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

<p>11 [REDACTED]</p> <p>12 Plaintiff,</p> <p>13 vs.</p> <p>14 [REDACTED]</p> <p>15 Defendant.</p> <p>16 _____/</p>	<p>17 CASE NO: D-21 [REDACTED]-D</p> <p>18 DEPT NO: N</p> <p>19 <u>RESPONSE TO OBJECTION TO</u></p> <p>20 <u>MEDIA REQUEST AND ORDER</u></p> <p>21 <u>ALLOWING CAMERA ACCESS</u></p> <p>22 Hearing Date: September 10, 2024</p> <p>23 Hearing Time: 11:00 a.m.</p>
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14 COMES NOW, Our Nevada Judges, Inc., a Nevada non-profit corporation, by
15 and through the undersigned counsel, and hereby files a response to *Defendant's*
16 *Objection to Media Request and Order Allowing Camera Access* filed September 9,
17 2024.

18 This response is based upon the following memorandum of points and
19 authorities.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 Alexander Falconi is an SCR 229(1)(c) news reporter who, with the guidance of
22 a board of directors, governs the operation of Our Nevada Judges, Inc. ('ONJ'), a
23 Nevada non-profit corporation recognized by the IRS as a Section 501(c)(3)
24 organization. ONJ is requesting physical and camera access to these proceedings.
25 Plaintiff filed *Notice of Non-Objection*.

1 **Request to Waive Of Participation In Oral Arguments**

2 Our Nevada Judges, Inc., hereinafter ONJ, is directing the allocation of
3 significant litigation resources to obtaining physical and camera access to Rupert
4 Murdoch’s News Corp trust case, a matter of national and global interest. Second
5 Judicial District Court, docket number PR23-00813. Respectfully, ONJ submits its
6 points in writing and requests that the presence of counsel to the September 10,
7 2024 hearing be waived. ONJ also recognizes Plaintiff’s efforts to unseal and make
8 public these proceedings, which are consistent with the non-profit corporation’s
9 efforts¹. Lastly, this Court should observe *United States v. Yazzie*, 743 F.3d 1278,
10 1287 (9th Cir. 2014) citing *Presley v. Georgia*, 558 U.S. 209, 214, 130 S.Ct. 721, 175
11 L.Ed.2d 675 (2010), which provides that a court is “...required to consider
12 alternatives to closure even when they are not offered by the parties.”
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15 **The Relevance Of Settlement Agreements, Generally**

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17 ONJ, sympathizes with Defendant’s desire to protect the confidentiality of a
18 settlement agreement. However, the stipulation of the parties cannot serve as a
19 basis with which to bar public and press access to the courtroom. To conclude
20 otherwise would create a *de facto* version of NRS 125.080 whereby Parties to a
21 divorce could simply enter a marital settlement agreement rendering the entire
22 divorce confidential thereupon citing the confidential settlement agreement itself as
23 a “compelling interest” mandating closure. The Supreme Court has already held that
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25

26 ¹ Luke Busby, Esq., has committed to litigating ONJ’s access to the Rupert Murdoch
27 News Corp trust case, critical filings of which are being made today, and a critical
28 hearing of which is being held tomorrow. ONJ also notes that this Court’s minute order
filed September 3, 2024, does not appear to require ONJ’s involvement or presence at
the hearing.

1 “[t]he parties’ agreement alone does not constitute a sufficient basis for the court to
2 seal or redact court records.” SRCR 3(4). See also *Falconi v. Eighth Jud. Dist. Ct.*,
3 140 Nev., Advance Opinion 8 (2024).

4
5 The *Falconi Court* specifically “acknowledge[d] that there is an interest in
6 protecting litigants' privacy rights in family law proceedings, as those proceedings
7 apply wholly to their private lives...[h]owever, a litigant's privacy interests do not
8 automatically overcome the press's and the public's right to access court
9 proceedings. In fact, the majority of jurisdictions to have considered this issue have
10 concluded that when there are no extraordinary circumstances present, the public's
11 right to access family law proceedings outweighs the litigants' privacy interests.”
12 This Court can order the marital settlement agreement itself confidential and bind
13 Parties to its terms, as appropriate under the law, but the mere existence of the
14 agreement and Parties agreement as to what is confidential is not a basis with which
15 to deprive the public and press of the right to observe the operation of this Court.
16 The public and press are not parties² to the settlement agreement, so this Court
17 must conduct an independent “strict scrutiny analysis” as mandated by the *Falconi*
18 *Court*. ONJ is not interested in the contents of the marital settlement agreement
19 itself, but rather, is interested in the operation of the court and the interplay between
20 the litigation and settlement process as well as the matter in which this Court
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25 ² This Court should note that the circumstances of this case are not extraordinary or
26 unique. Our Nevada Judges routinely covers civil proceedings riddled with protective
27 orders and confidential settlement agreements, the highest profile of which is the State
28 of Nevada’s cases against Facebook, Meta, SnapChat, and TikTok, which District Court
Judge Joanna Kishner has allowed comprehensive electronic coverage of. Eighth
Judicial District Court, docket numbers A-24-886110-B, A-24-886120-B,
A-24-886113-B, A-24-886115-B, A-24-886127-B, and A-24-889099-C.

1 interprets and enforces marital settlement agreements. ONJ would propose this
2 Court render confidential the information expressly listed under SRCR 2(6), conduct
3 the SRCR 3(4)(e) analysis consistent with the requirements imposed by the *Falconi*
4 *Court*, against the backdrop of the recently published Ninth Circuit decision
5 forbidding the sealing of personal records “without further order of a judge”. *Civil*
6 *Beat Law Ctr. for the Pub. Int., Inc. v. Maile*, No. 23-15108, 2024 U.S. App. LEXIS
7 21811 (9th Cir. Aug. 28, 2024). It is especially troubling that Defendant would seek
8 total closure of the proceedings given a party faces sanctions. The Supreme Court
9 has already cautioned, “...secrecy encourages misunderstanding, distrust, and
10 disrespect for the courts.” *Del Papa v. Steffen*, 112 Nev. 369, 374, 915 P.2d 245, 249
11 (1996).

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14 **Defendant Conflates the Impact of Privacy On Physical Access And Camera**
15 **Access Analysis**

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17 "It is not unrealistic even in this day to believe that public inclusion affords
18 citizens a form of legal education and hopefully promotes confidence in the fair
19 administration of justice." *State v. Schmit*, 273 Minn. 78, 87-88, 139 N. W. 2d 800,
20 807 (1966). "Instead of acquiring information about trials by firsthand observation or
21 by word of mouth from those who attended, people now acquire it chiefly through
22 the print and electronic media. In a sense, this validates the media claim of
23 functioning as surrogates for the public." *Richmond Newspapers*, 448 U. S. 525, 573
24 (1980).
25

26 As an SCR 229(1)(c) news reporter with camera access, ONJ does exercise its
27 editorial discretion to protect litigants and children. Often, as here, litigants opposed
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1 to camera access are actually opposed to press coverage generally and lash out
2 with an SCR 230(1) objection. However, SCR 230(1) does not contemplate access
3 to information in the general sense. A news reporter could simply sit in a courtroom,
4 observe, obtain the information needed, and then step out of the courtroom to
5 publish the information on camera. Thus, the informational issue would be
6 appropriately handled by the *Falconi Court's* strict scrutiny analysis. What is relevant
7 in the context of an SCR 230(2) analysis is the actual video and audio footage that
8 could be recorded by the electronic equipment within the boundaries of the
9 courtroom itself. ONJ will protect the visual and aural identities of the parents and
10 children, and, to the extent the marital settlement agreement will be displayed on
11 any screens within the courtroom itself, ONJ will refrain from pointing the camera at
12 it.
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16 Ultimately, forbidding camera access of these proceedings does not thwart
17 media coverage but weakens the accuracy of the public's perception of the
18 operation of the court. Once the camera access presumption has triggered, the
19 Supreme Court does not allow a denial to occur without the evidentiary support and
20 the proper exercise of discretion contemplated in *Solid v Eighth Judicial District*
21 *Court*, 133 Nev. 118, 393 P.3d 666 (2017).
22

23 **Conclusion**

24 While ONJ and Defendant are at odds on the issue of access, ONJ is not
25 generally an adversary of Defendant. ONJ is merely interested in providing electronic
26 coverage of the proceedings consistent with the Supreme Court's educational and
27 informational mandate. SCR 241(1).
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1 “The free press is the guardian of the public interest, and the independent
2 judiciary is the guardian of the free press. Thus, courts have a duty to conduct a
3 thorough and searching review of any attempt to restrict public access.” *Leigh v.*
4 *Salazar*, 668 F.3d 1126 (9th Cir. 2012).
5

6 This Court should allow physical and camera access to these proceedings,
7 with narrowly tailored restrictions.

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

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

12 **DATED** this Sep 9, 2024

13 By: /s/ Luke Busby _____
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