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7 *Attorney for Our Nevada Judges*

8 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**
9 **IN AND FOR THE COUNTY OF CARSON CITY**

10 * * *

11 STEVEN EGGLESTON,
12 Petitioner,

CASE NO: 20 OC 00164 1B

DEPT NO: 1

13 vs.

14 CLARK COUNTY DEPARTMENT OF FAMILY
15 SERVICES;
16 Respondent.

17 **REPLY TO OPPOSITION TO SECOND MOTION TO UNSEAL**

18 COMES NOW, Alexander Falconi d.b.a. Our Nevada Judges¹, by and through
19 the undersigned counsel, and hereby files a reply to Respondent CLARK COUNTY
20 DEPARTMENT OF FAMILY SERVICES's Opposition to Second Motion to Unseal
21 filed March 28, 2023. The Petitioner indicated through counsel that they would not
22 oppose Our Nevada Judges' Motion.
23

24 This reply is based upon the following memorandum of points and authorities,
25 and the exhibits attached hereto.
26

27
28 ¹Alexander M. Falconi owns, operates, and controls the Our Nevada Judges organization.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 ONJ sympathizes with Respondent’s reliance on the history of the case as well
3 as Petitioner’s role in the sealing of the matter. But ONJ is not appearing on behalf
4 of Petitioner. ONJ is here on behalf of the public in furtherance of the public’s First
5 Amendment Right to access court proceedings. SRCR 3(4) states, explicitly, that
6 “[t]he parties’ agreement alone does not constitute a sufficient basis for the court to
7 seal or redact court records.” This is consistent with the First Amendment principles
8 cited in the instant motion.
9

10
11 FJDCR 3.7(b) is not only futile, because of Respondent’s position, but an
12 attempted resolution has already occurred with the filing of the first motion to
13 unseal, and more specifically, at the hearings stemming from that motion. Even
14 now, attempting to cure any such defect would be pointless, as Respondent has
15 clearly stated in its opposition that it would be futile, and argued that position before
16 the Court. See also *Navratil v Navratil*, No. 72956, Court of Appeals, (May 16, 2018)
17 (finding no abuse of discretion in considering the merits based on extensive
18 disagreement; interpreting EDCR 5.11, replaced by EDCR 5.501, which, like FJDCR
19 3.7(b) is a requirement to attempt resolution before filing a motion). This Court’s oral
20 pronouncements from the bench regarding the disclosure of hearing dates did not
21 materialize into a final written order, with the written order instead denying ONJ’s
22 underlying motion due to the fact that ONJ made its first request pursuant to SRCR
23 3(5)(c) only².
24
25
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27

28 ² Indeed, the first motion specifically stated that a second motion would follow if needed.

1 This second motion merely asks this Court to do what the first motion didn't.
2 Namely, ONJ is requesting that the Court conduct an SRCR 3(4) analysis and make
3 findings consistent with the rule and the First Amendment of the United States.
4

5 Before this Court are two interpretations of NRS 432B.280. Respondent asks
6 this Court to construe NRS 432B.280 as forbidding access to all papers and
7 pleadings, and close all hearings. ONJ is asking this court to construe the statute as
8 protecting the confidentiality of the reports only, and to seal filings and close the
9 courtroom only as the rule and First Amendment allows, both by weighing the public
10 interest and narrowly tailoring any restrictions to access, with the scope of this
11 request expanding from SRCR 3(5)(c), to SRCR 3(4).
12

13 Assistive to this Court in determining the applicability of Child Abuse
14 Prevention and Treatment Act ("CAPTA"), as cited by Respondent, is 42 U.S.C.
15 §5106(a)(b)(2)(B)(viii)(V), which allows "reports and records" to be made publicly
16 available to "a []court, upon a finding that information in the record is necessary for
17 the determination of an issue before the court[.]"
18

19 This federal statute was analyzed in *Ansara v Maldonado*, No.
20 2:19-cv-01394-GMN-VCF, Dist. Court, (D. Nevada November 26, 2022), which
21 conceded NRS 432B.280's confidentiality requirements, and immediately followed
22 its citation with a review of NRS 432B.290(2)(e), which provides that confidentiality
23 evaporates when "public disclosure of information is necessary for the
24 determination of that issue." *Id.*
25

26 Of additional noteworthiness is, footnote 1, which obviates any independent
27 review of CAPTA "[b]ecause CAPTA's scope is tied to the relevant state law[;]"
28

1 namely, NRS 432B.290(2)(e). *Id.* For the several reasons articulated above, ONJ's
2 interpretation is wholly consistent with CAPTA, federal law, Nevada law, and most
3 importantly, the First Amendment. *State v. Castaneda*, 126 Nev. 478, 481, 245 P.3d
4 550, 552 (2010)("when the language of a statute admits of two constructions, one of
5 which would render it constitutional and valid and the other unconstitutional and
6 void, that construction should be adopted which will save the statute.")
7

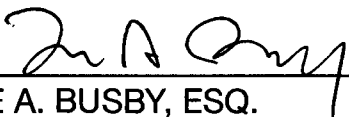
8 WHEREFORE, ONJ requests that the Court grant its Motion and order :

- 9 1. That all papers and pleadings be unsealed, or in the alternative that an
10 SRCR 3(4) analysis occur; and,
11
12 2. That all hearings in this case be open to the public, or in the alternative that
13 the Clerk of this Court be ordered to disclose hearing dates and times upon
14 request.
15

16 **NRS 239B.030(4) AFFIRMATION**

17 Pursuant to NRS 239B.030 the undersigned hereby affirms that this document
18 does not contain the social security number of any person.

19 **DATED** this Apr 21, 2023

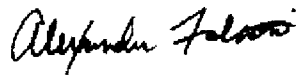
20 By: 
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24 Reno, Nevada 89509
25 775-453-0112
26 luke@lukeandrewbusbyltd.com
27 *Attorney for the Our Nevada Judges*
28

1
2 DECLARATION OF ALEXANDER FALCONI

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

7 ***I declare under penalty of perjury that the foregoing is true and correct.***
8

9 EXECUTED this Apr 21, 2023

10
11 

12
13 _____
14 Alexander M. Falconi
15 205 N. Stephanie St.
16 Suite D#170
17 Henderson, NV 89074
18 Our Nevada Judges
19 Administrator
20 admin@ournevadajudges.com
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CERTIFICATE OF SERVICE

I certify that on the date shown below, I caused service to be completed of a true and correct copy of the foregoing document by:

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- depositing for mailing in the U.S. mail, with sufficient postage affixed

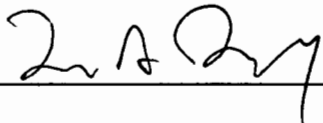
thereto; or,

delivery via electronic means (fax, eflex, NEF, etc.) to:

Paola Armeni, Esq.
1700 S. Pavilion Center Drive, Ste. 500
Las Vegas, NV 89135

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

DATED this Apr 21, 2023

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13 vs.

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15 SERVICES;

Respondent.

16 _____/

17 **REQUEST FOR SUBMISSION OF SECOND MOTION TO UNSEAL**

18 COMES NOW, Alexander Falconi d.b.a. Our Nevada Judges, by and through
19 the undersigned counsel, and hereby request that its Second Motion to Unseal filed
20 March 14, 2023, Clark County's Opposition filed on March 28, 2023, and the Reply
21 be submitted to the Court for decision.
22

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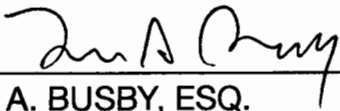
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NRS 239B.030(4) AFFIRMATION

Pursuant to NRS 239B.030 the undersigned hereby affirms that this document does not contain the social security number of any person.

DATED this Apr 21, 2023

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

DATED this Apr 21, 2023

By: *J.A. [Signature]*