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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF CARSON CITY

STEVE EGGLESTON,  
Plaintiff,

vs.

CLARK COUNTY DEPARTMENT OF  
FAMILY SERVICES,

Defendant.

Case No.: 20-OC-001641B  
Dept. No.: II

**RESPONSE IN OPPOSITION TO OBJECTION TO MEDIA REQUEST TO ALLOW  
CAMERAS IN THE COURTROOM**

COMES NOW, Alexander Falconi d.b.a. Our Nevada Judges, by and through the undersigned counsel, Luke Busby, Esq., and submits his response to Defendant's objection to allowing cameras in the courtroom for the hearing scheduled for October 26, 2022, filed October 13, 2022. This response is based upon the following memorandum of points and authorities and all pleadings on file herein.

**MEMORANDUM OF POINTS AND AUTHORITIES**

Our Nevada Judges is a non-party news reporter as the term is defined in Supreme Court Rule ("SCR") 229(1)(c) - a status recognized by myriad of Courts in the State of Nevada. SCR 230(1) confers the right of news outlets to request camera access and provide electronic coverage of court proceedings. SCR 230(2) provides that there is a presumption that court proceedings are public and can be covered electronically.

1           The objection filed by Clark County Department of Family Services ('DCFS')  
2 necessitates the 6-factor analysis and obligates this Court to make particularized findings as to  
3 whether this matter should be closed to electronic coverage. *Id.* See also *Solid v. Eighth Judicial*  
4 *District Court*, 133 Nev. 118, 393 P. 3d 666 (2017). DCFS's attempt to block camera access is  
5 2-pronged: First, it attempts to bypass the SCR 230(2) presumption; and second, it focuses on  
6 privacy issues as contemplated by SCR 230(2)(b) and SCR 240(1).  
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8           DCFS argues the proceeding is already in a non-public state, because of this court's  
9 sealing order. The Family Divisions of Districts 2 and 8 often colloquially refer to cases with  
10 sealing orders as "sealed cases," but this is a misnomer. Cases are not sealed; rather, papers and  
11 pleadings are sealed. Indeed, the Supreme Court has expressly rejected the notion that "an entire  
12 file" can be sealed. SRCR 3(5)(c).  
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14           By default, every Court in this State and proceeding thereof is open to the public. NRS  
15 1.090. The legislature can and has expressly decided to make certain proceedings closed to the  
16 public, with very specific statutory language. Compare NRS 125.080. The legislature instead  
17 opted for a less restrictive statute contemplating public access to abuse and neglect proceedings.  
18 NRS 432B.430(1)(a) specifies at which stage of the proceedings the public has access, and  
19 confers discretion to close those proceedings upon motion. Certainly, this judicial review  
20 proceeding, which is a full step away from the underlying abuse and neglect proceedings, is not  
21 going to be any more confidential than the underlying proceeding would have been. Indeed,  
22 District Court Judges Jasmin Lilly-Spells and Susan Johnson have already authorized camera  
23 access and electronic coverage, with restrictions, of the civil torts brought in connection to the  
24 underlying NRS 432B proceedings. Coverage of the instant proceedings would not expose the  
25 family to any more publicity than the proceedings Our Nevada Judges has already been covering  
26 and publishing in District 8.  
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1           At the root of DCFS' objection is a generic, non-specific citation to NRS 432B.280. Our  
2 Nevada Judges recognizes the reports themselves are confidential, but DCFS' position that any  
3 proceedings connected to the reports should also be entirely confidential goes too far and violates  
4 principles of statutory construction. "When interpreting a statute, this court must give its terms  
5 their plain meaning, considering its provisions as a whole so as to read them 'in a way that would  
6 not render words or phrases superfluous or make a provision nugatory.'" S. Nev. Homebuilders  
7 Ass'n v. Clark Cty., 121 Nev. 446, 449, 117 P.3d 171, 173 (2005) quoting *Charlie Brown Constr.*  
8 *Co. v. Boulder City*, 106 Nev. 497, 502, 797 P.2d 946, 949 (1990), overruled on other grounds by  
9 *Calloway v. City of Reno*, 116 Nev. 250, 993 P.2d 1259 (2000). DCFS' interpretation should be  
10 rejected as it would effectively render the language of NRS 432B.430(1)(a) nugatory. A  
11 reasonable interpretation would allow public access but forbid the disclosure of the actual reports  
12 themselves. If the legislature were so concerned about citations to the reports being uttered at a  
13 hearing, NRS 432B.430(1)(a) would not have been enacted, or its language would simply forbid  
14 public access as plainly as NRS 125.080 and NRS 126.211 do in custody and parentage matters.

17           DCFS' interpretation is also unconstitutional. Confidentiality orders closing judicial  
18 proceedings to the press "implicate First Amendment concerns." *Del Papa v. Steffen*, at 112 Nev.  
19 374, at P.2d 248. Our Nevada Judges has a well-established right under existing Nevada  
20 jurisprudence to access judicial proceedings. *Stephens Media, LLC v. Eighth Judicial Dist.*  
21 *Court*, 125 Nev. at 860, (2016). "Public access inherently promotes public scrutiny of the  
22 judicial process, which enhances both the fairness of criminal proceedings and the public  
23 confidence in the criminal justice system." *Id.* citing *Press-Enterprise Co. v. Superior Court of*  
24 *Cal.*, 464 U.S. 501, 104 S. Ct. 819 (1984) (primacy of presumptive right to an open trial prevails  
25 over the government's interest in denying deny the right of access to inhibit the disclosure of  
26 sensitive information). "The right to an open public trial is a shared right of the accused and the  
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1 public, the common concern being the assurance of fairness.” *Press-Enterprise Co.* at 7.  
2 Proceedings can be closed at the behest of the government only if there is an overriding interest  
3 due process interest, based on findings that closure is essential to preserve higher values, and that  
4 is narrowly tailored to serve that specific interest. *Id.*

5  
6 These same principles also expressly apply to civil cases in Nevada. The free speech  
7 protections in Article 1 Section 9 of the Nevada Constitution are co-extensive with the First  
8 Amendment. *University Sys. v. Nevadans for Sound Gov’t*, 120 Nev. 712, 722, 100 P.3d 179, 187  
9 (2004); *Stephens Media Ltd. Liab. Co. v. Eighth Judicial Dist. Court*, 125 Nev. 849, 859, 221  
10 P.3d 1240, 1247 (2009). “[T]he First Amendment guarantees of speech and press, standing  
11 alone, prohibit [the] government from summarily closing courtroom doors which had long been  
12 open to the public at the time that Amendment was adopted.” *Richmond Newspapers v. Virginia*,  
13 448 U.S. 555, 576 (1980). This same holding applies to both criminal and civil cases. *Id.* at 580,  
14 n.17 “A state may deny this right of public access only if it shows that ‘the denial is necessitated  
15 by a compelling government interest, and is narrowly tailored to serve that interest.’” *Del Papa*  
16 *v. Steffen*, 112 Nev. 369, 374, 915 P.2d 245, 248 (1996) quoting *Globe Newspaper Co. v.*  
17 *Superior Court*, 457 U.S. 596, 607, 73 L. Ed. 2d 248, 102 S. Ct. 2613 (1982).

18  
19 Even in a case involving the testimony of minor victims of child abuse, the United States  
20 Supreme Court ruled that such “compelling” interest in nondisclosure did not justify across-the-  
21 board closure rules of the case. *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 607-  
22 0873 L. Ed. 2d 248, 102 S. Ct. 2613, 2620-21(1982). The same reasoning also applies to  
23 rejecting closure based on claims that exposure of intimate family details may be harmful to  
24 children. In *Anonymous v. Anonymous*, 263 A.D.2d 341, 345-46, 705 N.Y.S.2d 339, 342-43  
25 (App. Div. 2000).  
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1           Our Nevada Judges routinely stipulates to reasonable concealment and redaction  
2 restrictions of sensitive information, including minor children’s identities. Such a narrowly  
3 tailored order by this Court, would be consistent with the order entered by the District 8 judges,  
4 and is also consistent with Our Nevada Judges Internal Operating Procedures and Policy.

5           “[O]pen court proceedings assure that proceedings are conducted fairly and discourage  
6 perjury, misconduct by participants, and biased decision making.” *Del Papa v. Steffen* at 915  
7 P.2d 245. “Openness promotes public understanding, confidence, and acceptance of judicial  
8 processes and results, while secrecy encourages misunderstanding, distrust, and disrespect for the  
9 courts.” *Id.* “The operations of the courts and the judicial conduct of judges are matters of utmost  
10 public concern.” *Id.* at 915 P.2d 249. “[S]ecret judicial proceedings pose [a threat] to public  
11 confidence in this court and the judiciary.” *Id.* at 915 P.2d 248. The right to speak and to publish  
12 concerning what happens in court proceedings is protected by the First Amendment and would  
13 lose any meaning if access to observe court proceedings is foreclosed. *Richmond Newspapers v.*  
14 *Virginia*, 448 U.S. 555, 576-77, 100 S. Ct. 2814, 2827 (1980).

15           SCR 230(2) requires the Court to “make particularized findings on the record when  
16 determining whether electronic coverage will be allowed at a proceeding”. Specifically, the  
17 Court should finds that “[t]he impact of coverage upon the right of any party to a fair trial” is  
18 unlikely; “[t]he impact of coverage upon the right of privacy of any party or witness” is  
19 acceptable with the media directives outlined further in this order; “[t]he impact of coverage  
20 upon the safety and well-being of any party, witness or juror” is acceptable with the media  
21 directives outlined further in this order; it is unlikely “that coverage would distract participants or  
22 would detract from the dignity of the proceedings”; “[t]he adequacy of the physical facilities of  
23 the court for coverage” is of no concern except potentially during any voir dire of a jury venire;  
24 and, no “other factor [would appear to] affect[] the fair administration of justice.”

1 This Court can easily allow electronic coverage with restrictions, consistent with SCR  
2 230(2)(b) and SCR 240(1). DCFS' efforts to bypass SCR 230(2) by depriving the public of access  
3 to the proceedings is wholly inconsistent with Nevada law, precedent, and the First Amendment  
4 of the Constitution of the United States. Our Nevada Judges' Proposed Order, attached hereto as  
5 Exhibit 1, weighs this balance appropriately.  
6

7 For these several reasons, DCFS' objection should be overruled, and Our Nevada Judges  
8 should be allowed to provide comprehensive electronic coverage of these proceedings, with  
9 reasonable restrictions as required by the Court

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

11 RESPECTFULLY SUBMITTED this Monday, October 17, 2022:

12  
13 By:  \_\_\_\_\_

14 Luke Busby, Esq.  
15 Nevada Bar No. 10319  
16 316 California Ave.  
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18 775-453-0112  
19 *Attorney for Our Nevada Judges*  
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**Exhibit List**

1. Proposed Order

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**NRCP 5 Certificate of Service**

I, Luke Busby, do hereby certify that I served a true and correct copy of the foregoing by electronic service and placed it into a sealed envelope and mailed it, via United States Postal Service, addressed as follows:

Paola Armeni, Esq.  
3800 Howard Hughes Pkwy.  
Suite 500  
Las Vegas, NV 89169

Amity C Dorman, Esq.  
601 N. Pecos Rd.  
Building B, Room 470  
Las Vegas, NV 89101

EXECUTED this Monday, October 17, 2022



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**Exhibit 1**

**Exhibit 1**

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF CARSON CITY

STEVE EGGLESTON,  
Plaintiff,  
  
vs.  
  
CLARK COUNTY DEPARTMENT OF  
FAMILY SERVICES,  
  
Defendant.

Case No.: 20-OC-001641B  
Dept. No.: II

**ORDER DENYING OBJECTION TO MEDIA REQUEST TO ALLOW CAMERAS IN  
THE COURTROOM**

On October 13, 2022, Defendant CLARK COUNTY DEPARTMENT OF FAMILY SERVICES filed an Objection to the August 8, 2022 Media Request of OUR NEVADA JUDGES for coverage of a hearing scheduled before this Court on October 26, 2022. On October 17, 2022, Our Nevada Judges, by and through its counsel, filed opposition. Also on October 17, 2022, Plaintiff STEVE EGGLESTON filed a Non-Opposition to Our Nevada Judges' Media Request.

Defendant argues for a total revocation of camera access, purporting it would be impossible to preserve confidentiality. Our Nevada Judges asserts it can comply with confidentiality directives, cites a history of protecting the privacy and identity of children, and recognizes a need to consider and protect the privacy and identity of children in this case.

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## I. SCR 230(2) Findings

SCR 230(2) requires this Court to “make particularized findings on the record when determining whether electronic coverage will be allowed at a proceeding”. Specifically, this Court finds that “[t]he impact of coverage upon the right of any party to a fair trial” is unlikely; “[t]he impact of coverage upon the right of privacy of any party or witness” is acceptable with the media directives outlined further in this order; “[t]he impact of coverage upon the safety and well-being of any party, witness or juror” is acceptable with the media directives outlined further in this order; it is unlikely “that coverage would distract participants or would detract from the dignity of the proceedings”; “[t]he adequacy of the physical facilities of the court for coverage” is of no concern except potentially<sup>1</sup> during any *voir dire* of a jury venire; and, no “other factor [would appear to] affect[] the fair administration of justice.”

## II. Privacy Directives

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However, the Court finds that specific media directives should be set forth protecting the identity and privacy of children in this case. Our Nevada Judges as an organization, and Alexander Falconi as the administrator, owner, operator, and controller, is ordered to refrain from publishing or otherwise disclosing the following:

- 1) confidential documentation and records presented during hearings in this case;
- 2) the names and identities<sup>2</sup> of any children in this case; and
- 3) any documents that are sealed.

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Our Nevada Judges can have access only to public<sup>3</sup> information.

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<sup>1</sup> This Court will consider any such impact if and when jury selection is scheduled to occur. SCR 231(2).

<sup>2</sup> This prohibition includes the rendition and publication of any likenesses of any children in this case.

<sup>3</sup> This includes confidential information rendered public by virtue of redactions that appropriately conceal from the public specific portions that are confidential.

1 In order to better ensure these privacy directives are fully complied with, live streaming of  
2 the proceedings shall be also prohibited.

3 **III. Conclusions of Law**


4 SCR 230(2) contemplates a presumption of electronic coverage, favoring Our Nevada  
5 Judges, who's purpose as an organization is to educate the public. *Solid v. Eighth Judicial Dist.*  
6 *Court*, 133 Nev. 118, 393 P.3d 666 (2017) is analogous to the instant case, and the precedent set  
7 forth provides adequate guidance.  
8

9 Defendants have failed to overcome the overriding public interest making essential the  
10 need to maintain the openness of these proceedings. The media directives outlined in this Order  
11 are narrowly tailed to ensure these proceedings remain as open as possible, while simultaneously  
12 protecting the minor children and their identities.  
13

14 **IT IS SO ORDERED**

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17 DATED THIS \_\_\_\_ day of \_\_\_\_, 2022.

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20 \_\_\_\_\_  
DISTRICT COURT JUDGE

21  
22  
23 Submitted by:   
24 Luke Busby, Esq.  
*Counsel for Our Nevada Judges*