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

<p>11 [REDACTED] Petitioner, 12 vs. 13 [REDACTED] Respondent. 14 _____/</p>	<p>15 CASE NO: D-12-[REDACTED]-C 16 DEPT NO: N 17 NO HEARING REQUESTED</p>
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<p>18 [REDACTED] Applicant, 19 vs. 20 [REDACTED] Adverse Party. 21 _____/</p>	<p>22 CASE NO: T-22-[REDACTED]-T 23 DEPT NO: TPO 24 NO HEARING REQUESTED</p>
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25 NOTICE: YOU MAY FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE
26 CLERK OF THE COURT AND PROVIDE THE UNDERSIGNED WITH A COPY OF
27 YOUR RESPONSE WITHIN 14 DAYS OF YOUR RECEIPT OF THIS MOTION.
28 FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT
WITHIN 14 DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE
REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT A HEARING
PRIOR TO THE SCHEDULED HEARING DATE.

LIMITED MOTION TO UNSEAL

COMES NOW, Our Nevada Judges, Inc., a Nevada non-profit corporation, by
and through the undersigned counsel, and hereby files a limited motion to unseal.

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

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 An SCR 229(1)(c) non-party news reporter may file a motion to unseal. SRCR
3 4(2).

4 Sealing the entire file interferes with an SCR 229(1)(c) news reporter’s ability to
5 monitor a case. The Clerk should be directed to restore access to the court indices¹,
6 which would most efficiently reveal the case numbers, docket codes, docket
7 numbers, and date that the action was commenced; and, the names of the parties,
8 counsel of record, and the assigned judge; the case type and cause(s) of action;
9 and, sealing orders (hereinafter ‘Court Access Information’). The extensive seal
10 imposed in these cases allows a clerk to refuse to disclose not only the hearing
11 dates and times, but also the existence of the case entirely, which unconstitutionally
12 interferes with press access to the courtroom. See *Falconi v. Eighth Jud. Dist. Ct.*,
13 140 Nev., Advance Op. 8 (2024).

14 SRCR 1(4) provides the scope of the rules on sealing and redaction. A list of
15 NRS Chapters is provided, but the list is not exclusive² and actually manifests the
16 harmonious construction³ principle of statutory construction with the additional
17 caveat that the court rules⁴ give way to any “specific” statute governing sealing
18 and redaction. In other words, SRCR 1(4) is not categorically inapplicable to the
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23 ¹ <https://www.clarkcountycourts.us/Anonymous/default.aspx> and
24 <https://www.clarkcountycourts.us/portal>

25 ² SRCR 1(4): “These rules do not apply to the sealing or redacting of court records under
26 **specific** statutes, **such as...**” (emphasis added).

27 ³ *Simmons Self-Storage vs Rib Roof, Inc.*, 130 Nev. 540, 546, 331 P. 3d 850, 854 (2014)
28 (“[T]his court interprets `provisions within a common statutory scheme harmoniously with
one another in accordance with the general purpose of those statutes' to avoid
unreasonable or absurd results and give effect to the Legislature's intent.”)

⁴ *Weddell v. Stewart*, 127 Nev. 645, 650, 261 P.3d 1080, 1084 (2011) (“[R]ules of
statutory construction apply to court rules.”)

1 unsealing of actions filed under NRS Chapters 125 or 126, but rather, yields to
2 certain “specific” statutes like NRS 126.211 and NRS 125.110.

3 “A court's authority to limit or preclude public access to judicial records and
4 documents stems from three sources: constitutional law, statutory law, and
5 common law.” *Howard v. State*, 128 Nev. 736, 291 P. 3d 137 (2012). See also
6 *United States v. James*, 663 F. Supp. 2d 1018, 1020 (W.D. Wash. 2009) (“domestic
7 press outlets unquestionably have standing to challenge access to court
8 documents.”) (citation omitted). The *Howard* Court pointed out at the time that the
9 common law generally favors public access but gives way to statutes and court
10 rules. While there were no constitutional issues relevant to the *Howard* Court’s
11 analysis at the time, the *Falconi* Court later clarified that a First Amendment right of
12 access to the underlying proceedings exists.

13 The *Falconi* Court broadly expanded the scope of the ruling in *Stephens*
14 *Media, LLC. v. Eighth Judicial District Court*, 125 Nev. 849, 221 P. 3d 1240 (2009)
15 from criminal proceedings to all civil proceedings, including family law
16 proceedings. Importantly, the *Stephens Media* Court recognized a powerful
17 distinction left untouched by the *Howard* Court; namely, that there was a
18 distinction between oral proceedings and documentation that “merely facilitate[s]
19 and expedite[s]” one of those oral proceedings, specifically, jury questionnaires
20 and *voir dire*. The *Stephens Media* Court recognized that the purpose of the jury
21 questionnaires was their direct connection to and facilitation of *voir dire*
22 proceedings such that they constituted access to the proceedings themselves and
23 thus implicated First Amendment concerns. Analogously, the court indices and
24 Court Access Information ONJ seeks now go beyond mere court records and are
25 preliminarily required for monitoring and accessing any court file.

26
27 Even if this Court came to the conclusion that certain interpretations of law
28 could allow Court Access Information to be hidden from the press, this Court must

1 adopt the interpretation that is constitutional. This is because “when the language
2 of a statute admits of two constructions, one of which would render it
3 constitutional and valid and the other unconstitutional and void, that construction
4 should be adopted which will save the statute.” *State v. Castaneda*, 126 Nev. 478,
5 481, 245 P.3d 550, 553 (2010).

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

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

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

12 **DATED** this Aug 23, 2024

13
14 By: /s/ Luke Busby
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DECLARATION OF ALEXANDER FALCONI

I, Alexander M. Falconi, declare that I have read the forgoing *Motion* 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 Aug 23, 2024



Alexander M. Falconi
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Our Nevada Judges
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