



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, Inc.*

**DISTRICT COURT  
CLARK COUNTY, NEVADA  
FAMILY DIVISION**

[REDACTED]

Plaintiff,

vs.

[REDACTED]

Defendant.

CASE NO: D-08-[REDACTED]-C  
DEPT NO: E

NO HEARING REQUESTED

[REDACTED]

Applicant,

vs.

[REDACTED];

Adverse Party.

CASE NO: T-22-[REDACTED]-T  
DEPT NO: Q

NO HEARING REQUESTED

NOTICE: YOU MAY FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN 14 DAYS OF YOUR RECEIPT OF THIS MOTION. 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.

**MOTION TO UNSEAL CERTAIN J.A.V.S. VIDEOS**

COMES NOW, Our Nevada Judges, Inc. (hereinafter 'ONJ'), a Nevada non-profit corporation, by and through the undersigned counsel, and hereby files a motion to unseal certain J.A.V.S. videos.

1 This motion is based upon the following memorandum of points and  
2 authorities.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 District Court Judge Bryce Duckworth is allowing comprehensive electronic  
5 coverage of D-22-656587-D. ONJ is requesting all existing J.A.V.S. videos *to date*  
6 be unsealed in the corresponding case, T-22-228613-T.<sup>1</sup>

7  
8 In compliance with two writs of *mandamus* issued in tandem, District Court  
9 Judge Charles Hoskin has vacated his order denying camera access and restored  
10 SRCR 3(5)(c) access to the docket in D-08-402901-C. ONJ is requesting all J.A.V.S.  
11 videos of hearings August 23, 2022 to September 27, 2024, *inclusive*, be unsealed.  
12

13 The release of the requested J.A.V.S. videos will allow ONJ to fill the gaps in  
14 the ongoing coverage series and give the viewership context that only the domestic  
15 relations matters can provide. Consistent with internal policy, ONJ will continue to  
16 redact the names and faces of parents and children.  
17

18 An SCR 229(1)(c) non-party news reporter may file a motion to unseal. SRCR  
19 4(2). See also *United States v. James*, 663 F. Supp. 2d 1018, 1020 (W.D. Wash.  
20 2009) (“Domestic press outlets unquestionably have standing to challenge access to  
21 court documents.”) (citation omitted). See also *Neb. Press Ass’n v. Stuart*, 427 U.S.  
22 539, 560-61 (1976) (the right to access judicial proceedings and records recognized  
23 by the Supreme Court, the United States Supreme Court, and courts across the  
24 country, is a right of contemporaneous access).  
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28 <sup>1</sup> The Henderson Municipal Court has already released 5 videos from the corresponding domestic violence criminal proceedings. which have been published with redactions.

1 SRCR 1(4) provides the scope of the rules on sealing and redaction. A list of  
2 NRS Chapters is provided, but the list is not exclusive<sup>2</sup> and actually manifests the  
3 harmonious construction<sup>3</sup> principle of statutory construction with the additional  
4 caveat that the court rules<sup>4</sup> give way to any “specific” statute governing sealing and  
5 redaction. In other words, SRCR 1(4) is not categorically inapplicable to the  
6 unsealing of actions filed under the listed chapters, but rather, yields to certain  
7 “specific” statutes like NRS 126.211 and NRS 125.110. “A court's authority to limit  
8 or preclude public access to judicial records and documents stems from three  
9 sources: constitutional law, statutory law, and common law.” *Howard v. State*, 128  
10 Nev. 736, 291 P. 3d 137 (2012). The *Howard* Court pointed out at the time that the  
11 common law generally favors public access but gives way to statutes and court  
12 rules. While there were no constitutional issues relevant to the *Howard* Court’s  
13 analysis at the time, the *Falconi* Court later clarified that a First Amendment right of  
14 access to the underlying proceedings exists. *Falconi v. Eighth Jud. Dist. Ct.*, 543  
15 P.3d 92, 97 (Nev. 2024); see also *Richmond Newspapers, Inc. v. Virginia*, 448 U.S.  
16 555, 580, 100 S. Ct. 2814, 65 L. Ed. 2d 973 & n.17 (1980).

17  
18  
19  
20 The *Falconi* Court broadly expanded the scope of the ruling in *Stephens*  
21 *Media, LLC. v. Eighth Judicial District Court*, 125 Nev. 849, 221 P. 3d 1240 (2009)  
22 from criminal proceedings to all civil proceedings, including family law  
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24 <sup>2</sup> SRCR 1(4): “These rules do not apply to the sealing or redacting of court records under  
25 **specific** statutes, **such as...**” (emphasis added).

26 <sup>3</sup> *Simmons Self-Storage vs Rib Roof, Inc.*, 130 Nev. 540, 546, 331 P. 3d 850, 854 (2014)  
27 (“[T]his court interprets `provisions within a common statutory scheme harmoniously with  
28 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.”)

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

1 proceedings. Importantly, the *Stephens Media* Court recognized a powerful  
2 distinction left untouched by the *Howard* Court; namely, that there was a  
3 distinction between oral proceedings and documentation that “merely facilitate[s]  
4 and expedite[s]” one of those oral proceedings, specifically, jury questionnaires  
5 and *voir dire*. The *Stephens Media* Court recognized that the purpose of the jury  
6 questionnaires was their direct connection to and facilitation of *voir dire*  
7 proceedings such that they constituted access to the proceedings themselves and  
8 thus implicated First Amendment concerns. Analogously, the J.A.V.S. videos are a  
9 distillation of preceding motion practice and actual records of the hearings  
10 themselves.

11 Even if this Court came to the conclusion that certain interpretations of  
12 statutes and rules could allow court records to be hidden from the press, this  
13 Court must apply the interpretation that is constitutional. This is because “when  
14 the language of a statute admits of two constructions, one of which would render it  
15 constitutional and valid and the other unconstitutional and void, that construction  
16 should be adopted which will save the statute.” *State v. Castaneda*, 126 Nev. 478,  
17 481, 245 P.3d 550, 553 (2010).

18 THEREFORE, ONJ hereby requests the requested J.A.V.S. videos unsealed  
19 and released to ONJ.

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 Sep 27, 2024

24 By: /s/ Luke Busby  
25 LUKE A. BUSBY, ESQ.  
26 Nevada Bar No. 10319  
27 316 California Ave.  
28 Reno, Nevada 89509  
775-453-0112  
[luke@lukeandrewbusbyltd.com](mailto:luke@lukeandrewbusbyltd.com)

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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 Sep 27, 2024



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Alexander M. Falconi  
205 N. Stephanie St.  
Suite D#170  
Henderson, NV 89074  
Our Nevada Judges  
admin@ournevadajudges.com