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WILLIAM SCOTT HOEN
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**IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CARSON CITY**

STEVEN EGGLESTON,
Petitioner,

CASE NO: 20 OC 00164 1B

DEPT NO: 1

vs.

CLARK COUNTY DEPARTMENT OF FAMILY
SERVICES;
Respondent.

SECOND MOTION TO UNSEAL

COMES NOW, Alexander Falconi d.b.a. Our Nevada Judges¹, by and through the undersigned counsel, and hereby files the following Second Motion to Unseal. This motion is based upon the Nevada Rules for Sealing and Redacting Court Records ("SRCR") 4(2), the following memorandum of points and authorities, and the exhibits attached hereto.

///

//

¹Alexander M. Falconi owns, operates, and controls the Our Nevada Judges organization.

MEMORANDUM OF POINTS AND AUTHORITIES

Our Nevada Judges is a recognized member of the press and SCR 229(1)(c) news reporter. Exhibit 1. It has provided electronic and summary coverage of municipal, justice, district, and appellate courts, as well as the Commission on Judicial Discipline, garnering an excess of 2.3 million views and 30 million watch-time minutes. It has published an excess of 600 hearing and trial videos, which includes coverage of domestic relations matters and NRS 432B proceedings before multiple family court judges in multiple districts.

Standing

A non-party can bring a motion to unseal. SRCR 4(2).

Factual background

On December 22, 2022, this Court denied Our Nevada Judges' motion to unseal this matter; however, the Court granted a limited request made by Our Nevada Judges to order the Clerk of the Court to comply with SRCR 3(5)(c).

Hearings were held on October 6, 2022 and October 26, 2022, where Our Nevada Judges argued that the only remaining public access issue it would appreciate guidance on was whether the Clerk of this Court had to disclose hearing dates and times. This Court made oral pronouncements from the bench on the issue, but the language in the December 22, 2022 order denying Our Nevada Judges motion to unseal did not address the issue and only cited the limited scope of Our Nevada Judges' original request in justifying denial.

1 The Clerk of the Court continues to refuse to disclose hearing dates and times,
2 and the sealing applied to this case is apparently being used as a justification for the
3 refusal to disclose the dates and times of hearings. Exhibit 1.

4
5 ***Argument***

6 Unlike the first motion to unseal filed July 6, 2022, which was limited in scope
7 to SRCR 3(5)(c), this motion seeks to unseal each and every paper and pleading on
8 file, as well as open all hearings to the public. Respondent has asserted, and this
9 Court has made, no particularized findings justifying the extent of sealing applied to
10 this matter.

11
12 In fact, prior to Our Nevada Judges involvement, the entire file had been
13 sealed in violation of SRCR 3(5)(c).

14 In response to Our Nevada Judges' prior motion, Respondent cited a lone
15 statute, NRS 432B.280, in justification of its ex parte request to seal this matter.
16 Absent particularized findings, whether or not the matter should be unsealed
17 becomes, at this juncture², a pure question of law.

18
19 "If the plain meaning of a statute is clear on its face, then [this court] will not
20 go beyond the language of the statute to determine its meaning." *Beazer Homes*
21 *Nev., Inc. v. Eighth Judicial Dist. Court*, 120 Nev. 575, 579-80, 97 P.3d 1132, 1135
22 (2004). NRS 432B.280 provides that "reports and investigations" are confidential. It
23 does not require that all other pleadings and filings made in court must be sealed,
24 nor does it require that all hearings be closed. Indeed, the legislature has fashioned

27 ² Certainly, it is within Parties' prerogative to point out a particularized basis for sealing
28 or redacting specific information of this case, which Our Nevada Judges will
compromise on where appropriate.

1 precisely this sort of statute³ in other types of cases involving families and children.
2 Not only has the legislature declined to enact statutes arbitrarily sealing all filings
3 and closing all hearings in NRS 432B proceedings, it has done the exact opposite,
4 providing expressly that certain proceedings “must be open to the public” and
5 conferring upon the judge the discretion to close hearings. NRS 432B.430.
6

7 In fact, Our Nevada Judges has been allowed not only public access to NRS
8 432B proceedings in the past, but even the right to deploy high-definition cameras
9 into the courtroom and electronically cover NRS 432B proceedings. The instant
10 case before this Court is a significant civil step away from the underlying NRS 432B
11 proceedings, and judges⁴ in other civil proceedings concurrently being litigated are
12 likewise allowing public access and electronic coverage. *Eggleston v. Georgina*
13 *Stuart, Clark County DCFS*, Eighth Judicial District Court, docket no.
14 A-16-748919-C.
15
16

17 Respondent’s interpretation of NRS 432B.280 prohibitively renders the
18 language of NRS 432B.430 meaningless.⁵ This Court should instead seek out a
19 harmonious⁶ construction of both statutes and SRCR 1(3), considering generally the
20 public right of access, while narrowly sealing and redacting only the portions of the
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24 ³ NRS 125.080, NRS 125.110, NRS 126.211, NRS 128.090, and NRS 127.140.

25 ⁴ Respondent asserted the same interpretation of NRS 432B.430, which was rejected by
26 District Court Judges Susan Johnson and Jasmin Lilly-Spells.

27 ⁵ *Clark County v. S. Nev. Health Dist.*, 128 Nev. 651, 656, 289 P.3d 212, 215 (2012)
28 (“Statutes should be read as a whole, so as not to render superfluous words or phrases
or make provisions nugatory.”)

⁶ *Simmons Self-Storage Partners, LLC v. Rib Roof, Inc.*, 130 Nev. 540, 546, 331 P.3d
850, 854 (2014).

1 record where confidentiality outweighs public interest. SRCR 3(4), in conjunction
2 with First Amendment principles, provides this Court with the necessary guidance.

3 Confidentiality orders closing judicial proceedings to the press “implicate First
4 Amendment concerns.” *Del Papa v. Steffen*, 112 Nev. 369, 374, 915 P.2d 245, 248
5 (1996). The First Amendment and SRCR 3(4)⁷ require this Court to go beyond the
6 interests of the litigants and consider the right of the public and press to access
7 these proceedings. *Richmond Newspapers v. Virginia*, 448 U.S. 555, 576-77, 100 S.
8 Ct. 2814, 2827 (1980). “A state may deny this right of public access only if it shows
9 that ‘the denial is necessitated by a compelling government interest, and is
10 **narrowly tailored** to serve that interest.’ (emphasis added)” *Del Papa v. Steffen*, at
11 P.2d 248 quoting *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 607, 73 L.
12 Ed. 2d 248, 102 S. Ct. 2613 (1982). How Parties and their lawyers conduct
13 themselves is a matter of public interest. *Abrams v. Sanson*, 136 Nev. 83, 89, 458
14 P.3d, 1062, 1067 (2020). So too, is the manner in which this Court conducts these
15 proceedings. *Del Papa v Steffen*, at P.3d 249. The Legal Aid Coalition⁸ has filed a
16 brief denouncing the harm secret family court proceedings inflict upon minorities
17 and the poor in domestic relations matters. Exhibit 2.

18 With respect to hearing dates and times, Our Nevada Judges recalls
19 objections raised by Parties at prior hearings that the burden of disclosing hearing
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25 ⁷ SRCR 3(4): “The parties’ agreement alone does not constitute a sufficient basis for the
26 court to seal or redact court records.”

27 ⁸ The Legal Aid Center of Southern Nevada, Northern Nevada Legal Aid, Volunteer
28 Attorneys for Rural Nevadans, and Nevada Legal Services, united to file an amicus brief
in support of efforts by Our Nevada Judges to nullify all statutes and rules interfering
with public and press access to domestic relations matters. Supreme Court docket no.
85195. Oral arguments held on March 2, 2023, before the Supreme Court en banc.

1 dates and times should not be theirs to bear. Our Nevada Judges agrees, and would
2 simply check in periodically with the Clerk of the Court to determine impending
3 hearing dates and times. This Court, however, will need to order the Clerk to do so,
4 as the Clerk has repeatedly refused to disclose hearing dates and times to Our
5 Nevada Judges.
6

7 ***Conclusion***

8 "The free press is the guardian of the public interest, and the independent
9 judiciary is the guardian of the free press." *Leigh v. Salazar*, 677 F.3d 892, 900 (9th
10 Cir. 2012).
11

12 WHEREFORE, Our Nevada Judges, asks for the following relief:

- 13 1. That all papers and pleadings be unsealed, or in the alternative that an SRCR
14 3(4) analysis occur; and,
15
16 2. That all hearings in this case be open to the public, or in the alternative that
17 the Clerk of this Court be ordered to disclose hearing dates and times upon
18 request.

19 **NRS 239B.030(4) AFFIRMATION**

20 Pursuant to NRS 239B.030 the undersigned hereby affirms that this document
21 does not contain the social security number of any person.
22

23 **DATED** this Mar 15, 2023

24 By: _____

25 LUKE A. BUSBY, ESQ.

26 Nevada Bar No. 10319

27 316 California Ave.

28 Reno, Nevada 89509

775-453-0112

luke@lukeandrewbusbyltd.com

Attorney for the Our Nevada Judges

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I declare under penalty of perjury that the foregoing is true and correct.

Alexander Folsom

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

CERTIFICATE OF SERVICE

I certify that on the date shown below, I caused service to be completed of a true and correct copy of the foregoing document by:

_____ personally delivering;

_____ delivery via Reno/Carson Messenger Service;

_____ sending via Federal Express (or other overnight delivery service);

 x depositing for mailing in the U.S. mail, with sufficient postage affixed

thereto; or,

_____ delivery via electronic means (fax, eflex, NEF, etc.) to:

Paola Armeni, Esq.
3800 Howard Hughes Pkwy.
Suite 500
Las Vegas, NV 89169

Amity C Dorman, Esq.
601 N. Pecos Rd.
Building B, Room 470
Las Vegas, NV 89101

DATED this Mar 15, 2023

By: *Z. Armeni*

List of Exhibits

Exhibit 1: Emails

Exhibit 2: Proposed Order

EXHIBIT 1

EXHIBIT 1



Alexander Falconi <admin@ournevadajudges.com>

Inquiry on 20-OC-001641B

Alexander Falconi <admin@ournevadajudges.com>

To: District Court Clerk <districtcourtdclerk@carson.org>

Sun, Mar 5, 2023 at 11:04 PM

Good evening, I was wondering if there were any pending hearings in 20-OC-001641B.

Alexander Falconi
Administrator

<https://www.ournevadajudges.com>





Alexander Falconi <admin@ournevadajudges.com>

Inquiry on 20-OC-001641B

District Court Clerk <districtcourtclerk@carson.org>
To: Alexander Falconi <admin@ournevadajudges.com>

Wed, Mar 8, 2023 at 2:46 PM

Hello,

Based upon NRS179.301, the Clerk's office is not authorized to provide you with the requested records at this time.

Thank you,

District Court

From: Alexander Falconi <admin@ournevadajudges.com>
Sent: Sunday, March 5, 2023 11:04 PM
To: District Court Clerk <districtcourtclerk@carson.org>
Subject: Inquiry on 20-OC-001641B

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Good evening, I was wondering if there were any pending hearings in 20-OC-001641B.

--

Alexander Falconi

Administrator

<https://www.ournevadajudges.com>

EXHIBIT 2

EXHIBIT 2

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8 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,**
9 **IN AND FOR THE COUNTY OF CARSON CITY**
10

11 * * *

12 STEVEN EGGLESTON,
13 Petitioner,

CASE NO: 20 OC 00164 1B

DEPT NO: 1

14 vs.

15 CLARK COUNTY DEPARTMENT OF FAMILY
16 SERVICES;

17 Respondent.
18 _____/

19 **ORDER GRANTING SECOND MOTION TO UNSEAL**

20 This matter comes before the Court upon Alexander Falconi d.b.a. Our Nevada
21 Judges (hereinafter 'ONvJ') having filed a second motion to unseal, pursuant to
22 SRCR 4(2). On August 5, 2022, upon request of ONvJ, this Court ordered the Clerk
23 to comply with SRCR 3(5)(c) and make public the mandatory minimum information.
24 OnvJ appeared before this Court, together with Parties, at hearings on October 6,
25 2022 and October 26, 2022, where the issue of the Clerk's nondisclosure of hearing
26 dates was discussed; but, no resolution was apparently reduced to writing in an
27
28

1 order entered December 22, 2022. This order cited only the limited scope of ONvJ's
2 first motion in denying additional unsealing. Without specific guidance, the Clerk is
3 apparently continuing to refuse to disclose hearing dates and times to ONvJ, which
4 hampers its ability to physically appear at as well as file an SCR 230(1) camera
5 access request.
6

7 ONvJ brings this second motion to unseal, which confronts NRS 432B.280 as
8 a basis for comprehensive sealing, and requests an SRCR 3(4) analysis.
9

10 The litigants and participants to a case, alone, even upon stipulation, are only
11 part of this Court's consideration on the issue of sealing and redaction. So too must
12 this Court balance their interests against that of the public and press. SRCR 3(4).
13 See also *Del Papa v. Steffen*, 112 Nev. 369, 374, 915 P.2d 245, 248 (1996). The
14 legislature has not ruled out the notion of public access to the underlying NRS 432B
15 proceedings. NRS 432B.430. The legislature has, conversely, used very specific
16 language sealing filings and closing hearings in domestic relations matters. NRS
17 125.080, NRS 125.110, NRS 126.211, NRS 128.090, and NRS 127.140. "If the plain
18 meaning of a statute is clear on its face, then [this court] will not go beyond the
19 language of the statute to determine its meaning." *Beazer Homes Nev., Inc. v. Eighth*
20 *Judicial Dist. Court*, 120 Nev. 575, 579-80, 97 P.3d 1132, 1135 (2004). NRS
21 432B.280 requires sealing of only the reports themselves. It does not require sealing
22 of pleadings and filings that merely mention or casually touch upon the contents of
23 those reports. This is especially true given civil proceedings concurrently being
24 litigated in the Eighth Judicial District Court are open to the public and currently
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1 subject to electronic coverage; proceedings of which are also connected with NRS
2 432B.280 reports. Eighth Judicial District Court, docket no. A-16-748919-C.

3 Any interpretation as to NRS 432B.280's effect on sealing, redaction, and
4 closure, that does not take into consideration the public interest, would be
5 untenable. *Richmond Newspapers v. Virginia*, 448 U.S. 555, 576-77, 100 S. Ct.
6 2814, 2827 (1980). "A state may deny this right of public access only if it shows that
7 'the denial is necessitated by a compelling government interest, and is narrowly
8 tailored to serve that interest.'" *Del Papa v. Steffen*, at P.2d 248 quoting *Globe*
9 *Newspaper Co. v. Superior Court*, 457 U.S. 596, 607, 73 L. Ed. 2d 248, 102 S. Ct.
10 2613 (1982). There is a public interest in judicial proceedings generally. *Abrams v.*
11 *Sanson*, 136 Nev. 83, 89, 458 P.3d, 1062, 1067 (2020). *Del Papa v Steffen*, at P.3d
12 249. There is also a specific public interest in how the Department of Family
13 Services conducts itself, especially given its power to temporarily and permanently
14 alter families. This Court is also cognizant of the fact that, while domestic relations
15 matters are between individual citizens, NRS 432B proceedings are prosecuted by
16 the State, and involve government actors.

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THEREFORE, the Motion is GRANTED, and it is hereby ordered that:

- 1) The order sealing entered February 12, 2021, is hereby vacated.
- 2) All papers and pleadings on file are hereby unsealed.
- 3) All hearings are open to the public.

IT IS SO ORDERED

Dated: _____

By: _____
DISTRICT COURT JUDGE

By: 
Submitted By:
LUKE A. BUSBY, ESQ.
SBN 10319
316 California Ave.
Reno, Nevada 89509
775-453-0112
luke@lukeandrewbusbyltd.com
Attorney for Our Nevada Judges

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