

LUKE A. BUSBY, ESQ.  
SBN 10319  
316 California Ave.  
Reno, Nevada 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)  
*Attorney for Our Nevada Judges*

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Elizabeth A. Brown  
Clerk of Supreme Court

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

OUR NEVADA JUDGES, INC.,  
a Nevada Non-Profit Corporation,

Petitioner,

Vs.

Case No.

SECOND JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA IN AND  
FOR THE COUNTY OF CLARK; AND  
THE HONORABLE KATHLEEN  
DRAKULICH, DISTRICT COURT  
JUDGE

Respondent.

\_\_\_\_\_ /

THE STATE OF NEVADA, JAYMIE  
RUTHANNE MITCHELL,

Real Parties In Interest.

\_\_\_\_\_ /

**PETITION FOR WRIT OF MANDAMUS**

COMES NOW, Our Nevada Judges, Inc., a Nevada Non-Profit Corporation (hereinafter “Our Nevada Judges”) by and through the undersigned counsel, and hereby files a petition for writ of mandamus.

### **I. Routing Statement**

This matter should be diverted to the Court of Appeals under Nevada Rules of Appellate Procedure (“NRAP”) 17(b) because is not retained by the Supreme Court under NRAP 17(a) and it involves interpretation of court rules that can be reviewed sufficiently within the boundaries of existing case law.

### **II. NRAP 26.1 Disclosure**

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

Petitioner does not have a parent corporation.

The undersigned attorney is the only attorney appearing on behalf of Petitioner in this matter.

EXECUTED this Sep 14, 2022

By: /s/ Luke Busby, Esq.  
LUKE A. BUSBY, ESQ.  
SBN 10319  
316 California Ave.  
Reno, Nevada 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

### **III. Summary**

Our Nevada Judges filed a request to provide electronic coverage of a criminal matter involving a family law attorney's conduct. Parties to the underlying criminal matter did not object. The District Court denied in part and granted in part the request, excluding camera access to all parts of the trial except opening and closing statements and the taking of the verdict. No particularized findings were made.

### **IV. Parties**

Petitioner is Our Nevada Judges, a Nevada Non-Profit Corporation recognized by the IRS as a Section 501(c)(3) organization.

Respondents are the Second Judicial District Court and the Honorable Kathleen Drakulich.

### **V. Jurisdiction & Standing**

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

### **VI. Relief Requested**

Petitioner requests this Court issue a writ of mandamus directing Respondent to allow electronic coverage of the criminal proceedings in Case No. CR-22-4980 in the Second Judicial District Court, Department 1, before Judge Drakulich.

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## **VII. Issues Presented**

Whether Respondent abused its discretion in denying in part camera access without hearing the matter or making particularized findings required under SCR 230(2).

## **VIII. Facts**

An SCR 230(1) media request was submitted by the Petitioner on August 31, 2023 [See PA-0001] to cover the trial set to commence in the underlying matter on October 30, 2023. No party objected to the Petitioner's media request.

The District Court denied in part and granted in part the request, excluding camera access to all parts of the trial except opening and closing statements and the taking of the verdict. Judge Drakulich summarily denied camera access to the evidentiary portions of the jury trial, citing an impact on the trial and on the dignity of the proceedings. Judge Drakulich made no particularized findings supporting the conclusions reached, nor was a hearing held, nor any evidence taken.

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

By limiting camera access to only the opening and closing statements and the taking of the verdict, the District Court has effectively excluded the public from the most vital aspects of the trial. When the public is restricted from viewing the bulk of the trial, they are more susceptible to receiving and believing second-hand information, which might be biased, misinformed, or out of context. This can lead to public

misconceptions about the trial proceedings and its fairness. The principle of public trials is grounded in the idea that transparency ensures fairness and trust in the judicial system. By limiting camera access to only specific sections of the trial, the court jeopardizes this trust and openness. By allowing camera access only to the opening and closing statements and the taking of the verdict, the District Court has effectively shielded the most substantive parts of the trial from public view. This limitation not only compromises public trust in the judicial process but also denies the public its right to fully understand the proceedings of a case that is of significant public concern.

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.

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. Our Nevada Judges has recorded and published over 600 hearings, five (5) of which are jury trials, and an additional sixth<sup>1</sup> jury trial which is under electronic coverage this very moment as this writ petition is being filed. Eleven (11) of those hearings are hearings specific to the underlying criminal prosecution, which involve recording and publishing multiple Justices of the Peace in both the Reno and Sparks Justice 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).

There is a presumption under SCR 230(2) that “all courtroom proceedings” that are open to the public are subject to electronic coverage. *Solid v Eighth Judicial District Court*, 133 Nev., 118, 393 P.3d 666 (2017).

This Court has further ruled that participant conduct in proceedings are a matter of public interest. *Abrams v Sanson*, 136 Nev. \_\_\_, 458 P.3d

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<sup>1</sup> District Court Judge Timothy Williams is allowing comprehensive electronic coverage of *Orion Gallagher vs Real Water*. Eighth Judicial District Court, Department 16, docket no. A-21-834485-B.

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.*

The *Solid* Court's guidance provides further support that Judge Drakulich's summary denial in part is in error. Our Nevada Judges also notes that Real Party in Interest's were involved in litigation before the *Solid* Court on this issue. In the instant case, no objections and no record was made by Parties to the underlying criminal proceedings.

## **X. Costs**

Petitioner requests an award of 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 preemptory").

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## **XI. Conclusion**

WHEREFORE, Petitioner, asks for the following relief:

1. A writ of mandamus ordering Judge Drakulich to vacate her order denying electronic coverage to the evidentiary portion of the jury trial with instructions to grant electronic coverage to the entire jury trial; and,
2. For an award of costs.

DATED this Sep 14, 2022

By:     /s/ Luke Busby, Esq.      
LUKE A. BUSBY, ESQ.  
SBN 10319  
316 California Ave.  
Reno, Nevada 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)



**VERIFICATION OF ALEXANDER FALCONI**

I, Alexander M. Falconi, state that I am the Director of Our Nevada Judges, Inc., and 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 Sep 14, 2022

Alexander Falconi

Alexander Falconi (Sep 14, 2023 15:34 PDT)

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Alexander M. Falconi  
Our Nevada Judges, Inc.  
Founding Director  
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 1794 words.

EXECUTED this Sep 14, 2022

By: /s/ Luke Busby, Esq.  
LUKE A. BUSBY, ESQ.  
SBN 10319  
316 California Ave.  
Reno, Nevada 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

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

I, Luke Busby, do hereby declare that I 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. Kathleen Drakulich  
Second Judicial District Court  
75 Court St.  
Reno, NV 89507

Jeremy Reichenberg, Esq.  
1 S Sierra St. #7  
Reno, NV 89501  
*Attorney for the State of Nevada*

Steve Evenson, Esq.  
P.O. Box 1023  
Lovelock, NV  
*Attorney for Jaymie Mitchell*

... and *via* email to: [Danielle.Redmond@washocourts.us](mailto:Danielle.Redmond@washocourts.us),  
[Alicia.Lerud@washocourts.us](mailto:Alicia.Lerud@washocourts.us), [jreichenberg@da.washocounty.gov](mailto:jreichenberg@da.washocounty.gov),  
[evensonlaw@hotmail.com](mailto:evensonlaw@hotmail.com).

SERVED this Sep 14, 2023

By: /s/ Luke Busby, Esq.  
LUKE A. BUSBY, ESQ.  
SBN 10319  
316 California Ave.  
Reno, Nevada 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)