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

<div><div></div><div>Plaintiff,</div><div>vs.</div><div></div><div>Defendant.</div><div>_____ /</div></div>	<div>CASE NO: D-25-<div></div>P</div> <div>DEPT NO: S</div> <div>NO HEARING REQUESTED</div>
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**MOTION TO UNSEAL CASE FILE**

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

COMES NOW, Our Nevada Judges, Inc., a Nevada non-profit corporation, by and through the undersigned counsel, 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

Our Nevada Judges has filed an SCR 230(1) media request in this matter, which is pending. An SCR 229(1)(c) non-party news reporter may file a motion to unseal. SRCR 4(2).

SRCR 1(4) provides the scope of the rules on sealing and redaction of court records in civil actions. A list of NRS Chapters is provided as examples, but the list is not exclusive<sup>1</sup> and manifests the harmonious construction<sup>2</sup> principle of statutory interpretation, with the additional caveat that court rules<sup>3</sup> give way to any “specific” statute governing sealing and redaction.

No other sealing rule is applicable. NRS 125.110 (sealing of certain records in divorce cases) does not apply. NRS 126.211 (sealing of records in paternity cases) does not apply. To the best of the undersigned counsel’s knowledge, no paternity request was made.<sup>4</sup> In fact, it appears this matter was plead indicating paternity was not in question.

EDCR 5.207 has been ruled unconstitutional and cannot serve as a basis to convert this action. *Falconi v. Eighth Jud. Dist. Ct.*, 140 Nev., Advance Op. 8 (2024). See also *Order Granting Petition for Writ of Mandamus* filed on September 12, 2024

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<sup>1</sup> SRCR 1(4): “These rules do not apply to the sealing or redacting of court records under **specific** statutes, **such as...**” (emphasis added).

<sup>2</sup> *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.”)

<sup>3</sup> *Weddell v. Stewart*, 127 Nev. 645, 650, 261 P.3d 1080, 1084 (2011) (“[R]ules of statutory construction apply to court rules.”)

<sup>4</sup> The undersigned counsel is unable to review the file due to its being super-sealed. Any inaccuracies in counsel’s statements reflect the limited information accessible to the media, stemming from the clerk’s extensive sealing measures.

1 in Supreme Court docket no. 88412, hereinafter (rejecting the application of EDCR  
2 5.207 because “this matter is a child custody action, arising under NRS Chapter  
3 125C where the [SRCR] would apply[.]”)

4  
5 Further, a rule providing for the automatic sealing of records by a court clerk,  
6 based upon the clerk’s interpretation of a statute or rule, without “further order of a  
7 judge [is] unconstitutionally overbroad.” *Civil Beat Law Ctr. for the Pub. Int., Inc. v.*  
8 *Maile*, 113 F.4th 1168, 1180 (9th Cir. 2024).

9  
10 Even if this Court were to deem the SRCR inapplicable, it would not  
11 necessarily render the case file unsealable, but rather, would implicate *Howard v.*  
12 *State*, 128 Nev. 736, 291 P. 3d 137 (2012) (delineating constitutional, statutory, and  
13 common law basis to unseal, in that order.) “A court’s authority to limit or preclude  
14 public access to judicial records and documents stems from three sources:  
15 constitutional law, statutory law, and common law.” *Id.* at P. 3d 137. See also *United*  
16 *States v. James*, 663 F. Supp. 2d 1018, 1020 (W.D. Wash. 2009) (“domestic press  
17 outlets unquestionably have standing to challenge access to court documents.”)  
18 (citation omitted).

19  
20 The *Howard* Court held that the common law generally favors public access  
21 but gives way to statutes and court rules. While there were no constitutional issues  
22 relevant to the *Howard* Court’s analysis at the time, the Supreme Court later clarified  
23 that a First Amendment right of access to the underlying proceedings, including  
24 family law proceedings, exists. *Falconi, Id.*

25  
26 To the extent this Court finds other statutes and rules may justify forbidding  
27 release, this Court is required to make individuated determinations regarding  
28

1 sealing in a manner consistent with the Constitution, i.e. to narrowly tailor sealing  
2 to further the compelling privacy interest in closure. This is because “when the  
3 language of a statute admits of two constructions, one of which would render it  
4 constitutional and valid and the other unconstitutional and void, that construction  
5 should be adopted which will save the statute.” *State v. Castaneda*, 126 Nev. 478,  
6 481, 245 P.3d 550, 553 (2010). *Falconi, Id.* (nullifying NRS 125.080 for the  
7 automatic closure of family law proceedings without an analysis under the First  
8 Amendment).

9 The extensive sealing of this case renders ONJ unable to monitor the case as  
10 even the dates and times of hearings are rendered invisible. For this reason, ONJ  
11 hereby moves this Court to order the case file unsealed.

12 Pursuant to NRS 239B.030 the undersigned hereby affirms that this document  
13 does not contain the social security number of any person.  
14

15 **DATED** this Apr 14, 2025

16 By: /s/ Luke Busby

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1                                    DECLARATION OF ALEXANDER FALCONI

2            I, Alexander M. Falconi, declare that I have read the forgoing *Motion* and that  
3 the contents are true and correct of my own personal knowledge, except for those  
4 matters I have stated that are not of my own personal knowledge, but that I only  
5 believe them to be true, and as for those matters, I do believe they are true.  
6

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

8  
9                                    EXECUTED this Apr 14, 2025

10                                   

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12                                   \_\_\_\_\_  
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