).

Judge Hoskin's reliance on EDCR 5.212(e), takes the mere sealing and redaction status of filings and goes prohibitively further by apparently requiring the entire case be treated as "sealed", and unconstitutionally closes hearings to the public. Often, cases with sealing orders are colloquially referred to as "sealed cases," but a careful review of the language invoked would reveal that it is not the entire case that is sealed, merely specific filings in those cases. Compare NRS 125.110(2) and SRCR 3(4). Indeed, there are specific rules in place that expressly forbid the sealing of an entire file. SRCR 3(5)(c) ("[u]nder no circumstances shall the court seal an entire court file.") Thus, the mere fact that some filings may be sealed does not necessarily mean the courtroom is closed to the public.

***d. The Effect of Sealing and Redacting on Camera Access***

EDCR 5.304 forbids disclosure of a child interview report. Our Nevada Judges is not requesting this report, nor will the report be published. The mere existence of this report, and the notion that it may be discussed at a hearing, does not justify this Court deeming the entire

proceeding confidential to the extent it should be closed to the public. The legislature has made this clear, by enacting statutes that expressly render reports confidential while mandating public access to abuse and neglect proceedings. Compare NRS 432B.280 and NRS 432B.430(1)(a).

**e.     *The First Amendment to the Constitution of the United States***

Ordinarily, camera access disputes to public proceedings are resolved by SCR 230(2) analysis. However, Judge Hoskin's closure of the courtroom deprives the public of access to these proceedings which implicates First Amendment concerns. "People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing." *Richmond Newspapers v. Virginia*, 448 U.S. 555, 556-57 (1980). Thus, "the First Amendment guarantees of speech and press, standing alone, prohibit government from summarily closing courtroom doors which had long been open to the public at the time that amendment was adopted." *Id.* at 576.

Even before the First Amendment was ratified, there has been a right to access to the courts available to any member of the public. 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)). 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). "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). 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).

The right of access to courts is just as essential, if not more so, for news media than other members of the public since the news media are “surrogates for the public.” *Leigh v. Salazar*, 677 F.3d 892, 900 (9th Cir. 2012) (citation and internal quotation omitted). Indeed, “[t]he free press is the guardian of the public interest, and the independent judiciary is the guardian of the free press.” *Id.* “What transpires in the courtroom is public property.” *Craig v. Harney*, 331 U.S. 367, 374 (1947). Considering these principles, courts have consistently recognized the public and the media have a constitutional right of access to court trials, hearings, and records.

***f. Mootness Exception***

For reasons virtually identical to those cited and relied upon by this Court in *Solid v. Eighth Jud. Dist. Ct.*, 133 Nev. 118, 393 P.3d 666 (2017), Petitioner requests this Court, if it cannot respond by the date and time articulated for emergency relief, retain and consider this writ petition under the mootness exception. The reasons cited by Judge Hoskin can be cited by virtually any other judge presiding over a domestic relations matter, especially the notion that the sealing of filings in a case per se warrants



closing the hearing to the public. See also, Supreme Court docket no. 80033 (this Court declined to consider writ petition on camera access due to lack of sufficient time to consider the “important” issues.)

**g. Costs**

Petitioner requests costs. NRS 18.060. *Keever v. Jewelry Mountain Mines, Inc.*, 102 Nev. 174, 175-76, 717 P.2d 1117, 1118 (1986) (holding that the “mandatory requirement [in NRS 18.060] of the awarding of costs is clear, emphatic, and peremptory”).

**IX. Conclusion**

WHEREFORE, Petitioner, asks for the following relief:

1. A writ of mandamus ordering Judge Hoskin to vacate his order denying electronic coverage with instructions to grant electronic coverage to the underlying child custody proceedings; and,
2. For an award of costs.

DATED this Aug 19, 2022

By:           /s/ Luke Busby, Esq.          

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VERIFICATION OF ALEXANDER FALCONI

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

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

EXECUTED this Aug 19, 2022



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Alexander M. Falconi  
153 Sand Lake St.  
Henderson, NV 89074  
Our Nevada Judges  
Administrator  
admin@ournevadajudges.com

## **CERTIFICATE OF COMPLIANCE**

I, Luke Busby, declare and 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 Google Docs in 14-point Helvetica. I further 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 proportionally spaced, has a typeface of 14 points or more and contains 3080 words.

EXECUTED this Aug 19, 2022

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**NRAP 25(5)(c)(1)(B) Certificate of Service**

I, Luke Busby, do hereby declare that I am over the age of 18 and not a party to this action and that I personally served a true and correct copy of this *Petition* by placing it into a sealed envelope and mailing it, postage prepaid, *via* United States Postal Service, addressed as follows:

The Hon. Charles Hoskin  
Eighth Judicial District Court  
601 N. Pecos Rd.  
Las Vegas, NV 89101

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[deptelc@clarkcountycourts.us](mailto:deptelc@clarkcountycourts.us).

SERVED this Aug 19, 2022

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