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8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**  
10 **FAMILY DIVISION**

<p>11  Petitioner,</p> <p>12 vs.</p> <p>13  Respondent.</p> <p>14 _____/</p>	<p>11 CASE NO: D-19--C</p> <p>12 DEPT NO: U</p> <p>13 <b><u>REPLY TO OPPOSITION TO</u></b> <b><u>LIMITED MOTION TO UNSEAL</u></b></p>
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15 COMES NOW, Our Nevada Judges, Inc., a Nevada non-profit corporation, by  
16 and through the undersigned counsel, and hereby replies Petitioner’s opposition to  
17 motion to unseal filed March 13, 2024.

18 This reply is based upon the following memorandum of points and authorities,  
19 and the exhibits attached hereto.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 Alexander Falconi is an SCR 229(1)(c) news reporter who directs Our Nevada  
22 Judges, Inc. (‘ONJ’), a Nevada non-profit corporation recognized by the IRS as a  
23 Section 501(c)(3) organization.

24 **1. This Court Must Order Compliance With SRCR 3(5)(c)**

25 It does not appear that Petitioner is actually opposed to ONJ’s request. ONJ is  
26 requesting the information in Petitioner’s opposition at 3:8-14. To the extent the  
27

1 word “docket index’ confused Petitioner, the rule uses the phrase “court indices”  
2 and the information that must be made available can be readily found on Odyssey.  
3 Exhibit 1. An order by this court unsealing it, and directing the Clerk to make the  
4 “court indices” available, will suffice.  
5

6 ONJ is also entitled to review of any sealing orders. SRCR 3(5)(c)(vi). If  
7 Petitioner is indeed arguing that ONJ should not be allowed to know when hearings  
8 are occurring, such would be repugnant to the First Amendment. *Falconi v. Eighth*  
9 *Jud. Dist. Ct.*, 140 Nev., Advance Opinion 8 (2024). In essence, Petitioner’s  
10 interpretation that the rule allows concealing from ONJ the dates of hearings  
11 presents this Court with questions of statutory construction, the rules of which  
12 “require[] neither argument nor reference to authorities to show that when the  
13 language of a statute admits of two constructions, one of which would render it  
14 constitutional and valid and the other unconstitutional and void, that construction  
15 should be adopted which will save the statute. *State v. Castenada*, 126 Nev. 478,  
16 \_\_\_, 245 P.3d 550, 552 (2024). The decision in *Falconi* is broad; it applies to “local  
17 rules and statutes” that “require” closure. Rendering secret the dates and times of  
18 hearings constructively closes the court. This Court must exercise the discretion  
19 constitutionally mandated by the First Amendment to determine whether and how a  
20 proceeding may be closed to the press, and any other “local rules and statutes” that  
21 “bypass [this] exercise of judicial discretion” are as unconstitutional as NRS  
22 125.080, EDCR 5.207, and EDCR 5.212 are.  
23  
24  
25

26 The *Falconi* Court mandated a First Amendment analysis by broadly  
27 expanding it from criminal proceedings to civil proceedings. The Falconi Court  
28

1 expressly held “there is no reason to distinguish family law proceedings from civil  
2 proceedings[.]” Petitioner may seek to close these proceedings from the press, but  
3 hiding the dates and times of hearings is not the proper way to do so. The First  
4 Amendment analysis must occur. The reasons our society demands “open court  
5 proceedings” are profound. “[S]ecret judicial proceedings pose [a threat] to public  
6 confidence in this court and the judiciary” because “secrecy encourages  
7 misunderstanding, distrust, and disrespect for the courts.” *Del Papa v. Steffen*, 112  
8 Nev. 369, 374, 915 P.2d 245, 249 (1996).

9  
10  
11 **2. Conclusion**

12 "People in an open society do not demand infallibility from their institutions,  
13 but it is difficult for them to accept what they are prohibited from observing."  
14 *Richmond Newspapers*, 448 U. S., at 572.

15 For these several reasons, this Court should order the Clerk to unseal the court  
16 indices, any sealing orders, and the notices of hearing which are 1-page pieces of  
17 paper that are non-substantive to the case and merely disclose hearing dates.

18  
19 **NRS 239B.030(4) AFFIRMATION**

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

22  
23 **DATED** this Mar 14, 2024

24 By: /s/ Luke Busby \_\_\_\_\_  
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*Attorney for the Our Nevada Judges*



**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:

\_\_\_\_\_ personally delivering;

\_\_\_\_\_ delivery via Reno/Carson Messenger Service;

\_\_\_\_\_ sending via Federal Express (or other overnight delivery service);

\_\_\_\_\_ depositing for mailing in the U.S. mail, with sufficient postage affixed thereto;

or,

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

Richard Schonfeld, Esq.

Gina Fiore

**DATED** this Mar 15, 2024

By: /s/ Luke Busby

**LIST OF EXHIBITS**

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**Exhibit 1:** Screenshot  
Pages: 1

**EXHIBIT 1**

**EXHIBIT 1**

### Case Information

D-21-639924-D | Leanne Nester, Plaintiff vs. Cody Gamble, Defendant.

Case Number  
D-21-639924-D  
File Date  
12/23/2021

Court  
Department Q  
Case Type  
Divorce - Complaint

Judicial Officer  
Duckworth, Bryce C.  
Case Status  
Reopened

### Party

Subject Minor  
Gamble, Zion Leanne

DOB  
XX/XX/XXXX

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Plaintiff  
Nester, Leanne

DOB  
XX/XX/XXXX

Active Attorneys ▼  
Pro Se

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Counter Defendant  
Nester, Leanne

DOB  
XX/XX/XXXX

Active Attorneys ▼  
Pro Se

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Other (Participant)  
Our Nevada Judges, Inc.

Active Attorneys ▼  
Lead Attorney  
Busby, Luke A.  
Retained

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Inactive Attorneys ▼  
Pro Se

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