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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

SEALED-UNKNOWN, Plaintiff, vs. SEALED-UNKNOWN, Defendant.	CASE NO: D-21-XXXXXX-P DEPT NO: D NO HEARING REQUESTED

MOTION TO UNSEAL CASE FILE

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN FOURTEEN (14) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN FOURTEEN (14) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

I. INTRODUCTION

COMES NOW, Our Nevada Judges, Inc., a Nevada non-profit corporation, ("ONJ"), by and through the undersigned counsel, Lorien K. Cole, Esq. of the Cole

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Family Law Firm, Staff Attorney for ONJ, and hereby files the following *Motion to Unseal Case File*.

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

MEMORANDUM OF POINTS AND AUTHORITIES

II. STATEMENT OF FACTS

District Court Judge Jasmin Lilly-Spells has allowed ONJ to provide comprehensive electronic coverage of criminal proceedings brought against one of the parties to this paternity action.[1] The Defendant, [redacted] appeared for arraignment, which was filmed and published. Consistent with ONJ's serial and clustered case coverage models, limited access to this matter is requested pursuant to SCRCR 4(2).[2]

ONJ is primarily interested in deploying high-definition cameras. Problematically, paternity cases are so extensively sealed that even the existence of the cases, as well as the hearing dates and times, are rendered invisible. This unconstitutionally interferes with ONJ's presumptive right of access. This *Motion* follows.

[1] Exhibit 1: *Order* filed on July 22, 2025 in Case no. C-25-392832-1 signed by District Court Judge Jasmin Lilly-Spells granting media access.

[2] SCRCR 4(2) allows a non-party news reporter to file a *Motion to Unseal.*

III. LEGAL ARGUMENT

SRCR 1(4) provides the scope of the rules on sealing and redaction of court records in civil actions. A list of NRS Chapters are provided as examples, but the list is not exclusive[3] and manifests the harmonious construction[4] principle of statutory interpretation, with the additional caveat that court rules[5] give way to any "specific" statute governing sealing and redaction. NRS 126.211 does not wholly render the SRCR inapplicable, it would supersede only insofar as its language conflicts with a rule.

Even if this Court were to deem the SRCR inapplicable, it would not necessarily render the case file unsealable. "A court's authority to limit or preclude public access to judicial records and documents stems from three sources: constitutional law, statutory law, and common law."[6] The *Howard* case held that the common law generally favors public access but gives way to statutes and court rules.[7] While there

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[3] SRCR 1(4): "These rules do not apply to the sealing or redacting of court records under **specific** statutes, **such as**…" (emphasis added).

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

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

[6] *Howard v. State*, 128 Nev. 736, 291 P. 3d 137 2012). *See also United States v. James*, 663 F. Supp. 2d 1018, 1020 (W.D. Wash. 2009) ("domestic press outlets unquestionably have standing to challenge access to court documents.") (citation omitted).

[7] *Id.*

were no constitutional issues relevant to the *Howard* Court's analysis at the time, the Supreme Court later clarified in the *Falconi* case that a First Amendment right of access to the underlying proceedings, including family law proceedings, exists.[8] NRS 126.211 is even more draconian than the nullified NRS 125.080 because its plain language wholly bars access to the courtroom.

NRS 126.211 also unconstitutionally interferes with access to access-related records.[9] The *Falconi* case broadly expanded the scope of the ruling in *Stephens Media* from criminal proceedings to all civil proceedings, including family law proceedings.[10] Importantly, the *Stephens Media* case recognized a powerful distinction left untouched by the *Howard* case; namely, that there was a distinction between oral proceedings and documentation that "merely facilitate[s] and expedite[s]" one of those oral proceedings, specifically, jury questionnaires and *voir dire*.[11] The *Stephens Media* case recognized that the purpose of the jury questionnaires was their direct connection to and facilitation of *voir dire* proceedings such that they constituted access to the proceedings themselves and thus implicated First Amendment concerns. Obviously,

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[8] *Falconi v. Eighth Jud. Dist. Ct.*, 140 Nev., Advance Op. 8 (2024).

[9] *Stephens Media, LLC. v. Eighth Judicial District Court*, 125 Nev. 849, 221 P. 3d 1240 (2009).

[10] *Falconi v. Eighth Jud. Dist. Ct.*, 140 Nev., Advance Op. 8 (2024) ("We take this opportunity to expand our discussion in *Stephens Media*, which concluded that there is a right to access criminal proceedings, and hold that the right to access also applies in civil proceedings, including family law proceedings.")

[11] *Stephens Media, LLC. v. Eighth Judicial District Court*, 125 Nev. 849, 221 P. 3d 1240 (2009).

the actual records of the hearing dates and times themselves would constitute access to the proceedings.

The federal judiciary has recently elaborated that rules providing for the automatic sealing of records by a court clerk, based upon the clerk's interpretation of a statute or rule, without "further order of a judge [is] unconstitutionally overbroad."[12] In other words, a closing of the courtroom and a statutory sealing under NRS 126.211 without the exercise of judicial discretion is unconstitutional.

NRS 126.211 contains language allowing this Court to unseal for "good cause". This provides the necessary discretion for this Court to apply the *Falconi* case's strict scrutiny analysis. Any construction of this statute that provides otherwise must be rejected because it has been held that "when the language of a statute admits of two constructions, one of which would render it constitutional and valid and the other unconstitutional and void, that construction should be adopted which will save the statute."[13]

The extensive sealing of this case renders ONJ unable to monitor the case as even the dates and times of hearings are rendered invisible. For this reason, ONJ hereby moves this Court to order the case file unsealed. To the extent there may be a basis to seal records and close the Court, ONJ is open to discussion but has been unable

[12] *Civil Beat Law Ctr. for the Pub. Int., Inc. v. Maile*, 113 F.4th 1168, 1180 (9th Cir. 2024).

[13] *State v. Castaneda*, 126 Nev. 478, 481, 245 P.3d 550, 553 (2010).

to independently verify the extent of any proper sealing and redaction because the entire case file is sealed.

For these several reasons, ONJ hereby requests:

1. That the Court deem NRS 126.211 unconstitutional to the extent that it bars access to the courtroom without the exercise of judicial review and discretion.
2. That the case file be unsealed.
3. That public access to the portal[14] be restored so that ONJ can monitor hearing dates and times.

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

DATED this 6 day of August, 2025.

COLE FAMILY LAW FIRM

/s/ Lorien K. Cole

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[14] https://www.clarkcountycourts.us/portal

DECLARATION OF LORIEN K. COLE, ESQ.

1. I, Lorien K. Cole, Esq., declare that I have read the foregoing *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, under the laws of the State of Nevada and the United States (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct.

DATED this 6 day of August, 2025.

/s/ Lorien Cole

LORIEN K. COLE, ESQ.