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1 Based upon the attached Points and Authorities Clark County Department of  
2 Family Services respectfully prays this Court deny the SECOND MOTION TO  
3 UNSEAL.

4 Dated this 27<sup>th</sup> day of March, 2023.

5  
6 **STEVEN B. WOLFSON**  
**DISTRICT ATTORNEY**

7  
8 By:   
9 **AMITY C. LATHAM**  
Chief Deputy District Attorney  
Nevada State Bar No. 9316

10 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**  
11 **OF OPPOSITION TO MOTION TO UNSEAL**

12 **PROCEDURAL HISTORY**

13 On December 17, 2020, Petitioner filed a motion to seal this case. As cited  
14 by this Court in it's order of December 22, 2022, Petitioner sought to seal "a copy  
15 of the orders for which he seeks judicial review, 'and all prior and subsequent  
16 records filed in this matter,' on grounds 'every child and family has a right to  
17 personal privacy.'" On February 12, 2021, an Ex Parte Motion and Order to Seal  
18 Court Records was filed by Respondent. This was granted by this Court, and both  
19 parties to the litigation have filed documents confidential by statute in reliance on  
20 this Court's order. This case has been sealed for over two years.

1 On or about July 6, 2022, “Our Nevada Judges” filed a Motion to Unseal the  
2 Case. Clark County filed an opposition on July 20, 2022. On or about  
3 July 29, 2022, “Our Nevada Judges” filed a reply. As a result of this, this Court  
4 unsealed records in accordance with Part VII of the Nevada Supreme Court Rules  
5 Governing Sealing and Redacting of Court Records (“SRCR”). However, “Our  
6 Nevada Judges” continues to request this Court revisit orders that have been in  
7 place and relied on by both parties to this litigation.

### 8 **ARGUMENT**

9 “Our Nevada Judges” complains about this Court’s findings, stating that  
10 “this Court has made, no particularized findings justifying the extent of sealing  
11 applied to this matter.” (Second Motion to Unseal, page 3, lines 9-11). Of course,  
12 this Court did make particularized findings. On December 22, 2022, this Court  
13 issued an Order, specifically stating “The grounds for sealing the records, as set  
14 forth in the order, are that the records contain confidential information under NRS  
15 432B.280, the interest in privacy outweighs the public interest in open court  
16 records because the records are confidential by law, and sealing of the records is  
17 required by state law.” This order was filed unsealed, and therefore, would be  
18 easily accessible by “Our Nevada Judges.” It appears “Our Nevada Judges” is  
19 upset the clerk will not release pending hearing dates (as clearly evidenced by the  
20  
21

1 attached exhibit 1), so is demanding that all papers and pleadings be unsealed, in  
2 violation of this Court ruling on this issue, now twice.

3 Rules of Practice for the First Judicial District Court of the State of Nevada,  
4 3.5(b) specifically states “In all non-criminal cases, sealing records will be handled  
5 as provided in the Nevada Supreme Court Rules.” SRCR, Rule 1 (3), states “All  
6 court records in civil actions are available to the public, except as otherwise  
7 provided in these rules **or by statute.**” (Emphasis added). Rule 3(4)(a) states  
8 “The court may order the court files and records, or any part thereof, in a civil  
9 action to be sealed or redacted, provided the court makes and enters written  
10 findings that the specific sealing or redaction is justified by identified compelling  
11 privacy or safety interests that outweigh the public interest in access to the court  
12 record. The parties’ agreement alone does not constitute a sufficient basis for the  
13 court to seal or redact court records. The public interest in privacy or safety  
14 interests that outweigh the public interest in open court records include findings  
15 that: (a) The sealing or redaction is **permitted or required by federal or state**  
16 **law...** “(Emphasis added).

17 NRS 432B.280 states:

18 1. Except as otherwise provided in NRS 239.0115, 432B.165,  
19 432B.175 and 439.538 and except as otherwise authorized or  
20 required pursuant to NRS 432B.290, information maintained by  
21 an agency which provides child welfare services, including,  
without limitation, reports and investigations made pursuant to  
this chapter, is confidential.

1 2. Any person, law enforcement agency or public agency,  
2 institution or facility who willfully releases or disseminates  
such information, except:

3 (a) Pursuant to a criminal prosecution relating to the abuse or  
neglect of a child;

4 (b) As otherwise authorized pursuant to NRS 432B.165 and  
432B.175;

5 (c) As otherwise authorized or required pursuant to NRS  
432B.290;

6 (d) As otherwise authorized or required pursuant to NRS  
439.538; or

7 (e) As otherwise required pursuant to NRS 432B.513,  
is guilty of a gross misdemeanor.

8 State law is largely based on Federal Law. The Child Abuse Prevention and  
9 Treatment Act, Reauthorization Act of 2010, requires that a State which receives  
10 federal funds establish:

11 “methods to preserve the confidentiality of all records in order  
12 to protect the rights of the child and of the child’s parents or  
guardians, including requirements ensuring that reports and  
13 records made and maintained pursuant to the purposes of this  
title shall only be made available to a grand jury or court, upon  
14 a finding that information in the record is necessary for the  
determination of an issue before the court or grand jury...”

15 Section 106(b)(2)(B)(viii)(V), 42 U.S.C. 5106a.

16  
17 To maintain Federal funding for the Child Welfare system in the State of  
18 Nevada, all child welfare agencies MUST conform with CAPTA. Violations of  
19 CAPTA could result in the State losing Federal funding. In this case, both parties  
20 have requested the Court seal this case given the confidential information at the  
21 center of the controversy in this case.

1       The movant provides information regarding a related Eighth Judicial District  
2 Case to support the notion that this case should be unsealed. However, that case,  
3 Eggleston v. Clark County, D-19-600496-C, is unlike this case. In that case, the  
4 Petitioner alleges civil rights, and two tort claims against Clark County and an  
5 employee of the County. Here, in contrast, Petitioner seeks judicial review of  
6 administrative findings. The parties have relied on the sealed status of this case, to  
7 include the record of proceedings and pleadings, so the record on appeal has  
8 already been filed into this case. The record on appeal consists almost entirely of  
9 confidential information. Therefore, the prior order to seal the case should remain  
10 in place.

11       Further, this Court can, and should, deny this motion for basic failure to  
12 comply with this Court's rules. Rule 3, Pleadings and Papers, 3.1(j), specifically  
13 states all pages, including exhibits, must be printed on only one side of the paper.  
14 "Our Nevada Judges" has failed to comply with this rule. Additionally, Rule 3.7  
15 (b) confers a duty to confer and exchange information, and then requires a moving  
16 party to certify in their motion this rule was complied with. While it may be true  
17 this would have been futile, it does not obviate the requirement clearly stated in the  
18 rules. At no time has "Our Nevada Judges" or counsel for the same, made any  
19 attempt to communicate with the County.

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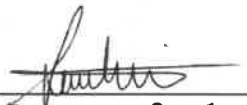
DATED this 27<sup>th</sup> day of March, 2023

By: Amity Latham  
**AMITY C. LATHAM**  
 Chief Deputy District Attorney  
 Nevada State Bar No. 9316

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that service of the above and foregoing was made this 27<sup>th</sup>  
3 day of March, 2023, by mail, addressed to the following:

4 PAOLA M. ARMENI  
5 CLARK HILL PLLC  
1700 S. Pavilion Center Drive, Ste 500  
6 Las Vegas, NV 89135  
Attorney for Petitioner  
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9 Secretary for the District Attorney's Office,  
10 Juvenile Division  
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