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

XXXXXXXXXXXXXXXXXX

Plaintiff,

vs.

XXXXXXXXXXXXXXXXXX

Defendant.

CASE NO: D-21-XXXXXXXX-P
DEPT NO: D

**REPLY TO PLAINTIFF’S
“RESPONSE TO OUR NEVADA JUDGE’S MOTION TO UNSEAL CASE
FILE, AND PLAINTIFF’S COUNTERMOTION TO MODIFY AND AMEND
CONDITIONS OF CHILD TESTIMONY TO PROTECT ANONYMITY OF
MINOR CHILD AND RELATED RELIEF”
AND REPLY TO DEFENDANT’S
“OPPOSITION TO OUR NEVADA JUDGE’S, INC. MOTION TO UNSEAL
CASE FILE”**

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
 Family Law Firm, Staff Attorney for ONJ, and hereby files the following *Reply* to the

1 Plaintiff's *Response to Our Nevada Judge's Motion to Unseal Case File, and*
2 *Plaintiff's Countermotion to Modify and Amend Conditions of Child Testimony to*
3 *Protect Anonymity of the Minor Child and Related Relief* filed August 20, 2025; and
4 the following *Reply to the Defendant's Opposition to Our Nevada Judge's, Inc.*
5 *Motion to Unseal Case File* filed August 29, 2025.
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8 This reply is based upon the following memorandum of points and authorities,
9 and the exhibits attached hereto.
10
11

12 MEMORANDUM OF POINTS AND AUTHORITIES

13 A. *Reply to Defendant's Opposition*

14 Defendant's efforts to distinguish *Falconi v. Eighth Judicial Dist. Court*, 140 Nev.
15 Adv. Rep. 8, 543 P.3d 92 (Nev. 2024) are unavailing. At issue before the *Falconi*
16 *Court* was whether or not the First Amendment applied to family law proceedings¹.
17 The *Falconi Court* broadly expanded *Stephens Media* from criminal proceedings to all
18 civil proceedings, including family court.
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21 Defendant would like for its scope to be limited to NRS 125.080 such that it
22 excludes NRS 126.211, but paternity actions fall under the umbrella of "family law
23 proceedings" as much as divorce proceedings. Just because the specific statute did not
24
25

26
27 ¹ *Falconi*, at 543 P. 3d 100: "Family law proceedings are presumptively open, as they have been
28 traditionally open across the country and the openness of the proceedings plays a significant role in
the functioning of the family court."

1 arise before the *Falconi Court* does not mean this Court must exclude the First
2 Amendment strict scrutiny test.

3
4 Indeed, by telling this Court it lacks the discretion to open the courtroom,
5 Defendant blunders into the same failed argument that the *Falconi Court* rejected.
6 “Because NRS 125.080, EDCR 5.207, and EDCR 5.212 preclude the district court's
7 exercise of discretion in closing proceedings, they are not narrowly tailored to serve a
8 compelling interest.”² Defendant, if correct in her interpretation of NRS 126.211, does
9 not prevail, but instead demonstrates to this Court that NRS 126.211 is as
10 unconstitutional as NRS 125.080 was.
11

12
13 The Legislature’s intentions in fashioning NRS 126.211 are as irrelevant as they
14 were in fashioning NRS 125.080. This is because the Constitution of the United States
15 is the supreme law of the land. U.S. Const. Art. VI, cl. 2. Before this Court are two
16 simple questions:
17

- 18
19 1. Is this proceeding a “family law proceeding”?
20 2. If so, does the language of NRS 126.211 “preclude the district court’s exercise
21 of discretion in closing proceedings”?
22

23 If the Defendant’s interpretation is correct, *Falconi* controls and the statute must
24 be struck down as unconstitutional. If the Defendant is incorrect, *State v. Castaneda*³
25

26 ² *Falconi*, at 543 P.3d 100.

27 ³ *State v. Castaneda*, 126 Nev. 478, 481, 245 P.3d 550, 552 (2010) (“when the language of a statute
28 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.”)

1 controls and the Court must interpret the statute in a manner which allows the Court
2 to exercise its discretion and apply the *Falconi* analysis.

3
4 **a. The *Falconi* Analysis**

5 The *Falconi Court* held there is a presumptive right to the public's access to all
6 civil cases, including all family law cases.⁴ Thus, to overcome the presumption, the
7 Defendant must show three things: (1) closure serves a compelling interest; (2) there
8 is a substantial probability that, in the absence of closure, this compelling interest could
9 be harmed; and (3) there are no alternatives to closure that would adequately protect
10 the compelling interest.⁵

11
12 Defendant's *Opposition* does not contain any facts, argument or analysis to
13 overcome the presumptive right to ONJ's access to the courtroom. Accordingly,
14 Defendant's *Opposition* must be denied.

15
16 **B. Plaintiff's Response**

17
18 Plaintiff filed a *Response* to ONJ's motion on August 20, 2025, which suggests
19 language that mitigates the privacy concerns of the Plaintiff and the child. Following
20 the filing of the *Response*, ONJ and Plaintiff's counsel discussed proposed language
21 that both parties could agree on to mitigate the concerns of Plaintiff. At that time,
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27 ⁴ *Falconi v. Eighth Judicial Dist. Court*, 140 Nev. Adv. Rep. 8, 543 P.3d 92 (Nev. 2024)

28 ⁵ *Falconi v. Eighth Judicial Dist. Court*, 140 Nev. Adv. Rep. 8, 543 P.3d 92 (Nev. 2024) (citing Press-Enter. II, 478 U.S. at 13-14).

1 Defendant had not filed an *Opposition*, so Defendant's counsel was not included in the
2 negotiations.

3
4 ONJ does not have an objection to placing certain limitations on the proceedings in
5 line with the Plaintiff's requests as follows:

- 6 1. ONJ does not object to a limited unsealing of the Odyssey case, permitting the
7 visibility of the case, but restricting access to view/download all filed
8 documents.
9
- 10 2. ONJ does not object to Mr. XXXXX name remaining redacted from the Odyssey
11 portal and to ensure it is not visible to the public.
12
- 13 3. ONJ does not object to redacting/bleeping out from ONJ productions the names
14 of the Plaintiff ("Dad") and the child at issue in the case, and any information
15 that could be used to identify or locate the minor child or Dad during the
16 hearings/trial.
17
- 18 4. ONJ does not object to an order restricting public access to the courtroom for
19 hearings and trial, with the exception of ONJ or ONJ agents for the purpose of
20 ONJ tasks.
21
- 22 5. ONJ does not object to an order that ONJ shall not video or record the minor
23 child during this case for any purpose, and shall not have their cameras in the
24 courtroom when the child is present; provided, however, that for the purpose of
25 this section, the child shall only be in the courtroom to testify in the case or
26 provide alternative testimony in this case.
27
28

1 6. ONJ agrees that there shall be no dissemination of any information regarding
2 the child by ONJ, including recordings of the child, disclosure of the child's
3 name, image, or identifying information.
4

5 7. The agreements herein do not preclude ONJ from requesting more access in the
6 future, (for example, if a hearing is missed and the JAVS video is needed, or a
7 court order is entered on an issue where no hearing occurred).
8

9 ONJ therefore requests that this Court consider the foregoing terms to the extent
10 necessary and appropriate and apply the analysis required by the *Falconi Court*.
11

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

14 **DATED** this 2nd day of September, 2025.

15 COLE FAMILY LAW FIRM
16

17 */s/ Lorien K. Cole*

18 _____
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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.

/s/ *Lorien K. Cole*

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