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Electronically Filed  
May 21 2024 12:12 PM  
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Clerk of Supreme Court

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

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

Vs.  
SECOND JUDICIAL DISTRICT COURT  
OF THE STATE OF NEVADA IN AND  
FOR THE COUNTY OF WASHOE; AND  
THE HONORABLE KATHLEEN  
SIGURDSON, DISTRICT COURT JUDGE  
Respondent.

Case No. 88483  
D. Ct. Case: CV24-00231

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COUNTY OF WASHOE and ROBERT  
CONRAD,  
Real Parties In Interest.

\_\_\_\_\_/

**REPLY TO ANSWERS TO PETITION FOR WRIT OF MANDAMUS**

COMES NOW, Our Nevada Judges, Inc., a Nevada Non-Profit Corporation (hereinafter "ONJ") by and through the undersigned counsel, and hereby files the following reply to the answers to ONJ's Petition for Writ of Mandamus filed on May 16, 2024 and May 20, 2024 by Washoe County and the Honorable Judge Sigurdson, respectively.

**I. Automatic Bars to Court Access or Coverage are Unconstitutional**

Judge Sigurdson’s Order denied ONJ’s Media Request without explanation or analysis. PA 3. Efforts to summarily bar press coverage and discussion of domestic relations matters have already failed before this Court. See *Falconi v. Eighth Judicial Dist. Court*, 543 P.3d 92, 95 (Nev. 2024), where the Court affirmed that civil cases, including family law matters, are presumptively open, as do the Supreme Court Rules. See SCR 230(2), “Under these rules, there is a presumption that all courtroom proceedings that are open to the public are subject to electronic coverage...” “Failure to consider whether to close a proceeding on a case-by-case basis, which is not a significantly high burden, falls short of the *Press-Enterprise II* requirement that closure is narrowly tailored to serve a compelling interest. 478 U.S. at 13.” *Falconi v. Eighth Judicial Dist. Court*, 543 P.3d at 99.

Further, contrary to Judge Sigurdson’s arguments that writ relief is extraordinary and not justified in this case, under SCR 243, no direct appellate review of the interpretation or application of the rules on electronic coverage of court proceedings, but news reporters or parties may seek extraordinary relief through a writ petition. In *Falconi*, this court recognized the “...important role open court proceedings play...” justifying extraordinary relief in this case. *Id.* at 98.

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## II. Physical Access Triggers the Camera Access Presumption

In their responses, Washoe County and Judge Kathleen Sigurdson confuse physical access with camera access. Judge Sigurdson clarifies that only camera access is relevant in this case, thereby arguing that the *Falconi* Court's analysis is irrelevant.<sup>1</sup> See Judge Sigurdson's *Answer* at page 8.

A news reporter who has physical access to a courtroom will learn information that can later be used on camera, e.g. at a news station, and published to a viewership. "It is not unrealistic even in this day to believe that public inclusion affords citizens a form of legal education and hopefully promotes confidence in the fair administration of justice." *State v. Schmit*, 273 Minn. 78, 87-88, 139 N. W. 2d 800, 807 (1966). "Instead of acquiring information about trials by firsthand observation or by word of mouth from those who attended, people now acquire it chiefly through the print and electronic media. In a sense, this validates the media claim of functioning as surrogates for the public." *Richmond Newspapers v. Virginia*, 448 U.S. 555, 573, 100 S. Ct. 2814, 2825 (1980). Accordingly, both Washoe County and Judge Sigurdson are unable to block a news

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<sup>1</sup> This argument misses two important points covered by the *Falconi* Court; first, that intimate details of a marriage do not allow for the summary and categorical closure of a proceeding, even upon demand of a spouse; and second, that the applicability of *Stephens Media, LLC. v. Eighth Judicial District Court*, 125 Nev. 849, 221 P. 3d 1240 (2009) was expanded from criminal proceedings to civil proceedings, which necessarily triggers the SCR 230(1) electronic coverage presumption.

reporter's access to the information itself unless the First Amendment analysis is conducted and the court determines that closing the proceedings themselves and imposing a gag order are justified, neither of which has occurred or has been sought here. In *Falconi*, the Court was clear what analysis was required:

In any other proceedings in Nevada, before a district court can close those proceedings "(1) the party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced; (2) the closure must be no broader than necessary to protect the overriding interest; (3) the trial court must consider reasonable alternatives to closing the proceeding; and (4) the trial court [\*\*16] must make findings adequate to support the closure." *Fezell v. State*, 111 Nev. 1446, 1449, 906 P.2d 727, 729 (1995) (internal quotation marks omitted).

*Id.* at 99.

### **III. Electronic Coverage Can Occur With Appropriate Restrictions**

Generally, it is the internal policy of ONJ to protect the confidentiality of victims, parents, and children. ONJ's policies provide coverage for a crucial and significant part of the judiciary's functions in this state, specifically the family court.<sup>2</sup> "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*, 448 U. S. 525, 572 (1980).

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<sup>2</sup>Even though the underlying proceedings at issue do not stem from family court, the privacy assertions raised by Washoe County and Judge Sigurdson are virtually identical to those ONJ routinely encounters with its family court coverage.

Once physical access to a proceeding is obtained, camera access is presumed. SCR 230(1). See also *Solid v Eighth Judicial District Court*, 133 Nev. 118, 393 P.3d 666 (2017). To interfere with electronic coverage, Judge Sigurdson must seek to overcome the presumption by conducting an SCR 230(2) analysis which seeks to protect information that might be gleaned from the camera itself; namely, the visual image of the victim or her voice. See also, *Solid v. Eighth Jud. Dist. Ct., Id.* For example, if the report that would expose the victim is going to be displayed on a screen in the courtroom, or bodycam footage depicting the victim's image or voice is going to be played in the courtroom, Judge Sigurdson could exercise her discretion under SCR 230(2)(b) to restrict electronic coverage of those portions alone. Judge Sigurdson's analysis should still take into consideration the important purpose of electronic coverage as articulated under SCR 241(1), while bearing in mind that consent of the participants is not required. SCR 240.

Judge Sigurdson, for the first time on answering<sup>3</sup> this Court, expresses concerns regarding the bodycam footage. But this would only be a valid basis to bar electronic coverage if the footage was actually going to be played at the hearing. Even if the footage was going to be

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<sup>3</sup> This Court should admonish Judge Sigurdson to conduct the SCR 230(2) analysis as required rather than wait until this Court orders her answer on writ review. A news reporter made aware of the details concerning an SCR 230(1) denial might actually be satisfied by the trial judge's explanation such that writ review is not sought in the first place. Having the SCR 230(2) analysis occur for the first time before the presence of this Court is a potentially unjustified use of this Court's limited resources.

played, it does not justify barring electronic coverage of the other portions of the hearing, including arguments of counsel and the court's ruling. This Court should issue a writ directing Judge Sigurdson to consider these points and articulate a valid privacy concern that will arise at the hearing ONJ is requesting to provide electronic coverage of, and if any restrictions are to occur, those restrictions should be imposed only in a manner that forbids electronic coverage of the bodycam footage itself. "An error is harmless when it does not affect a party's substantial rights." *Wyeth v Rowatt*, 126 Nev. 446, 244 P. 3d 765 (2010).

Notwithstanding Judge Sigurdson's arguments to the contrary, ONJ has demonstrated that if not for the error, camera access to the underlying proceedings, either in part or in whole, would be allowed. Because Judge Sigurdson's error is prejudicial, the writ should be issued.

DATED this May 21, 2024

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## **VERIFICATION OF ALEXANDER FALCONI**

I, Alexander M. Falconi, state that I am the Founding Director of Our Nevada Judges, Inc., and that I have read this *Reply* 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 May 21, 2024



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 1544 words.

EXECUTED this May 21, 2024

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**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 Sigurdson  
% Sabrena Clinton  
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... and *via* email to: lliddell@da.washoecounty.gov, sclinton@ag.nv.gov, luke@lukeandrewbusbyltd.com.

SERVED this May 21, 2024

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