

1 ORDR

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 [REDACTED]

Case No: D-18 [REDACTED]-D
Dept. No: X

7 Plaintiff,

8 vs.

9 TODD MATTHEW PHILLIPS,

10 Defendant.

11 **ORDER GRANTING IN PART DEFENDANT'S MARCH 5, 2025 AMENDED MOTION**
12 **TO RECONSIDER AND/OR CLARIFY**
13 **AND**
14 **VACATING APRIL 22, 2025 HEARING**

15 This matter was scheduled for April 22, 2025 10:00 AM hearing on Defendant Todd
16 (Todd) Matthew Phillips's Amended Motion to Reconsider and/or Clarify February 20, 2025
17 Hearing; and Plaintiff [REDACTED] Phillips' March 18, 2025 Response. Todd represents
18 himself in proper person. [REDACTED] is represented by her pro bono attorney, Dan R. Waite,
19 Womble Bond Dickinson LLP.

20 This Court exercises authority granted it pursuant to NRCP 1 and EDCR 1.10 which
21 provide district court dockets shall be administered to secure speedy, efficient and inexpensive
22 determinations in every action. This Court exercises discretion granted it pursuant to EDCR
23 5.702(a) to decide this matter at any time and without oral argument. Accordingly, the Court
24 ORDERS the April 22, 2025 10:00 AM hearing VACATED.
25

26 //

27
28 //

1 **Current Relevant Orders ***

2 This is a post-judgment divorce proceeding involving NO minor children. There is one
3 (1) adult child of the marriage: [REDACTED] born [REDACTED] 2005. On February 4,
4 2025, following Show Cause evidentiary hearing, Todd was deemed a vexatious litigant and
5 ordered to first seek leave of the Chief Judge of the District Court and/or the judicial officer
6 assigned to a specific case before being permitted to file any new litigation.¹ If Todd wished to
7 file new litigation in the District Court, including the Family Division, he was ordered to first
8 provide the Chief Judge's judicial assistant with (1) an unfiled copy of the pleading (e.g.,
9 complaint, petition, etc.) he wished to file; and (2) a copy of the February 4, 2025 Order.² The
10 Chief Judge or assigned judicial officer review Todd's submitted pleading to determine whether
11 it is frivolous, repetitive of a prior action or claim, or brought for an improper purpose and/or
12 implicates a fundamental right.³ If the Chief Judge or judicial officer determined the proposed
13 pleading meritorious, Todd was ordered permitted to file the claim in the District Court.⁴ If the
14 Chief Judge or judicial officer rejected the proposed pleading as not meritorious, Todd was
15 ordered notified in writing and to not attempt filing of the rejected pleading.⁵ Todd's vexatious
16
17
18
19
20

21
22 *The Court restates only the relevant orders and procedural history of the case necessary for this order.

23 ¹ See Order (Order) Deeming Todd Matthew Phillips a Vexatious Litigant at p.44, ll.13-17 (filed
24 February 4, 2025)(following January 30, 2025 Show Cause evidentiary hearing date).

25 ² Id. at pp.45, ll.18-21.

26 ³ Id. at p.44, ll.22 and pp.45, ll.1-4.

27 ⁴ Id. at p.45, ll.5-9.

28 ⁵ Id. at p.45, ll.9-13.

1 litigant status in no way affects his ability to file: (1) any grievances or appeals at administrative
2 proceedings below the Eighth Judicial District Court with an appeals or hearing officer; or (2)
3 any document necessary to perfect or prosecute review by a higher Court (e.g., appeal, writ
4 petition, etc.).⁶

5
6 On February 19, 2025 Todd properly filed Respondent's Motion to Reconsider and/or
7 Clarify the Court Ruling, (Feb.4, 2025) [EDCR, Rule 2.24(b)] (sic) upon permission of this
8 judicial officer.⁷ On March 5, 2025 Todd properly filed Respondent's Amended Motion to
9 Reconsider and/or Clarify the Court Ruling, (Feb.4, 2025) [EDCR, Rule 2.24(b)] (sic) upon
10 permission the Court.⁸ On March 5, 2025, Todd filed a Notice of Appeal. On March 18, 2025
11 XXXXXX filed her Response to the Amended Motion to Reconsider et al.

12 **STANDARD OF REVIEW: TIMELINESS OF MOTION FOR RECONSIDERATION**

13
14 On February 19, 2025, Todd filed his Motion for Reconsideration fifteen (15) days from
15 service of the February 4, 2025 Notice of Entry of Order Deeming Todd Matthew Phillips a
16 Vexatious Litigant. EDCR 5.516(a) requires a motion for reconsideration be filed "within 14
17 calendar days after service of notice of entry of order". The Court FINDS Todd did not submit
18 his proposed motion to the judicial officer for review and permission for filing until 10:10 PM on
19 the fourteenth day after service of the Notice of Entry of Order. Todd foreclosed the possibility
20
21

22
23
24 ⁶ Id. at p.45, ll.15-19.]

25 ⁷ The Court NOTES Todd emailed his proposed Notice of Motion and Motion to Reconsider
26 and/or Clarify the Court Ruling, (Feb.4, 2025), EDCR, 2.24(b)] (sic) to the Department X law
27 clerk on February 18, 2025 at 10:10 PM with an email seeking permission to file the document.
On February 19, 2025, the Court granted Todd permission to file the motion.

28 ⁸ The Court NOTES Todd amended the motion to add a hearing designation on the face of the
motion.

1 of timely filing his motion under the rule by waiting until after the courts closed to submit his
2 motion for review. In this case, the Court FINDS Todd did not timely filed his Motion for
3 Reconsideration.

4 **STANDARD OF REVIEW: SUBSTANTIVE MERITS**

5
6 Motions for reconsideration are not procedural vehicles to express discontent or to obtain
7 a ‘second bite at the apple’. Though, often without consideration for the standard of review for
8 which motions for reconsideration are based, such motions are, with increasing frequency, filed.

9 Motions for reconsideration must request a substantive alteration of a judgment and “not
10 merely the correction of a clerical error, or relief of a type wholly collateral to the judgment,”
11 and may include newly discovered or previously unavailable evidence.⁹ “A district court may
12 reconsider a previously decided issue if substantially different evidence is subsequently
13 introduced or the decision is clearly erroneous.”¹⁰ The Nevada Supreme Court has concluded a
14 decision is “clearly erroneous” where: 1) there exist material errors in the proceedings or a
15 mistake in law; 2) the judicial order is unsupported by any substantial evidence; or 3) the judicial
16 order is against the clear weight of evidence.¹¹ In addition, United States v. United States
17
18
19
20
21

22 ⁹ See AA Primo Builders, LLC v. Washington, 126 Nev. 578, 585-89, 245 P.3d 1190, 1195-97
23 (2010) and Saticoy Bay, LLC, Series 34 Innisbrook v. Thornburg Mortgage Securities Trust
24 2007-3, 138 Nev. 335, 343-44, 510 P.3d 139, 146 (2022).

25 ¹⁰ Masonry & Tile Contractors Ass’n of S. Nev. v. Jolley, Urga & Wirth Ltd., 113 Nev. 737, 741,
26 941 P.2d 486, 489 (1997); see also Moore v. City of Las Vegas, 92 Nev. 402, 405, 551 P.2d 244,
27 246 (1976)(“Only in very instances in which new issues of fact or law are raised supporting a
28 ruling contrary to the ruling already reached should a motion for rehearing be granted.”).

¹¹ Russell v. Thompson, 96 Nev. 830, 834, 619 P.2d 537, 539 (1980). See also 9 Wright and
Miller, *Federal Practice and Procedures*; Civil Sec. 2605, and cases cited therein.

1 Gypsum Co.,¹² states: “A finding is ‘clearly erroneous’ when although there is evidence to
2 support it, the reviewing court on the entire evidence is left with the definite and firm conviction
3 that a mistake has been committed.”

4
5 To meet the “substantially different evidence” prong, it is insufficient to merely raise
6 additional facts or law; rather, the new facts or law must “support[] a ruling contrary to the
7 ruling already reached.”¹³ To meet the “clearly erroneous” prong, the district court must be “left
8 with [a] definite and firm conviction that a mistake has been committed.”¹⁴

9 **ANALYSIS AND ORDER**

10
11 The Court FINDS Todd relied on EDCR 2.24(b) in support of his request for
12 reconsideration. The Court FINDS the rules in Part II of the Eighth Judicial District Court Rules
13 govern all civil actions, all contested proceedings under Titles 12 and 13 of the Nevada Revised
14 Code while Part V governs all family division matters.¹⁵ The Court FINDS this is a Family
15 Division matter. Therefore, the Court FINDS EDCR 2.24(b) is not the applicable rule.

16
17 The Court FINDS that, *even if* Todd cited the applicable rule for reconsideration and
18 timely filed his request for reconsideration, Todd did not allege newly discovered evidence, that
19 the February 4, 2025 Order (Order) Deeming Todd Matthew Phillips a Vexatious Litigant is
20 clearly erroneous, or that there are material errors in the proceedings or a mistake in the law or
21

22
23
24 ¹² 333 U.S. 364, 395, 68 S.Ct. 525, 542 (1948).

25 ¹³ Moore v. City of Las Vegas, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976).

26 ¹⁴ Unionamerica Mortg. & Equity Tr. v. McDonald, 97 Nev. 210, 211-12, 626 P.2d 1272, 1273
27 (1981) (quoting United States v. Gypsum Co., 333 U.S. 364, 395 (1948)).

28 ¹⁵ EDCR 2.201

1 against the clear weight of the evidence.¹⁶ For the foregoing reasons, the Court DENIES Todd's
2 motion (as amended) for reconsideration.

3 **Todd's Request for Clarification Regarding New Litigation**

4
5 Next, Todd requested clarification of pre-filing restriction on "new litigation" related to
6 what documents constitute new litigation. [REDACTED] opposed Todd's request on the basis the order
7 specified pleadings, meaning only complaints and petitions. In a footnote, [REDACTED] suggested
8 Todd should be permitted to file as many motions as he chooses, regardless of the legal merit,
9 and [REDACTED] counsel could be notified by chambers whether the motion would proceed. "Our
10 supreme court has held that a provision "is ambiguous if it is capable of more than one
11 reasonable interpretation."¹⁷ The Court FINDS the Order is sufficiently unclear as to be
12 confusing. Accordingly, the Court GRANTS Todd's request to clarify new litigation as
13 follows: new litigation is clarified to mean filing a new court case against a defendant¹⁸ and/or
14 filing a motion or other document that acts as a motion seeking relief in this case or in the
15 related child support case R-20-[REDACTED]-R.

18 **New Cases**

19 If Todd wishes to initiate a new case against [REDACTED] or any other Defendant(s) in a
20 District Court, including a Family Division or its other specialized divisions, he SHALL first
21
22
23

24 ¹⁶ Masonry & Tile Contractors Ass'n of S. Nev. v. Jolley, Urga & Wirth Ltd., 113 Nev. 737, 741,
25 941 P.2d 486, 489 (1997).

26 ¹⁷ See generally In re Candelaria, 126 Nev. 408, 411, 245 P.3d 518, 520 (2010)(discussing
27 ambiguity of *statutory* language).

28 ¹⁸ See NRCP 3, Commencing an Action, which provides: "A civil action is commenced by filing
a complaint with the Court.")

1 provide the law clerk of the Chief Judge with: (1) an unfiled copy of the pleading (complaint,
2 petition, etc. which commences an action) that he wishes to file; and (2) a copy of this Order.
3 The Chief Judge or a judicial officer of the Chief Judge's determination will review the
4 pleadings submitted by Todd to determine whether the pleading is frivolous, repetitive of
5 another action or claim previously asserted, or brought for an improper purpose and/or
6 implicates a fundamental right; and if the Chief Judge or judicial officer determines the
7 proposed pleading is meritorious, Todd shall be permitted to file the claim in a District Court.
8 If the Chief Judge or judicial officer rejects the proposed pleading as not meritorious, Todd shall
9 be notified in writing and shall not attempt to file the rejected pleading.
10
11

12 **Filings in D-18-XXXXXX-D and R-20-XXXXXX-R**

13 Todd shall be enjoined from filing any new motions, (including but not limited to
14 "requests", "notices", and "affidavits", etc.) in this case or in the related case R-20-XXXXXX-R
15 that are not legally cognizable, are frivolous, or intended to increase judicial resources and the
16 costs of litigation. In order to enforce this injunction, the following steps SHALL apply:
17

- 18 1. Any motions or other filings requesting relief from the Court to be filed by Todd in
19 proper person in this case or in case R-20-XXXXXX-R SHALL be first sent for review to
20 the judicial officer's chambers for filing;
- 21 2. If, upon review of Todd's motion or other filings requesting relief from the Court, the
22 judicial officer determines Todd's motion or other filing requesting relief from the Court
23 is legally cognizable and supported by sufficient factual allegations, the judicial officer
24 SHALL send Todd's motion or other filing requesting relief from the Court to the Clerk
25 of the Court for filing without further review for merit;
26
- 27 3. If Todd's motion or other filing requesting relief from the Court is meritless or is not
28

DENIES Todd's request to clarify "meritorious".

Todd's Request for New Relief of Written Court Denials

Todd requested the Court amend the order to provide the Chief Judge or judicial officer must provide a legal basis in writing for rejecting any proposed pleading or paper he submits for filing. XXXXXX did not oppose Todd's request.

EDCR 5.503(a) requires that every motion shall include points and authorities supporting each position asserted, and the absence of such may be construed as an admission the filing lacks merit and as cause for denial; "[p]oints and authorities lacking citation to relevant authority, or consisting of bare citations to statutes, rules, or case authority, do not comply with this rule." The Court FINDS Todd did not provide points and authorities in support of his requests. Therefore, the Court DENIES Todd's new request as legally deficient pursuant to EDCR 5.503(a).

Todd's Request for New Relief of Appellate Review of Denials

Todd requested an order to file an appeal or writ of mandamus to compel the Court accept his proposed filing. XXXXXX did not oppose Todd's request.

EDCR 5.503(a) requires that every motion shall include points and authorities supporting each position asserted, and the absence of such may be construed as an admission the filing lacks merit and as cause for denial; "[p]oints and authorities lacking citation to relevant authority, or consisting of bare citations to statutes, rules, or case authority, do not comply with this rule." The Court FINDS Todd did not provide points and authorities in support of his requests. Therefore, the Court DENIES Todd's request as legally deficient pursuant to EDCR 5.503(a). Regardless, this Court FINDS it does not have authority to grant to deny Todd's right to seek appellate relief.

1 **Accordingly, THE COURT FINDS and ORDERS as follows:**

- 2 1. The Court DENIES Todd's motion for reconsideration.
- 3 2. The Court GRANTS Todd's request to clarify new litigation to mean filing a new court
- 4 case against a defendant; or filing a motion or other document that acts as a motion
- 5 seeking relief in this case or in the related child support case R-20-XXXXXX-R.
- 6 3. The Court ORDERS that, if Todd wishes to initiate a new case against XX or any
- 7 other Defendant(s) in a District Court, including a Family Division or other specialized
- 8 division, he SHALL first provide the law clerk of the Chief Judge with: (1) an unfiled
- 9 copy of the pleading (complaint, petition, etc.) he wishes to file; and (2) a copy of the
- 10 February 4, 2025 Order. The Chief Judge or a judicial officer of the Chief Judge's
- 11 determination will review the pleadings submitted by Todd to determine whether the
- 12 pleading is frivolous, repetitive of another action or claim previously asserted, or brought
- 13 for an improper purpose and/or implicates a fundamental right; and if the Chief Judge or
- 14 judicial officer determines the proposed pleading is meritorious, Todd shall be permitted
- 15 to file the claim in a District Court. If the Chief Judge or judicial officer rejects the
- 16 proposed pleading as not meritorious, Todd shall be notified in writing and shall not
- 17 attempt to file the rejected pleading.
- 18 4. The Court ORDERS Todd shall be enjoined from filing any new motions, (including but
- 19 not limited to "requests", "notices", and "affidavits", etc.) in this case or in the related
- 20 case R-20-XXXXXX-R that are not legally cognizable, are frivolous, or intended to increase
- 21 the judicial resources and the cost of litigation. In order to enforce this injunction, the
- 22 following steps SHALL be followed:
- 23 a. Any motions or other filings requesting relief from the Court to be filed by Todd in
- 24
- 25
- 26
- 27
- 28

- proper person in this case or in case R-20-XXXXXX R SHALL be first sent for review to the assigned judicial officer's Chambers;
- b. If, upon review of Todd's motion or other filings requesting relief from the Court, the assigned judicial officer determines Todd's motion or other filing requesting relief from the Court are legally cognizable and supported by sufficient factual allegations, the assigned judicial officer SHALL send Todd's motion or other filing requesting relief from the Court to the Clerk of the Court for filing without further review for merit;
- c. If Todd's motion or other filing requesting relief from the Court is meritless or is not legally cognizable, Todd's motion or other filing requesting relief from the Court SHALL be returned to him unfiled;
- d. If Todd files any motion or any other filing requesting relief from the Court in proper person without obtaining prior approval from the assigned judicial officer, that motion or other filing requesting relief from the Court SHALL be STRICKEN from the record and no further action need by taken by the Court or Petitioner.
- e. If Todd is represented by counsel, no review is necessary and the Clerk of the Court SHALL allow Todd to file motions or other filings requesting relief from the Court.
5. The Court DENIES Todd's request to clarify the term "meritorious".
6. The Court DENIES Todd's new request for written court orders related to denials of pleadings determined legally deficient.
7. The Court DENIES Todd's new request for an order granting or denying him permission to seek appellate relief. The Court FINDS it does not have authority to grant to deny Todd's right to seek appellate relief.

- 1 8. The Court ORDERS the April 22, 2025 10:00 AM hearing VACATED.
- 2 9. The Court ORDERS this matter returned to CLOSED status pending decision on appeal.
- 3
- 4

5 Dated this 17th day of April, 2025

6 
7 **HEIDI ALMASE**
8 **District Court Judge**

9 **69C 5DD C8D5 F843**
10 **Heidi Almase**
11 **District Court Judge**

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28