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6 In conjunction with and by appointment from
The Legal Aid Center of Southern Nevada
7 Pro Bono Project

8
9 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
10 **OF THE STATE OF NEVADA**
11 **IN AND FOR CLARK COUNTY**

12 [REDACTED] PHILLIPS nka
[REDACTED]

13 Plaintiff,

14 v.

15 TODD MATTHEW PHILLIPS,
16 Defendant.

Case No. D-18 [REDACTED]-D

Dept No. X

**PLAINTIFF’S RESPONSE IN
SUPPORT OF ORDER TO SHOW
CAUSE WHY DEFENDANT TODD
MATTHEW PHILLIPS SHOULD NOT
BE DEEMED A VEXATIOUS
LITIGANT**

**Date of Hearing: January 30, 2025
Time of Hearing: 2:30 p.m.**

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20 **I. INTRODUCTION**

21 *“How long will ye vex my soul, and break me in pieces with words?”*

22 --- Job 19:2 (KJV)

23 Mr. Phillips is absolutely a vexatious litigant—in both the generic and *Jordan* sense. He
24 consumes a disproportionate amount of the time and resources available to Nevada’s judges and
25 opposing parties. The judges, especially in Family Court, have heavy caseloads and every minute
26 devoted to Mr. Phillips’s frivolous motions impacts other families before this Court who have
27 waited too long for resolution of their cases.
28

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1 Sadly, Mr. Phillips believes the courts are his own personal complaint department.
2 However, when judges rule against him, as they almost always do, the judges themselves (and the
3 judges’ staff) and opposing counsel become the target of his vexatious conduct. Mr. Phillips’s
4 conduct bears all the classic signs of a vexatious litigant: his filings are numerous (even
5 relentless), his claims are largely without merit (as numerous judges have ruled), and he imposes
6 enormous burdens on the court system and those required to respond to their claims. As Mr.
7 Phillips recently lamented in a very recent email to the undersigned: “Let’s face it, I’ve never won
8 a motion in 8 years.”¹ While this admission is somewhat hyperbolic, it is not far from the truth.

9 As declared by the United States Supreme Court in *In re Sindram*, 498 U.S. 177, 179-80
10 (1991): “The goal of fairly dispensing justice . . . is compromised when the Court is forced to
11 devote its limited resources to the processing of repetitious and frivolous requests.” When
12 “prolific filer[s]” abuse the system, the proper remedy is to impose appropriately tailored
13 sanctions to “allow the Court to devote its limited resources to the claims of petitioners who have
14 not abused our process.” *Whitaker v. Superior Ct. of Calif., San Francisco Cnty.*, 514 U.S. 208,
15 209-210 (1995).

16 **II. PLAINTIFF HAS STANDING**

17 “‘The question of standing concerns whether the party seeking relief has a sufficient
18 interest in the litigation,’ so as ‘to ensure the litigant will vigorously and effectively present his or
19 her case against an adverse party.’” *Nevada Policy Research Institute v. Cannizzaro*, 138 Nev.
20 259, 261-62, 507 P.3d 1203, 1207 (2022). Stated differently, a party has standing when they have
21 “a significant interest” in the matter. *Arguello v. Sunset Station, Inc.*, 127 Nev. 365, 368, 252 P.3d
22 206, 208 (2011). Certainly, Ms. [REDACTED] who is a party to this action and is one of the primary
23 and repeated victims of Mr. Phillips’s vexatious conduct, has a “significant interest” in the Court’s
24

25 _____
26 ¹ See email from T. Matthew Phillips (1/2/25 at 4:37 pm), attached hereto as **Exhibit 1**.
27 Although Mr. Phillips tries to insulate this email from the Court’s review by labeling it
28 “confidential settlement proposal,” the email is not offered here as evidence “to prove liability for
or invalidity of the claim or amount” (or even the validity of any pending motion) but is instead
offered “for another purpose,” i.e., to demonstrate that Mr. Phillips recognizes that his onslaught
of motions have been consistently denied. See NRS 48.105(2). They’ve been denied because
they lack merit.



1 order directed to Mr. Phillips to show cause why he should not be deemed a vexatious litigant.²

2 Mr. [REDACTED] has standing to file this Response and to thereby assist the Court with information.

3 To be clear, Ms. [REDACTED] requests the Court to find that Mr. Phillips is a vexatious litigant
4 and to enter the proposed Order submitted herewith. Such will provide a measure of peace to Ms.
5 [REDACTED] knowing that Mr. Phillips cannot continue to sue and harass her without a prior court
6 ruling of merit.

7 **III. UNDERSTANDING THE VEXATIOUS LITIGANT**

8 Understanding vexatious litigants in general supports the conclusion that Mr. Phillips is
9 one. Thus, before delving into the specifics with Mr. Phillips and his vexatious approach to
10 litigation, a more general and clinical view is considered.

11 **A. A (Very) Short History of Vexatious Litigants**

12 “The first recorded reference to excessive involvement with the legal system was found in
13 Aristophanes’ play, *The Wasps*. Written in 422 BCE, the play depicted the statesman Philocleon
14 who was labeled a ‘trialophile’ because he was addicted to court proceedings.”³ Much later, the
15 first statute addressing vexatious litigation was Britain’s Vexatious Litigant Act of 1896.⁴

16 The first references to what we today call a “vexatious litigant” are insightful; previously
17 they were called “cranks,” “injustice collectors,” “serial pests,” and “wrecks of justice.”⁵ In
18 France, they were called (translated) “persecuted-persecutors.”⁶

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24 ² As this Court previously found, Mr. Phillips “is so perpetually blinded by rage that he has
25 lost any objective ability to notice or care about the suffering he is visiting upon others—with
26 [Ms. [REDACTED]] of course by far being the main victim. (Order (7/17/24), Doc. ID# 546 at 6:3-5,
27 emphasis added).

28 ³ Coffey, Brodsky, and Sams, “*I’ll See You in Court...Again: Psychology and
Hyperlitigious Litigants*, J. Am. Academy of Psych. & the Law (March 2017) (available at
<https://jaapl.org/content/45/1/62>, last accessed on Jan. 6, 2025).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*



1 Since then, several states (not including Nevada⁷) have adopted a vexatious litigant
2 statute.⁸ In short, vexatious litigants have been a thorn in the side of justice for a very long time,
3 and almost certainly for a long time to come.

4 **B. A Vexatious Litigant is the Adult Version of the Playground Bully**

5 “A lawsuit is the 21st century American equivalent of a duel—fighting with papers instead
6 of swords”⁹ Indeed, people who routinely file baseless lawsuits “are often just adult versions
7 of playground bullies. . . . They want you to lay awake at night and worry. It gives them a sense
8 of power. . . . Keep in mind that people who file frivolous lawsuits are usually lonely and angry
9 souls with too much spare time and too few friends. It takes a level of desperation and self-
10 loathing to expend the expenses and time it takes to file a frivolous lawsuit.”¹⁰

11 Clinicians who have studied the issue find “[a] triad of behavioral characteristics are
12 frequently demonstrated by vexatious litigants:”¹¹

- 13 1. They frequently represent themselves because competent counsel will soon distance
14 and disassociate themselves from the vexatious litigant who is “driven by a mission”
15 instead of the merits.¹²
- 16 2. “Evidence of narcissistic and paranoid personality traits. . . . [T]he individual
17 considers himself to be an *exception*, i.e., that the normal rules of behavioral conduct
18 within a judicial process to which all litigants are expected to submit uniquely do not
19 apply to him because he is allegedly *special*, having suffered abuse, humiliation and/or
20 victimization unduly at the hands of alleged perpetrators, including judges, thereby
21 entitling the vexatious litigant to exceptional status and accommodation by the Court.

22 _____
23 ⁷ “Nevada does not have a specific vexatious-litigant statute.” *Jones v. Eighth Jud. Dist. Ct.*,
130 Nev. 493, 498, 330 P.3d 475, 479 (2014).

24 ⁸ In 2012, the Nevada Supreme Court adopted SCR 9.5, which requires a list be maintained
of all persons declared to be a vexatious litigant by any court in this state.

25 ⁹ R. Johnson, *How to Deal With Litigious People and Frivolous Lawsuits*, Psychology
Today (July 19, 2014), available at [https://www.psychologytoday.com/us/blog/so-sue-
me/201407/how-to-deal-with-litigious-people-and-frivolous-lawsuits](https://www.psychologytoday.com/us/blog/so-sue-me/201407/how-to-deal-with-litigious-people-and-frivolous-lawsuits) (last accessed on Jan. 6,
26 2025).

27 ¹⁰ *Id.*

28 ¹¹ Mark I. Levy, MC, DLFAPA, *Vexatious Litigants—Litigants Who Won’t Accept “No” (or
“Yes”) for an Answer*, Forensic Psychiatry, Reference Manual (June 10, 2007), available at
https://fpamed.com/litigants_who_w/ (last accessed on Jan. 5, 2025).

¹² *Id.*



1 Not infrequently, although the source of the alleged abuse is initially the defendant in a
2 civil action, eventually the Court itself is drawn into this ‘dance’ . . . as itself also an
3 abuser. Invariably, this is due to the Court attempting to impose a modicum of
4 decorum on behavior of the litigant by invoking normal procedural requirements. As a
5 result of the transformation of the Court, in the litigant’s mind, from arbitrator to
6 oppressor, the Court’s responses may eventually be perceived as more persecutory and
7 humiliating than was the alleged conduct of the original defendant.”¹³

- 8 3. A desire to “have their alleged suffering, humiliation and victimization witnessed on
9 the stage of litigation. . . . Consequently, not only do they characteristically refuse to
10 accept negative judicial decisions, sometimes they will reject decisions in their own
11 favor”¹⁴

12 Vexatious litigants “often live unhappy, frustrated, difficult lives in which they obsess
13 continuously about their pending lawsuits. Many are left destitute by their relentless pursuits of
14 justice. They rarely seek therapy on their own, largely because of a pervasive belief that they
15 stand with justice and fairness in a system of thwarted passageways and insensitive legal
16 professionals.”¹⁵

17 A “typical scenario” of the vexatious litigant is that “[p]ersonal blogs, chat room dialogue
18 reinforcing their perceptions, and other internet activity will accompany their quest.¹⁶ . . . Usually
19

20 ¹³ *Id.*; see also, R. Zielinski, *Vexatious Litigation: A Vexing Problem*, Boston Bar J. (Sept.
21 12, 2012), available at <https://bostonbar.org/journal/vexatious-litigation-a-vexing-problem/> (last
22 accessed on Jan. 6, 2025) (“Vexatious litigants also frequently turn their fire on judges, clerks,
23 other court personnel and opposing counsel when cases are not resolved in their favor.”).

24 ¹⁴ *Id.*

25 ¹⁵ Coffey, Brodsky, and Sams, “*I’ll See You in Court...Again: Psychology and*
26 *Hyperlitigious Litigants*, J. Am. Academy of Psych. & the Law (March 2017) (available at
27 <https://jaapl.org/content/45/1/62>, last accessed on Jan. 6, 2025); accord, S. White, Ph.D., *The*
28 *Vexatious Litigant* (Fall 2011 Newsletter), available at [https://www.wtsglobal.com/the-vexatious-](https://www.wtsglobal.com/the-vexatious-litigant/)
litigant/ (last accessed on Jan. 6, 2025) (“By nature, vexatious litigants do not typically seek
treatment, due to their mistrust and fixed belief that the problem does not dwell within.”).

¹⁶ As it relates to Mr. Phillips, see just a few samples of his many blogs, posts, interviews,
etc. at <https://tmatthewphillips.com/author/tmatthewphillips/>;
[https://www.youtube.com/watch?v=oTSljdfAYkw](https://www.youtube.com/watch?v=oTSljdfAYkw;);
https://www.youtube.com/watch?v=cYJGWpFY_1Y;
<https://www.youtube.com/watch?v=xRfOcZIt9Ps>;
[https://podcasts.apple.com/us/podcast/attorney-t-matt-phillips-explains-how-judges-](https://podcasts.apple.com/us/podcast/attorney-t-matt-phillips-explains-how-judges-acted/id1533154592?i=1000583608992)
[acted/id1533154592?i=1000583608992](https://podcasts.apple.com/us/podcast/attorney-t-matt-phillips-explains-how-judges-acted/id1533154592?i=1000583608992).



1 those engaged with them very quickly have their competence challenged and their patience sorely
2 tried. . . . Such individuals do not collaborate well with others . . . [and] they may make unruly
3 remarks to the judge, inviting sanctions.”¹⁷ Vexatious litigants often “become completely
4 consumed in a self-destructive quest for vindication. . . . Often they have never felt truly
5 appreciated, their disgruntlement amplified by a self-righteous and self-important narcissistic
6 outlook.”¹⁸ Indeed, the vexatious litigant commonly has “[a]n intractable and unflinching belief
7 in the rightness of their issue, with a desperate need for ‘total victory.’”¹⁹ They employ a “pattern
8 of emotional outbursts and frequent use of dire-sounding language and ultimatums.”²⁰

9 **IV. VEXATIOUS LITIGANTS EXACT A HEAVY TOLL**

10 Vexatious litigants impose a very heavy *direct* burden on the court, its staff, opposing
11 counsel, and the opposing party. The vexatious litigant knows this. Worse, the vexatious litigant
12 intends this result. Filing nonsense after nonsense and making threat after threat is how the
13 vexatious litigant communicates “you messed with the wrong person.” Unfortunately, the
14 vexatious litigant feels everyone is messing with him and he is therefore out to teach everyone a
15 lesson. “It’s me against the world...and I’m right!”

16 There is also an *indirect* cost thrust upon others who have nothing to do with the vexatious
17 litigant. “[T]he administration of justice for other litigants is hampered when frivolous lawsuits
18 create unwarranted taxpayer expenses and interfere with the court’s functioning by increasing
19 court costs, crowding dockets, and causing delay, disruption, and confusion” *Jordan v. State*
20 *ex rel. Dept. of Motor Vehicles*, 121 Nev. 44, 59 n.23, 110 P.3d 30, 42 n.23 (2005), abrogated by
21 *Buzz Stew, LLC v. City of N. Las Vegas*, 2005 (internal citations omitted), abrogated by *Buzz Stew,*
22 *LLC v. City of N. Las Vegas*, 124 Nev. 224, 181 P.3d 670 (2008) (“*Jordan*”). Thus, vexatious-

23 _____
24 For some utterly profane communications allegedly from Mr. Phillips (too gross to
25 replicate here) which give a unique insight into his vindictive, abusive nature), see
<http://gmofreevegas.com/tmatthewphillips/>.

25 ¹⁷ S. White, Ph.D., *The Vexatious Litigant* (Fall 2011 Newsletter), available at
<https://www.wtsglobal.com/the-vexatious-litigant/> (last accessed on Jan. 6, 2025).

26 ¹⁸ *Id.*

27 ¹⁹ *Id.* As Judge Henderson found in a recent order: Mr. Phillips appears to “simply be on a
28 crusade to constantly be determined to be ‘right’,” i.e., his “goal is [that] he is right about
everything,” (Order (7/17/24) at 4:15-24), and that Mr. Phillips “invariably insists that he must be
declared totally right as to every argument he ever made,” (*Id.* at 5:3-4).

20 ²⁰ *Id.*



1 litigant orders “are necessary and prudent to curb conduct that would impair the rights of other
2 litigants and the court’s ability to carry out its function.” *Jones v. Eighth Jud. Dist. Ct.*, 130 Nev.
3 493, 498, 330 P.3d 475, 479 (2014).

4 **V. MR. PHILLIPS IS A VEXATIOUS LITIGANT UNDER *JORDAN***

5 The leading Nevada case regarding vexatious litigants is *Jordan, supra*. The Court noted
6 that “[i]n Nevada, a district court is authorized under NRCP 11(c)(2) to impose sanctions
7 ‘sufficient to deter repetition’ of a party’s conduct in frivolously or vexatiously pursuing an action
8 or defense, even when that person is proceeding in proper person.” 121 Nev. at 56, 110 P.3d at
9 40. The Court identified two possible sanction options that could be imposed against a vexatious
10 litigant: (1) a pre-service review process, and (2) court-access restrictions.

11 Before entering a restrictive order against a vexatious litigant, the Court must, under
12 *Jordan*, evaluate four factors (and articulate its findings in the order) and thereby “balanc[e] the
13 various interests implicated by court-access restrictions,” *Jordan*, 121 Nev. at 60, 110 P.3d at 42.

14 **A. *Jordan*’s First Factor—Notice and Opportunity to be Heard**

15 “First, the litigant must be provided reasonable notice of and an opportunity to oppose a
16 restrictive order’s issuance. This requirement protects the litigant’s due process rights.” *Jordan*,
17 121 Nev. at 60, 110 P.3d at 42-43.

18 Here, this factor is satisfied. This Court’s OSC (Doc. ID# 582) and notice of entry of such
19 (Doc. ID# 583) provides Mr. Phillips with clear notice that the Court is considering whether to
20 find he is a vexatious litigant. The Court expressly refers to *Jordan*’s four factors (providing
21 notice of what the Court will consider and, correlatively, what Mr. Phillips should focus on in his
22 defense of the OSC) and provides him with a special setting on a date/time certain to appear and
23 be heard. Due process is satisfied.

24 **B. *Jordan*’s Second Factor—Adequate Record for Review**

25 “Second, the district court must create an adequate record for review, including a list of all
26 the cases and documents, or an explanation of the reasons, that led it to conclude that a restrictive
27 order was needed to curb repetitive or abusive activities.” *Jordan*, 121 Nev. at 60, 110 P.3d at 43.

28



1 Satisfying this requirement is difficult but only because the available evidences are so
2 numerous. Ten instances come to mind and then ten more are remembered. And, like peeling the
3 layers of an onion, when delving into the record to get the details of a particularly egregious
4 example of Mr. Phillips’s harassing and frivolous conduct, even more examples of vexatious
5 conduct are revealed/remembered. It is not possible to list “all the cases and documents” that
6 support Mr. Phillips’s identification as a vexatious litigant. *Id.* Fortunately, the list (or,
7 alternatively, the explanation of reasons) need not be exhaustive; it merely needs to be enough.
8 Obviously, the more examples provided the more likely the Court’s consideration will be upheld.

9 This Court’s OSC painstakingly lists Mr. Phillips’s “numerous motions that are not
10 supported by law, fail to state claims for relief, and/or are not actionable legal claims, and lack
11 specific allegations.” (OSC at 2:7-12 and n.2). The Court notes the 13 requests filed by Mr.
12 Phillips in this case to disqualify judges (this is an example where the reference to 13 is probably
13 not exhaustive but is enough). (*Id.* at n.3). The OSC also lists Mr. Phillips’s six unsuccessful
14 appeals/writ petitions related to this case, (*id.* at n.4), and a couple federal district court cases
15 related to this case, (*id.* at n.5).

16 It is not the mere numerosity of these examples that matters; rather, it is the lack of merit
17 they evidence upon inspection. *See Jordan*, 121 Nev. at 61, 110 P.3d at 43. However, the
18 frivolous or harassing nature of these examples is the subject of the *Jordan* third factor (and will
19 be addressed in that section).

20 For present purposes, the undersigned performed substantial searches and compiled a list
21 of various matters (cases, appeals, etc.) in Nevada and elsewhere involving Mr. Phillips as a party
22 and that, foreshadowing the upcoming discussion regarding *Jordan*’s third factor, evidence
23 frivolous, harassing, or vexatious conduct. Thus, Plaintiff requests the Court consider the matters
24 set forth in the 18-page compilation attached hereto as **Exhibit 2** and asks the Court to take
25 judicial notice of these proceedings and the rulings therein. *See Jordan*, 121 Nev. at 61, 110 P.3d
26 at 43 (“The judge issuing the restrictive order should rely only on observations obtained from
27 cases to which he or she is assigned, *and on actual rulings in other cases.*”) (emphasis added).
28

1 **C. *Jordan’s Third Factor—Substantive Findings of Litigant’s Frivolous or***
2 ***Harassing Conduct***

3 “Third, the district court must make substantive findings as to the frivolous or harassing
4 nature of the litigant’s actions. Thus, the restrictive order ‘cannot issue merely upon a showing of
5 litigiousness.’ The litigant’s filings must not only be repetitive or abusive, but also be without an
6 arguable factual or legal basis, or filed with the intent to harass.” *Jordan*, 121 Nev. at 61, 110
7 P.3d at 43.

8 The motivation to harass an opponent is especially a concern in family court cases where
9 one spouse may “attempt to highjack the Court proceedings as a way to continue their domination
10 and victimization of their abused spouse.” Mark I. Levy, MC, DLFAPA, *Vexatious Litigants—*
11 *Litigants Who Won’t Accept “No” (or “Yes”) for an Answer*, Forensic Psychiatry, Reference
12 Manual (June 10, 2007), available at https://fpamed.com/litigants_who_w/ (last accessed on Jan.
13 5, 2025). Indeed, the vexatious litigant in family court “relish[es] in these opportunities to make
14 the ex-partner suffer. . . . The abuser retains or regains control by bringing the victim back to
15 court repeatedly.” L. Fontes, Ph.D, *It’s Post-Separation Legal Abuse, Not High Conflict Divorce*,
16 Psychology Today (Jan. 18, 2022), available at
17 [https://www.psychologytoday.com/us/blog/invisible-chains/202201/its-post-separation-legal-](https://www.psychologytoday.com/us/blog/invisible-chains/202201/its-post-separation-legal-abuse-not-high-conflict-divorce?msocid=1a37c5c8d74760471c5bd0c3d6c361fc)
18 [abuse-not-high-conflict-divorce?msocid=1a37c5c8d74760471c5bd0c3d6c361fc](https://www.psychologytoday.com/us/blog/invisible-chains/202201/its-post-separation-legal-abuse-not-high-conflict-divorce?msocid=1a37c5c8d74760471c5bd0c3d6c361fc) (last accessed
19 on January 8, 2025).

20 The Nevada Supreme Court has found several indicia of an intent to harass.

21 **1. *Repeated attacks on opposing counsel and the judge***

22 The *Jordan* Court found that “repeated attacks on opposing counsel and the district judge
23 demonstrate a pattern of intent to harass the defendants and the court.” *Jordan*, 121 Nev. at 65,
24 110 P.3d at 46. These attacks frequently come in the form of actual or threatened lawsuits—“[f]or
25 some people, the knee-jerk reaction to conflict is to threaten a lawsuit.” R. Johnson, *How to Deal*
26 *With Litigious People and Frivolous Lawsuits*, Psychology Today (July 19, 2014), available at
27 [https://www.psychologytoday.com/us/blog/so-sue-me/201407/how-to-deal-with-litigious-people-](https://www.psychologytoday.com/us/blog/so-sue-me/201407/how-to-deal-with-litigious-people-and-frivolous-lawsuits)
28 [and-frivolous-lawsuits](https://www.psychologytoday.com/us/blog/so-sue-me/201407/how-to-deal-with-litigious-people-and-frivolous-lawsuits) (last accessed on Jan. 6, 2025).



1 *a. Mr. Phillips’s attacks on Shannon Wilson*

2 Shannon Wilson, a partner at Hutchison Steffen, is Plaintiff’s former pro bono counsel in
3 this case. This Court’s OSC documents some (but far from all) of Mr. Phillips’s “written
4 communications to attorney Wilson [evidencing] his intent was to harass, delay and needlessly
5 increase the cost of litigation.” (OSC at 4:1-14). Those, and numerous other examples of
6 harassment by Mr. Phillips against attorney Wilson, some of which are already in the record, will
7 not be repeated here, except to say that Mr. Phillips actually sued Ms. Wilson (as noted in more
8 detail below). The undersigned suggests the Court here take judicial notice of and consider
9 Defendant Shannon R. Wilson’s Reply in Support of Motion to Dismiss Complaint Pursuant to
10 NRC 4(e)(2) filed on September 23, 2022 in Case No. A-22-851472 and the evidence attached
11 thereto (it is inciteful regarding Mr. Phillips’s vexatious conduct toward Ms. Wilson). Those
12 instances alone, while not exhaustive, are enough to demonstrate Mr. Phillips’s intent to harass.
13 But, attorney Wilson is far from the only one Mr. Phillips has treated in this despicable and
14 vexatious manner.

15 *b. Mr. Phillips’s attacks on Dan Waite*

16 *1) In Case A-22-851472-C (Mr. Phillips v. attorney Wilson)*

17 On February 28, 2024, the undersigned substituted into this case for attorney Wilson to
18 represent Plaintiff. (Doc. ID# 516). Previously, the undersigned had represented attorney Wilson
19 when Mr. Phillips sued her for matters related to her representation in this case. That case was *T.*
20 *Matthew Phillips v. Shannon R. Wilson*, Case No. A-22-851472-C, Eighth Judicial District Court.
21 The attached compilation, Ex. 2, shows this case on page 16. In that case, the record reveals that
22 Mr. Phillips failed to serve attorney Wilson but insisted he properly served her. Ms. Wilson
23 attempted to negate the effect of his error by offering to accept service. Mr. Phillips rejected that
24 offer. The undersigned became involved at that point and offered *nine additional times* to accept
25 service of process for Ms. Wilson, all of which were rejected by Mr. Phillips. Accordingly, when
26 the 120 days allowed for service by NRC 4(e) had expired, I filed a motion to dismiss the action
27 for lack of service, (Case No. A-22-851472-C, Doc. ID# 3), which the Court granted, (*id.*, Doc.
28 ID# 15).



1 As set forth in the briefing of the motion to dismiss in Case No. A-22-851472-C, Mr.
2 Phillips engaged in the following vexatious and harassing conduct:

3 1. The *first* communication *ever* between the undersigned and Mr. Phillips was on
4 May 12, 2022. The undersigned sent Mr. Phillips a short email advising that I had been retained
5 to represent attorney Wilson in the lawsuit he filed against her, indicated that his attempted
6 service (inserting Ms. Wilson’s name onto the court’s e-service list) was not proper service, and
7 offered to accept service on her behalf. *See* email (5/12/22 at 8:15 am), attached hereto as
8 **Exhibit 3**. Mr. Phillips’s response—his first communication ever to the undersigned—
9 was insightful into his vexatious nature. He said: “I am prepared to litigate this issue. I want to
10 litigate the issue. In fact, I intend to fight tooth ‘n nail on every single issue, so let’s begin this
11 match by litigating service of process.” *Id.*, email (5/12/22 at 9:13 am). Instead of eliminating a
12 service issue and moving on to the merits, Mr. Phillips preferred to litigate his novel (and clearly
13 improper service attempt, as evidenced by the court eventually dismissing his complaint for lack
14 of service), Mr. Phillips preferred to litigate the issue, which we did, and he lost (as detailed
15 below). In any event, Mr. Phillips’s comment that “I intend to fight tooth ‘n nail on every single
16 issue” is both relevant to the OSC and demonstrably true.

17 2. That same day, Mr. Phillips sent an email to the undersigned that included: “This
18 email will serve as an Exhibit in my first motion against YOU and your office.” *See id.* (email
19 (5/12/22 at 1:03 pm)). In other words, the very first day that Mr. Phillips and I met (albeit
20 electronically) he started his personal attacks against the undersigned and my law firm. But, this
21 wasn’t the first personal attack of the day from Mr. Phillips to the undersigned.

22 3. In an email two minutes earlier Mr. Phillips threatened a Rule 11 motion against
23 the undersigned for advocating legal positions that the Court adopted when dismissing Mr.
24 Phillips’s lawsuit against attorney Wilson. *See* email (5/12/22 at 1:01 pm), attached hereto as
25 **Exhibit 4**.

26 4. Still the same day—i.e., the day we communicated for the first time—Mr. Phillips
27 threatened in yet another email to seek a fee award against the undersigned and proclaimed that
28



1 “it will be easy to collect from you personally.” See email (5/12/22 at 1:48 pm), attached hereto
2 as **Exhibit 5**.

3 5. Less than two weeks later, Mr. Phillips threatened another Rule 11 motion against
4 the undersigned for, again, advocating legal positions the court adopted in dismissing the action.
5 See email (5/24/22 at 2:52 pm), attached hereto as **Exhibit 6**. In this email, Mr. Phillips told the
6 undersigned, in response to the legal analysis provided to him detailing his defective service and
7 advising that if he failed to properly serve Ms. Wilson then a motion to dismiss would be filed, he
8 overconfidently threatened: “File your 12(b)(5) motion—if you dare. Note: if you repeat the
9 same garbage in your letter, I will immediately file a Rule 11 motion—for failure to investigate—
10 and for making factual assertions that lack evidentiary support, [Rule 11(b)(3)]. Try me.” *Id.*
11 The Rule 12 motion to dismiss was filed and Mr. Phillips’s case was dismissed (the Court can
12 take judicial notice of the docket in that case (A-22-851472-C) that Mr. Phillips did not file a
13 Rule 11 motion and his threat was just harassment).

14 **2) In this case**

15 As noted above, the undersigned substituted into this case for attorney Wilson on February
16 28, 2024. Mr. Phillips’s threats that began in the prior case continued in this case:

17 1. Mr. Phillips sued Family Court Bill Henderson (more about this later and reflected
18 in the Ex. 2 chart). Mr. Phillips lamented to the undersigned that Judge Henderson’s actions in
19 this case “subject him to discipline and *another lawsuit*. Your complicity in *Henderson’s*
20 *lawlessness subjects you to liability as well*.” See email (7/22/24 at 8:59 am), attached hereto as
21 **Exhibit 7** (emphasis added).

22 2. On July 17, 2024, Judge Henderson issued a 13-page, self-authored order in this
23 case (Doc. ID# 546) that provided, *inter alia*, “a recommendation that the Attorney General take
24 steps to declare Defendant [Mr. Phillips] a vexatious litigant—not only as to filing of motions, but
25 far more importantly, the need for pre-clearance and authorization to file any further lawsuits
26 against the judiciary.” (*Id.* at 11:3-6). The Court (Judge Henderson) continued by noting that
27 Plaintiff [Ms. XXXXXX] is a non-stop victim to this onslaught, and has endured the stress and
28 horrors of this over the years and it needs to stop.” (*Id.* at 11:13-15). Accordingly, Judge



1 Henderson ordered “that a copy of this Order be conveyed to the Attorney General’s Office in the
2 hope that they may see fit to take action, to the extent it is in their authority to do so, to stop or at
3 least somewhat control the actions of what must be among the most obsessed and uncontrollable
4 of vexatious litigants.” (*Id.* at 11:20-23). Despite Judge Henderson’s command to convey a copy
5 of his order to the Attorney General’s Office (“AGO”), the order did not identify *who* was
6 commanded to convey the order. Since the only possibilities were Mr. Phillips or the undersigned
7 and since Mr. Phillips almost certainly was not going to do so without a clear order obligating
8 him to do so, on July 22, 2024, the undersigned conveyed the Order to the AGO, copying Mr.
9 Phillips and Department R’s (Judge Henderson’s) judicial executive assistant and law clerk.

10 That same day (which, for context, is also the same day as the prior incident), Mr. Phillips
11 responded to the undersigned: “You took it upon yourself to contact the A.G. because you have
12 the specific intent to *see more lawsuits filed*—so that you have more billing opportunities [note:
13 this is a strange accusation made by Mr. Phillips to the undersigned representing his ex-wife here
14 on a pro bono basis]. *Your wish will come true.*” See email (7/22/24 at 1:48 pm), attached hereto
15 as **Exhibit 8** (emphasis added).

16 3. On August 13, 2024, Mr. Phillips sent the undersigned an email that, while not a
17 personal threat against the undersigned, confirms his vexatious nature. In a lengthy email
18 regarding a then-recent ruling from Judge Henderson, Mr. Phillips stated: “In open court,
19 Henderson lamented that, if he were to declare Phillips vexatious, then that would cause Phillips
20 to *endlessly file papers (which is 100% true!)*.” See email (8/13/24 at 4:12 pm), attached hereto
21 as **Exhibit 9** (emphasis added). Mr. Phillips was also upset about an order Judge Henderson
22 entered months earlier (while attorney Wilson was representing Plaintiff), which included some
23 “heightened scrutiny” language that Mr. Phillips felt was inappropriate. His August 13
24 communication to the undersigned addressed such and then threatened: “Respectfully if you insist
25 on enforcing this ‘heightened scrutiny’ business [which was in a duly-entered court order], *I will*
26 *indeed sue (1) you, (2) Lewis-Roca [sic], (3) [REDACTED] (4) LACSN, (5) Dept. R., and (6) Clark*
27 *County.*” (*Id.*, emphasis added).



1 4. On October 11, 2024, Mr. Phillips sent the undersigned an email that is similar to
2 ones he sent to attorney Wilson: “Just so we’re clear, your motion for attorney’s fees is purely
3 academic.²¹ *You will never get a penny from Phillips. Not one thin dime. Let’s see how much of*
4 *your time we can waste.* :)” See email (10/11/24 at 9:55 am), attached hereto as **Exhibit 10**
5 (emphases added). Vexatious? Indeed.

6 5. On December 11, 2024, Mr. Phillips and the undersigned exchanged emails
7 regarding a Netflix documentary that Mr. Phillips apparently wants to create to expose how much
8 “the State takes” from child support payments. He wanted information from Plaintiff regarding
9 the net amount she receives from the child support payments made by Mr. Phillips. Plaintiff
10 declined to provide this information. Mr. Phillips did not like this answer and threatened to
11 contact Plaintiff directly (instead of through the undersigned counsel). I responded that he could
12 not do so and that if he had something he wanted Plaintiff to consider, he needed to convey it
13 through me. Mr. Phillips responded: “How do I know you’ll faithfully submit the terms?” and
14 asked “What if I email her and ‘cc’ you on the email.” I responded: “Nope. Part of what I view
15 my role is to buffer her from you If you have some offer you want her to consider that has a
16 nexus to the D case (as this appears to have), please send the complete offer to me. I assure you I
17 will forward it to her (unless you include silly comments, in which case I will summarize your
18 offer without the silly comments).” Mr. Phillips’s response was swift: “Who are YOU to decide
19 what’s silly. If I send a WRITTEN offer, it’s your duty to convey the WRITTEN offer. You don’t
20 get to editorialize my WRITTEN offer.” I disagreed, indicating I was only duty-bound to convey
21 the terms of the offer, not his commentary, and that “if you have an offer that sticks to the
22 business, I’ll likely just forward the email to her If you include silliness, then I’ll convey the
23 terms without the silliness.” Unsatisfied, Mr. Phillips threatened more motion practice: “I guess
24 I’ll file a motion for declaratory relief [L]et’s plumb the depths of the issue. I got nothing
25 else to do.” See all the foregoing emails compiled and attached hereto in **Exhibit 11**.

26
27 _____
28 ²¹ Mr. Phillips demonstrates an incredible lack of sophistication for a licensed attorney. There was no pending motion for attorney’s fees. Instead, there was a motion to reduce several prior awards of attorney’s fees to a formal judgment. This motion is also set to be heard on the same day as the OSC (January 30, 2025).



1 6. On the morning of December 24, 2024 (Christmas Eve day), Mr. Phillips asked the
2 undersigned a question about the sequencing of motions to be heard on January 30 and asked if
3 the undersigned would agree that Mr. Phillips’s motion to change venue could be heard first—
4 which motion has since been denied without hearing “as another means to harass and
5 unreasonably increase the costs of litigation to [Plaintiff]” and because the motion was “frivolous
6 and abusive and for the purpose of harassing and unreasonably increasing the costs of litigation,”
7 (Doc. ID# 586 at 5:7-8, 14-15)—and the undersigned had no opposition to his request. *See*
8 email exchanges (12/24/24), attached hereto as **Exhibit 12**. Mr. Phillips thanked the undersigned
9 and wished me a “Merry Christmas.” (*Id.*)

10 Earlier that same Christmas Eve morning, Mr. Phillips delivered his “gift” to the new
11 judge assigned to this case—a Request for Disclosures from Sitting Judge (Doc. ID# 579, which
12 has since been stricken as “procedurally defective” and “harassing and vexatious.” (*See* Minute
13 Order 1/6/25). Indeed, while Mr. Phillips was wishing the undersigned “Merry Christmas,” the
14 undersigned finalized and filed a “Response” to Mr. Phillips’s Request for Disclosures from
15 Sitting Judge, which Response noted the numerous irregularities associated with his Request for
16 Disclosures. (Doc. ID# 580). In response, Mr. Phillips sent the undersigned his “gift” for
17 Christmas Eve morning: “Let me reiterate, I can’t wait to sue (i) you, (ii) Lewis-Roca [sic] and
18 (iii) LACSN” and then he added “I officially withdraw my Christmas greeting,” which was sent a
19 mere 22 minutes earlier. *See* email (12/24/24 at 11:10 am), attached hereto as **Exhibit 13**
20 (emphasis added). This unhinged behavior is indicative of what Judge Henderson previously
21 referred to as Mr. Phillips’s potential “mental challenges and delusions.” (Order (7/17/24), Doc.
22 ID# 546, at 5:8-10).

23 *c. Mr. Phillips’s attacks on opposing counsel in other cases*

24 With the aid of the internet, it does not take long to find other frivolous cases filed by Mr.
25 Phillips. He filed one such case against Ms. Jessica Caruss in Eaton County, Michigan, on August
26 17, 2021, as Case No. 2021-000820-NZ. Mr. Phillips alleged that Ms. Caruss defamed him in
27 connection with matters occurring in this Nevada case. The case was dismissed when Mr.
28 Phillips failed to pay a \$5,000 surety bond. *See* Docket for Case No. 2021-000820-NZ, attached



1 hereto as **Exhibit IRO 1**,²² at Event Nos. 10 (on p. 13 of 17) and 28 (on p. 7 of 17). Mr. Phillips
2 appealed but the Michigan Court of Appeals affirmed with a single sentence ruling: “The motion
3 to affirm . . . is GRANTED for the reason that the question to be reviewed is so unsubstantial as
4 to need no argument or formal submission.” (See Order (10/17/22) in Case No. 360338, a copy
5 of which is attached hereto as **Exhibit IRO 9**, emphases added).

6 In the Michigan case, Mr. Phillips made the following threats to his opposing counsel, Ms.
7 Ina R. O’Briant:

8 1. “I am anxious to proceed against you for money sanctions.” Ms. O’Briant
9 responded: “[Y]our comment about being anxious to proceed against me for monetary sanctions
10 only further supports what you have already admitted, that you sue everyone! I have to be honest,
11 the pride in your voice when you made that admission to me on the phone last Friday, IN MY
12 OPINION, is quite appalling as a fellow Officer of the Court!!! IN MY OPINION, you are
13 nothing but a cyber bully and are attempting to bully me and my client” See emails (9/29/21
14 and 9/30/21) compiled in and attached hereto as **Exhibit IRO 11**.

15 2. A discovery dispute ensued regarding whether the defendant had destroyed
16 evidence or merely temporarily deactivated her Facebook page. Regardless, there was no
17 evidence or even accusation that defendant’s attorney, Ms. O’Briant, participated in any way
18 regarding her client’s Facebook page. Nevertheless, on Sunday, October 10, 2021, Mr. Phillips
19 emailed Ms. O’Briant: “Lady, I’m gonna sue you and your client for spoliation of evidence.
20 #SueHappy”. See email (10/10/21 at 6:43 pm, attached hereto as **Exhibit IRO 12**. The next day
21 Ms. O’Briant responded and hinted at a possible Bar complaint against him in California (this
22 becomes relevant as set forth in the next numbered item). Mr. Phillips responded in a most
23 vexing, condescending, and taunting way:

24 Lady, do you even practice law? You are the most under-educated attorney I have
25 ever dealt with in 30 years. Are all Michigan attorneys this ignorant. Or, are you
26 the colorful exception? . . . I can’t wait to sue you!! . . . Tell me more about State
27 Bar complaints! Get in line, sweetheart. I have had tons of complaints from
Merck, Pfizer, GSK, Monsanto, Dow, Bayer, Syngenta . . . but not one complaint
has ever stuck. So get in line with everybody else, and file your complaint with

28 ²² All exhibits with an “IRO” prefix are compiled within (attached to) the Declaration of Ina
R. O’Briant, which Declaration is attached hereto as **Exhibit 14**.



1 the State Bar—your complaint will be summarily dismissed. Please spin your
2 wheels! In the meantime, I’m gonna sue you, lady—and I’m gonna take your
3 money.

4 *Id.* (emails (10/10/21 and 10/11/21)) (emphasis added).

5 3. Three days after attorney O’Briant hinted that she was considering a Bar complaint
6 in California against Mr. Phillips (and Mr. Phillips taunted her to file it), he filed a Bar complaint
7 against her in Michigan as a preemptive strike and, no doubt, to strategically give himself the
8 ability to argue later that her Bar complaint against him (which was never filed) was tit-for-tat
9 retaliation for the Bar complaint he filed against her in Michigan. (*See* Ex. 14 (Decl. of Ina R.
10 O’Briant) at para. 16). The Michigan Attorney Grievance Commission concluded that “after
11 careful review by the staff, this matter is being closed . . . The facts as you have stated in your
12 Request for Investigation do not constitute professional misconduct.” *See* Michigan Attorney
13 Grievance Commission Letter (12/20/21) attached hereto as **Exhibit IRO 13**, which includes a
14 copy of the complaint Mr. Phillips filed against attorney O’Briant.

15 4. This subsection will end where it began. When the Eaton County Circuit Court
16 dismissed Mr. Phillips’s complaint against Ms. Caruss, a hearing was held. Comments from the
17 judge at that hearing are relevant here: “[T]here does appear to be a basis for an argument that this
18 lawsuit was filed for the purpose to harass, embarrass or injure the defendant. . . . I think there is a
19 strong likelihood that [Mr. Phillips] will not be successful” *See* Transcript (11/5/21) at
20 13:15-14:1, attached hereto as **Exhibit IRO 2**, emphasis added. The Court further found that,
21 despite Mr. Phillips being an attorney licensed in California, “[Mr. Phillips] has not followed any
22 of the court rules and yet the Court’s file is already this thick” (*Id.* at 14:5-7).

23 Mr. Phillips did not like the Michigan Court’s ruling and began to re-argue his position,
24 during which he likened the defendant (or defendant’s counsel, it is unclear from the transcript) to
25 “a paid assassin.” (*Id.* at 16:5). At this point, the judge abruptly stopped Mr. Phillips and warned
26 him that “I will start sanctioning you every time you say something like that.” The case was
27 dismissed and, as noted above, that dismissal decision was affirmed on appeal with a single
28 sentence: “The motion to affirm pursuant to [Michigan law] is GRANTED for the reason that the



1 question to be reviewed is so unsubstantial as to need no argument or formal submission.” Ex.
2 IRO 9.

3 ***d. Mr. Phillips’s attacks on the court***

4 This Court’s OSC references various lawsuits that Mr. Phillips filed against Eighth
5 Judicial District Court judges. (See OSC at 3:5-12). Notably, the OSC provides that “Todd has
6 sued five (5) different district court judges and two hearing masters [and many others].” (OSC at
7 3:5-7). However, during a hearing on November 17, 2022, before Hearing Master Jon Norheim
8 (who Mr. Phillips sued four months later), Mr. Phillips brazenly proclaimed: “You are violating
9 my rights [M]y intent [is] to seek relief against the Bench. . . . Your Honor, I have sued more
10 than 11 judges. I hold the record in the state of Nevada. . . . I have no problem suing jurists. (See
11 Case No. R-20-XXXXXX-R, Video Record (11/17/22) at 3:11:06-3:13:39 p.m.).

12 ***e. Conclusion***

13 The foregoing specific instances demonstrate “a mean, relentless and obsessive spirt” that
14 leads to the easy conclusion that Mr. Phillips is a vexatious litigant. See *Uranga v. Montroy*
15 *Supply Co. of Nevada*, 281 P.3d 1227 (Table), 2009 WL 1440762 (Nev. S. Ct. Jan. 9, 2009)
16 (unpublished disposition).²³

17 **2. Meritless Filings Demonstrate Vexatiousness**

18 Vexatiousness can also be shown by filings that are “without an arguable legal or factual
19 basis, or filed with the intent to harass.” See *Jones v. Eighth Jud. Dist. Ct.*, 130 Nev. 493, 500,
20 330 P.3d 475, 480 (2014).

21 As Mr. Phillips likes to remind everyone (including on every paper he files with the
22 Court), he is an attorney in California who has been practicing for 30 years. Indeed, he is a self-
23 proclaimed “‘expert’ in the law”²⁴ and “constitutional scholar.”²⁵ Even though he proceeds *pro*
24 *se*, he knows (or should know) the rules. Yet, he repeatedly files things that have no merit. The
25

26 ²³ Plaintiff does NOT cite to *Uranga* for any precedential or even persuasive value. Instead,
27 the undersigned found the phrase used therein (i.e., “mean, relentless and obsessive spirt”)
28 meaningful and applicable and therefore cites to *Uranga* to give appropriate attribution.

²⁴ Doc. ID# 143 (filed 12/23/19) at 5:6-7 (“After 27 years as a licensed attorney, it’s fair to
say Respondent is an ‘expert’ in the law.”).

²⁵ Ex. 9 at p. 3.



1 only logical explanation for such is that “retribution for a real or imagined slight or injustice is
2 [his] foremost priority.”²⁶ Stated differently, “[v]exatious conduct encompasses behavior during
3 legal proceedings that is designed to irritate, delay, or harm the opposing party, rather than to
4 legitimately advance a claim or defence.”²⁷

5 The Court can see from the chart attached hereto as Ex. 2, that Mr. Phillips has not been
6 successful in his cases against Nevada’s judicial officers. Indeed, his cases tend to get dismissed
7 early in the proceedings because they have no merit. Mr. Phillips’s vexatiousness is demonstrated
8 by filing lawsuits/appeals but then not paying the fees, or filing and then a short while later
9 dismissing them, or filing and otherwise failing to prosecute, i.e., he wants the effect of having
10 sued someone but not the cost because he only intends to impose anxiety on the person(s) sued
11 while avoiding the costs to himself. *See e.g., Dawson v. Green*, 2008 WL 4724270, *4 (D. Colo.
12 Oct. 24, 2007) (“the purpose behind requiring [plaintiffs] to pay their filing fees is to deter
13 frivolous litigation”); *In re. Hall*, 354 Fed. Appx. 842, 843 (5th Cir. 2009) (“failure to pay the
14 filing fees [is an indication the case should be] dismissed as frivolous.”); *Allen v. Engelage*, 2021
15 WL 5013611, *2 (S.D. Ill. Oct. 28, 2021) (plaintiff “made no attempt to pay his filing fees and
16 again seeks to engage in frivolous litigation”).

17 **D. Jordan’s Fourth Factor—Narrowly Tailored Order**

18 “Finally, the order must be narrowly drawn to address the specific problem encountered.
19 We note that when a litigant’s misuse of the legal system is pervasive, a restrictive order that
20 broadly restricts a litigant from filing any new actions without permission from the court might
21 nonetheless be narrowly drawn.” *Jordan*, 121 Nev. at 61-62, 110 P.3d at 43.

22 Plaintiff submits a proposed order attached hereto as **Exhibit 16**, which, for the reasons
23 set forth in the next section, Plaintiff suggests should be immediately entered in court at the
24 conclusion of the January 30 hearing if the Court finds Mr. Phillips is a vexatious litigant. The
25

26 ²⁶ Coffey, Brodsky, and Sams, “I’ll See You in Court...Again: Psychology and
27 *Hyperlitigious Litigants*, J. Am. Academy of Psych. & the Law (March 2017) (available at
<https://jaapl.org/content/45/1/62>, last accessed on Jan. 6, 2025).

28 ²⁷ J. Barwell, *Vexatious Conduct in Legal Proceedings: A Common Strategy and How to
Avoid the Trap* (Oct. 9, 2024) (available at <https://www.linkedin.com/pulse/vexatious-conduct-legal-proceedings-common-strategy-how-john-barwell-6rjue> (last accessed on Jan. 10, 2025).



1 proposed order is based in part on the “vexatious litigant” order the court entered in *Bacon v.*
2 *Laswell*, Case No. A557961, Eighth Judicial District Court (Apr. 28, 2008), which the Nevada
3 Supreme Court upheld as sufficient.²⁸ *See Bacon v. Laswell*, 124 Nev. 1450, 2008 WL 6124708
4 (Dec. 3, 2008) (unpublished disposition). Indeed, the attached proposed order is significantly
5 more detailed than the affirmed *Bacon* “vexatious litigant” order.

6 The proposed order (Ex. 16) is narrowly tailored in that it:

7 1. Applies only to Mr. Phillips’s interactions with the Eighth Judicial District Court,
8 including the Family Division. *See Jordan*, 121 Nev. at 66, 110 P.3d at 46 (“the order should be
9 modified to . . . apply only to the Eighth Judicial District Court.”).

10 2. Precludes Mr. Phillips from “filing any new actions unless the court first
11 determines that the proposed action is not frivolous or brought for an improper purpose and/or
12 implicates a fundamental right.” *Id.* More particularly, the proposed order requires Mr. Phillips
13 “to first obtain the presiding Judge’s permission” before filing any new actions in the Eighth
14 Judicial District Court. *See Jordan*, 121 Nev. at 66, 110 P.3d at 46.

15 3. Does not preclude Mr. Phillips from filing grievances or appeals at the
16 administrative level below the Eighth Judicial District Court, or any document necessary to
17 perfect or prosecute review by a higher court (e.g., appeal, writ petition, etc.).

18 **VI. IF THE COURT FINDS THAT MR. PHILLIPS IS A**
19 **VEXATIOUS LITIGANT, THE COURT SHOULD ENTER**
20 **AN ORDER IMMEDIATELY AT THE END OF THE HEARING**

21 One tactic of a vexatious litigant is to delay for the purpose of obstructing the
22 administration of justice. *See e.g., DeMartini v. DeMartini*, 2015 WL 13849104, at *1 (E.D. Cal.
23 June 18, 2015) (“Litigants who . . . cause unnecessary delay are vexatious litigants.”); *Payne v.*
24 *National Security Agency*, 2008 WL 11451902, at *1 n.2 (D. N.M. March 27, 2008) (a vexatious
25 litigant includes one who “delay[s] and obstruct[s] the administration of justice”). Mr. Phillips
26 has a history of initiating a repugnant tactic to delay, if not avoid, the entry of unfavorable rulings
27 against him. More specifically, when the court rules from the bench against Mr. Phillips,

28 ²⁸ A copy of the *Bacon* district court’s Order Declaring Percy Lavae Bacon a Vexatious
Litigant is attached hereto for the Court’s convenience as **Exhibit 15**.



1 especially if the court finds that Mr. Phillips abused the system by filing a frivolous motion, he
2 files an NRS 1.235 affidavit to disqualify the judge, which requires the judge “shall proceed no
3 further with the matter” until the chief judge resolves the disqualification issue. Such has the
4 short-term effect of delaying the entry of the unfavorable order and, in at least two instances the
5 undersigned is aware of, thwarted entry of the adverse order completely.

6 **A. Mr. Phillips thwarts entry of Judge Parlade’s scathing order**

7 On August 15, 2023, this Court (through Judge Mari D. Parlade, who was the judge
8 assigned to this case at that time) conducted a hearing on five motions filed by Mr. Phillips.
9 Judge Parlade denied all five motions and announced her ruling at the August 15, 2023, hearing.
10 Additionally, Judge Parlade announced during the hearing that she was awarding fees against Mr.
11 Phillips. As a result of the hearing, Judge Parlade issued a 12-page minute order that was very
12 unfavorable to Mr. Phillips. (See Court Minutes for August 15, 2023, “Minute Order (8/15/23)”).

13 Before getting into the substance of Judge Parlade’s 12-page minute order, some
14 procedural details are important. When the August 15, 2023, hearing began, Judge Parlade
15 disclosed that she (1) previously blocked a “T. Matthew Phillips” and “Matthew T. Phillips” from
16 a couple of her social media accounts when she was a judicial candidate, (2) had no
17 communications with this/these person(s), and (3) did not know if the Defendant here was the
18 identified individual. (See Order (9/5/23), Doc. ID# 449). Judge Parlade indicated she did not
19 harbor any bias or prejudice against the parties and that she was prepared to rule “competently,
20 fairly, impartially, without bias or prejudice in this matter; but that if the parties believed that her
21 impartiality might be reasonably questions, she would voluntarily recuse.” (*Id.* at 3:7-14).

22 Mr. Phillips waived disqualification of Judge Parlade stating “I’m happy to have Your
23 Honor rule on the matters. I don’t see any need for disqualification.” (*Id.* at 4:1-4). Judge
24 Parlade asked two more times during the hearing whether Mr. Phillips had any concern with her
25 proceeding and if the parties waived any appearance of impropriety. (*Id.* at 4:4-22). Again, for a
26 second and third time Mr. Phillips indicated he had no concern with Judge Parlade proceeding to
27 decide the matters and that he waived any appearance of impropriety. (*Id.*)
28



1 With Mr. Phillips’s clear and repeated waiver of any disqualification of Judge Parlade, she
2 next turned to the five motions and (1) resolved each of them against Mr. Phillips, and (2)
3 awarded fees against him as a sanction. More specifically, Judge Parlade

- 4 1. Denied Mr. Phillips’s first motion as a “meritless, baseless Motion.” (Minute Order
5 (8/15/23) at page 2.
- 6 2. Characterized Mr. Phillips’s arguments associated with another motion as “frivolous,
7 baseless, and wholly erroneous.” (*Id.* at page 4).
- 8 3. Judge Parlade also felt the need to tell Mr. Phillips that the Court “will not tolerate any
9 name calling in its courtroom” and that he could be held in contempt of court. (*Id.* at
10 page 7). This warning was prompted when the Court denied another of Mr. Phillips
11 five motions even though it was unopposed and Mr. Phillips made a comment the
12 Court did not appreciate. The Court noted that just because a motion was not opposed
13 did not relieve the Court of its obligation to determine whether it had merit and “in
14 this case the Court [does] not FIND the merits have value” (*Id.* at page 8).
- 15 4. Having resolved the motions, the Court turned to the issue of sanctions in the form of
16 attorney’s fees. If Mr. Phillips felt the hearing had gone poorly thus far, it was about
17 to get much worse. As Judge Parlade’s Minute Order (8/15/23), reflects:

18 The COURT FINDS, pursuant to NRS 18.010 2.(b), EDCR 7.60(b)(1),
19 and EDCR 7.60(b)(3), that Attorney’s Fees are warranted in that Mom
20 [plaintiff] and Ms. Wilson [plaintiff’s then pro bono counsel] have had
21 to defend against [Mr. Phillips’s] arguments which are **frivolous,**
22 **unnecessary and unwarranted.** Furthermore, pursuant to NRS 18.010
23 2. [Mr. Phillips] has **multiplied the proceedings** of this case as to
24 **increase costs unreasonably and vexatiously.** The Court FURTHER
25 FINDS that these were brought or maintained **without reasonable**
26 **ground or to harass Mom,** who is the prevailing Party in . . . these
27 Motions. [Mr. Phillips’s] claims **overburden limited judicial**
28 **resources hinder the timely resolution of meritorious claims and**
increase the costs of engaging in business and providing
professional services to the public.

(*Id.* at page 9, emphasis added).

- 26 5. The Court noted that the evidence submitted by Plaintiff (Ms. XXXXXXXX) in response to
27 Mr. Phillips’s motions demonstrated his “**vexatious, litigious, harassing** allegations
28 [and] threats.” (*Id.*, emphasis added).

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6. Indeed, the Court concluded that the submitted evidence

establish[es] that **[Mr. Phillips] is vexatious, vindictive and resilient on filing frivolous, baseless Motions and causes of actions against [the plaintiff], Ms. Wilson [i.e., plaintiff’s former pro bono counsel], and anyone who gets in his way of harassing [plaintiff] and Ms. Wilson, including Judicial Officers who have ruled against [Mr. Phillips]. This is further evidenced by [Mr. Phillips’s] history of filing baseless causes of action against [plaintiff], Ms. Wilson, and Judicial Officers that have ruled against [Mr. Phillips]**

(*Id.*, emphasis added).

7. The Court then made a finding consistent with the foregoing:

THE COURT FINDS that **[Mr. Phillips’s] Motions are frivolous, baseless, and without merit** and based upon the totality of the circumstances including **[Mr. Phillips’s] history of filing baseless claims against [plaintiff] and Ms. Wilson and any Judicial Officer**, the COURT FINDS that [Phillips’] filed the Motions against [plaintiff] **with the intention to harass and intimidate and burden [plaintiff], Ms. Wilson and this Court with baseless, frivolous, protractive litigation**, therefore, pursuant to NRS 18.010 2. (b) and EDCR 7.60, the Court has wide discretion as it pertains to making Orders where a Party has presented themselves in a manner, and presented frivolous unnecessary filings Motions and has unreasonably increased fees and cost[s] in this matter and has failed and/or refused to comply with Rules and Orders of this Court, therefore, the COURT FINDS pursuant to EDCR 7.60 and NRS 18.010 2., **[Mr. Phillips] has presented frivolous unnecessary filings, motions and unreasonably increased fees and cost[s] in this matter and has failed or refused to comply with the Rules and Orders of this Court** and is therefore liable to [plaintiff for an] AWARD of ATTORNEY’S [sic] FEES AND COST. . . .

(*Id.* at page 10, emphasis added).

8. Finally, the Court (Judge Parlade) reviewed Nevada law for determining when a party can be deemed a “vexatious litigant” and noted that, although a vexatious litigant motion had not been filed against Mr. Phillips, “the Court is willing to entertain one . . . because the Court does NOTE that **there is a record here establishing a Vexatious Litigant**”

(*Id.* at page 11, emphasis added).

Again, it is important to remember that *before* the Court made any rulings on August 15, 2023, Mr. Phillips represented *three times* that he had “no concerns” with Judge Parlade continuing as the judge and that he waived her recusal (for a more detailed recitation of the Court’s exchange with Mr. Phillips and his three-fold waiver of any disqualification of Judge



1 Parlade, see the attached proposed Order (Ex. 16) at pages 27-30). Mr. Phillips vexatiously
2 changed his tune *after* Judge Parlade announced her adverse rulings. Mr. Phillips launched his
3 standard assault against judges when things don't go his way—i.e., on August 29, 2023, he filed a
4 statutory affidavit seeking to disqualify Judge Parlade. (*See* Doc. ID# 445). As Mr. Phillips
5 knows from much experience, once he filed that NRS 1.235 affidavit, Judge Parlade was
6 precluded from entering a formal order (or taking any other action) until the disqualification issue
7 was resolved by the chief judge. (NRS 1.235(6)).

8 One week after Mr. Phillips filed his affidavit seeking to disqualify Judge Parlade, she
9 issued an Order stepping aside from this case (Doc. ID# 449), and this case was then randomly
10 assigned to Judge Regina McConnell (Doc. ID# 451), who Mr. Phillips promptly sought to
11 disqualify (Doc. ID# 454). Two days later, Judge McConnell issued an order, which “vehemently
12 denie[d] his allegations, as they are neither based in truth or fact,” but she nonetheless stepped
13 aside. (Doc. ID# 456 at 1:20). In her order of recusal, Judge McConnell expressly found “that
14 [Mr. Phillips] has a pattern of making repeated untrue allegations, multiple public accusations and
15 threats against Judicial Officers.” (*Id.* at 2:15-21). This case was accordingly reassigned to Judge
16 Bill Henderson, who Mr. Phillips *unsuccessfully* sought to disqualify three times (four times if his
17 unsuccessful Motion to Reconsider is counted), but Judge Henderson eventually voluntarily
18 recused himself (more on this later).

19 The important thing for present purposes is that Mr. Phillips’s maneuvers successfully
20 avoided a formal entry of an order memorializing Judge Parlade’s adverse rulings from the
21 August 15, 2023 hearing. Unfortunately, Judge Parlade did not have a crystal ball to know that
22 she needed to enter a formal order before Mr. Phillips filed his NRS 1.235 affidavit to disqualify
23 her.

24 **B. Mr. Phillips thwarts entry of a dismissal order in Case No. A-21-829038-C**

25 On February 7, 2021, Mr. Phillips filed an action alleging defamation against Las Vegas
26 attorney Jennifer Abrams, her firm, and two of Ms. Abrams’s employees. *See* Docket in Case No.
27
28



1 A-21-829038-C.²⁹ Defendants in that case filed special motions to dismiss (anti-SLAPP motions
2 to dismiss) the Second Amended Complaint. (*See* Doc. ID## 50, 51). The motions were set by
3 the Court to be heard on August 19, 2021. (Doc. ID# 52).

4 At the hearing on the special motions to dismiss, Judge Williams recused himself “to
5 avoid appearance of impropriety and bias.” (*See* Minute Order (8/26/21) in Case A-21-829038-
6 C). The case was assigned to Judge Joanna Kishner, who similarly recused herself on August 31,
7 2021. (*See* Minute Order (8/31/21)). The case was assigned to Judge Ron Israel, (Doc. ID# 64),
8 who recused himself two days later (Minute Order (9/3/21)). The case was then assigned to
9 Judge Susan Johnson. (Doc. ID# 65). A few days later, Mr. Phillips filed his motion to disqualify
10 Judge Johnson. (Doc. ID# 75). Mr. Phillips alleged that Judge Johnson must be disqualified from
11 hearing the case because the Judge posed for a photograph at a public event with someone who
12 Mr. Phillips alleged would be a witness in the case. The motion is full of salacious accusations.
13 Judge Johnson did not file a response to Mr. Phillips’s disqualification affidavit and accordingly
14 then-Chief Judge Linda Bell ordered the case to be randomly reassigned. (Case A-21-829038-C,
15 Minute Order (11/4/21)). The case was assigned to Judge Erika Ballou. (*Id.*, Doc. ID# 97). Due
16 to a peremptory challenge from one of the defendants, the case was assigned to Judge Nadia
17 Krall, (*id.*, Doc. ID# 101), who promptly recused herself (*id.*, Minute Order 12/7/21).
18 Accordingly, the case was assigned to Judge Adrianna Escobar, (*id.*, Doc. ID# 102), who recused
19 herself (*id.*, Minute Order 12/30/21)). The case was then assigned to Judge Eric Johnson. (*id.*,
20 Doc. ID# 113). Mr. Phillips filed a motion to disqualify Judge Johnson “simply because he is
21 now married to Judge *Susan* Johnson,” who had recused herself. (*Id.*, Doc. ID# 116 at 4:9-10,
22 emphasis in original). Chief Judge Bell ordered the case reassigned. (*Id.*, Minute Order
23 (1/11/22)). The case was assigned to Judge Gloria Sturman. (*Id.*, Doc. ID# 121). Based on a
24

25 ²⁹ The court “may take judicial notice of court filings and other matters of public record.”
26 *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006); *see Mack v.*
27 *Estate of Mack*, 125 Nev. 80, 92 (2009) (court may take judicial notice of other state court
28 proceedings when there is a close relationship between the two cases). Additionally, a court may
take judicial notice of facts that are “[c]apable of accurate and ready determination by resort to
sources [e.g., court records] whose accuracy cannot reasonably be questioned.” NRS
47.130(2)(b). Plaintiff requests that this Court take judicial notice of the dockets and filings in
the cases referenced in this Response where Mr. Phillips was/is a party. NRS 47.150(2).



1 series of events and motions, the matter was again before Chief Judge Bell who entered a Minute
2 Order noting that “[d]ue to the number of recusal and/or disqualification requests in this matter,
3 this case is being referred to the Nevada Supreme Court for potential reassignment to the Senior
4 Judge Program.” (*Id.*, Minute Order (3/11/22)). On February 6, 2023, the Nevada Supreme
5 Court issued a “Memorandum of Temporary Assignment” whereby the case was assigned to
6 Senior Justice Michael Cherry. (*Id.*, Doc. ID## 154, 156).

7 It appears from the docket in this case (A-21-829038-C) that a hearing was finally held
8 (by Senior Justice Cherry) on the defendants’ anti-SLAPP special motions to dismiss on April 14,
9 2023—i.e., more than 1.5 years after the motions to dismiss were filed. (*Id.*, Doc. ID# 171). The
10 hearing lasted almost two hours, at the conclusion of which Justice Cherry announced from the
11 bench that “I’m going to grant the motion to dismiss on the basis of Anti-SLAPP as to
12 [Defendants] Schoen and DiCiero. As to [Defendant] Abram, I’m granting not only the SLAPP
13 motion but also the summary judgment since it’s unopposed.” (*Id.* at 57:8-11). **In short, after**
14 **more than 1.5 years languishing on the Court’s docket, the case was dismissed (orally) as to**
15 **all defendants.** Mr. Phillips expressed his disagreement with Justice Cherry’s oral ruling, to
16 which Justice Cherry responded: “Good. . . . That’s what appeals are for.” (*Id.* at 58:24-59:1).
17 Indeed, Mr. Phillips continued to argue his position even *after* Justice Cherry announced his
18 ruling. (*Id.* at 60:11-23). Justice Cherry thanked Mr. Phillips and ended the hearing.

19 Thereafter, **but before the formal dismissal order was entered**, Mr. Phillips filed
20 another NRS 1.235 affidavit to, this time, disqualify Senior Justice Cherry, (*Id.*, Doc. ID# 162),
21 effectively precluding entry of the formal order until the Chief Judge resolved the disqualification
22 request. Mr. Phillips also filed a motion to change venue “to a court outside this County” or to a
23 judge that could satisfy four conditions unilaterally imposed by Mr. Phillips.³⁰ (*Id.*, Doc. ID# 166
24 at 2:7). These wranglings were not sufficient for Mr. Phillips who also filed yet another motion to
25 disqualify Justice Cherry, (*id.*, Doc. ID# 188), and, remarkably, still another request to disqualify
26 Justice Cherry, (*id.*, Doc. ID# 192). By this time, former Chief Judge Bell had been elected to a
27

28 ³⁰ Of course, it will not be lost on the current judge in this case that Mr. Phillips also had a similar motion to change venue pending here.



1 seat on the Nevada Supreme Court and Judge Jerry Wiese assumed his role as Chief Judge. Chief
2 Judge Wiese found that Justice Cherry did not file anything in response to Mr. Phillips’s
3 disqualification affidavit and therefore ordered the matter reassigned and stayed until a new
4 senior judge was appointed and lifted the stay. (*Id.*, Doc. ID# 194). Accordingly, the Nevada
5 Supreme Court entered its Memorandum of Temporary Assignment assigning the case to Senior
6 Judge James Bixler. (*Id.*, Doc. ID# 196, 198). This is the last entry (dated 6/20/24) on the docket
7 of Case No. A-21-829038-C.

8 Bottom line, although Justice Cherry orally announced his ruling to dismiss the case at the
9 hearing on April 14, 2023, a formal order still has not been entered because of Mr. Phillips’s
10 effort to recuse the judge before a formal order was entered. This is remarkably similar to what
11 Mr. Phillips did as it relates to the Judge Parlade incident in this case. Plaintiff fears that if given
12 the chance, Mr. Phillips will employ this tactic again here if the Court orally (but only orally)
13 finds Mr. Phillips a vexatious litigant at the January 30 hearing.

14 **C. If the Court finds that Mr. Phillips is a “vexatious litigant,” the Court should**
15 **enter a formal order at the end of the hearing to preclude Mr. Phillips from**
16 **depriving this Court jurisdiction to enter a formal order deeming him a**
“vexatious litigant”

17 Based on Mr. Phillips’s history of filing disqualification affidavits and thereby depriving
18 the Court of jurisdiction to do anything (pursuant to NRS 1.235(6)), the Court should enter an
19 order at the hearing contemporaneous with its ruling if the Court finds and concludes that Mr.
20 Phillips is a “vexatious litigant.” To assist the Court to this end, the undersigned hereby submits a
21 proposed order (Ex. 16) that the Court can use or modify (or disregard) as it deems best.

22 Given the length of the proposed order (Ex. 16) and the Court’s potential desire to modify
23 such, Plaintiff will submit a Word version of the proposed order to Department X
24 contemporaneous with the filing of this Response and will give notice of such to all parties.

25 **VII. CONCLUSION**

26 Vexatious litigants are the Don Quixote’s of the legal system who do battle, lots of battle,
27 against imagined giant foes, which, in reality, are harmless windmills. Mr. Phillips has been
28 allowed to threaten, sue, harass, vex, and annoy opponents, opposing counsel, and even the court



1 long enough. To him, a trained lawyer who can use (and abuse) the legal system without the need
2 to pay an attorney to represent him through his numerous legal escapades, the “consequences of
3 litigation are . . . trivial . . . , whereas retribution for a real or imagined slight or injustice is [his]
4 foremost priority.”³¹

5 As demonstrated herein, Mr. Phillips is without a doubt a vexatious litigant in every
6 generic and *Jordan* sense. The Court should so find through the *immediate* entry of a vexatious-
7 litigant order, a suggestion of which is attached hereto as Exhibit 16. If not entered immediately,
8 Mr. Phillips may resort to his tactic of filing an NRS 1.235 affidavit to disqualify the judge and
9 thereby deprive her of jurisdiction to take any further action in this case, including entry of the
10 order, albeit such will likely only delay the inevitable.

11 For all the reasons noted by this Court in its OSC and as set forth herein, Mr. Phillips
12 should be deemed a vexatious litigant, with attendant restrictions. Such will not only bring relief
13 and peace to Plaintiff, but to countless others who have emotionally and financially suffered at the
14 hands of Mr. Phillips. The Eighth Judicial District Court will be able to better serve the public
15 and resolve their disputes. Perhaps (just perhaps) Mr. Phillips can find better and more
16 productive things to do with his time if he can no longer engage in vexatious litigation—we can
17 only hope.

18 DATED this 21st day of January, 2025.

19 WOMBLE BOND DICKINSON (US) LLP

20
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27 In conjunction with and by appointment from

28 The Legal Aid Center of Southern Nevada

Pro Bono Project

31 Coffey, Brodsky, and Sams, “I’ll See You in Court...Again: Psychology and
Hyperlitigious Litigants, J. Am. Academy of Psych. & the Law (March 2017) (available at
<https://jaapl.org/content/45/1/62>, last accessed on Jan. 6, 2025).

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