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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LUBA DACE, Plaintiff, v. MELVIN GRIMES, BEN CHILDS, LAW OFFICE OF BENJAMIN B. CHILDS, MARY PERRY Defendants.	Case No.: A-25-922833-C Dept. No.: 21 **PLAINTIFF'S MOTION TO PRESERVE AND COMPEL PRODUCTION OF COMMUNICATIONS** HEARING NOT REQUESTED

NOTICE OF MOTION

TO: Nonmoving Party

YOU AND EACH OF YOU will take notice that on the_____day of_____, 2____, at the hour of___o'clock __m., of said day, the above motion will be heard in

NOTICE:

YOU ARE REQUIRED TO FILE WITH THE COURT AND SERVE ON THE MOVING PARTY A WRITTEN "OPPOSITION" TO THIS MOTION WITHIN 10 JUDICIAL DAYS. YOUR FAILURE TO FILE AND SERVE A WRITTEN OPPOSITION MAY BE UNDERSTOOD AS AN ADMISSION THAT THE MOTION IS VALID, AND MAY RESULT IN THE COURT GRANTING THE RELIEF REQUESTED IN THE MOTION AGAINST YOU.

Case Number: A-25-922833-C

COMES NOW, Plaintiff Luba Dace ("Plaintiff"), in proper person, and respectfully moves this Court for an order requiring preservation and production of communications exchanged between Defendant Hon. Mary Perry ("Defendant Perry"), her chambers staff in Department P, and opposing counsel in Plaintiff's family court proceedings.

I. INTRODUCTION

This motion arises from sworn testimony provided by opposing counsel in a separate proceeding. Counsel testified that he received an **email from "Department P," the official chambers account of Defendant Perry**, instructing him to file an Order to Show Cause ("OSC") against Plaintiff and to leave the attorney-fee section of the pleading blank.

At the time, Plaintiff was self-represented in family court and was never provided notice of these communications. If true, such conduct constitutes improper **ex parte communication** that directly implicates Plaintiff's rights to due process and a fair tribunal. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 876 (2009).

Because these communications are material evidence in this action against Defendant Perry and others, Plaintiff respectfully requests that the Court order preservation and production to protect the integrity of the record.

II. LEGAL STANDARD

1. **Duty to Preserve Evidence.** Once litigation is pending, all parties and custodians of records must preserve potentially relevant evidence. *Leon v. IDX Sys. Corp.*, 464 F.3d 951, 959 (9th Cir. 2006).

2. **Scope of Discovery.** Under **NRCP 26(b)(1)**, discovery encompasses any nonprivileged matter relevant to a party's claim or defense.
3. **Subpoena Authority. NRCP 45** authorizes the issuance of subpoenas to compel production of documents and electronically stored information ("ESI") from non-parties, including government entities or custodians of court records.

III. ARGUMENT

1. **Sworn Testimony Confirms the Existence of Ex Parte Emails.** On March 4, 2022, opposing counsel testified that he received an email from "Department P" — Defendant Perry's judicial chambers — instructing him how to prepare an OSC in Plaintiff's family case in December 2021. This testimony provides a factual basis beyond mere speculation. (Exhibit 1, transcript from *In re Snow*, No. 21-15676-NMC (Bankr. D. Nev. Mar. 4, 2022) Hr'g Tr. 67 (testimony of opposing counsel regarding Department P message)
2. **Communications Are Directly Relevant.** These communications bear directly on Plaintiff's allegations of improper judicial conduct, conspiracy, and deprivation of due process. Without preservation and production, Plaintiff's ability to prove her claims will be severely impaired.
3. **Custody of the Records.** Because the email came from "Department P," the records are in the custody and control of the **Eighth Judicial District Court** (through its IT department and custodians of official judicial email accounts), as well as any judicial assistants or clerks who served in Department P during the relevant time.
4. **Risk of Spoliation.** Absent an order, there is a substantial risk that relevant emails or attachments may be deleted through routine IT maintenance or otherwise. Courts have imposed sanctions for failure to preserve relevant records. *Leon*, 464 F.3d at 959.

5. **Judicial Efficiency.** Entering a preservation and production order now avoids future disputes and ensures that all parties and custodians understand their obligations.

IV. REQUESTED RELIEF

For the foregoing reasons, Plaintiff respectfully requests that the Court enter an order:

1. **Preservation:** Directing Defendant Perry, her former chambers staff, and the **Eighth Judicial District Court** as custodian of the Department P email account to preserve all communications (including emails, drafts, and attachments) exchanged with opposing counsel relating to Plaintiff's family court case from June 2021 to May 2022.
2. **Production:** Compelling the production of such communications, or alternatively, permitting Plaintiff to serve subpoenas under NRCP 45 on the Court's IT department or other custodians of the Department P email account to obtain these records.
3. **Protective Relief:** Prohibiting deletion, destruction, or alteration of potentially relevant communications pending resolution of this litigation.

V. CONCLUSION

Sworn testimony establishes that Department P (Defendant Perry's chambers) sent ex parte instructions to opposing counsel during Plaintiff's family case. These communications are central to the claims now before this Court. Plaintiff respectfully requests that the Court order preservation and production of all such communications to protect the integrity of the proceedings and Plaintiff's due process rights.

DATED this 21st day of August 2025.

Respectfully submitted,

/s/Luba Dace

VERIFICATION

I, **Luba Dace**, declare as follows:

1. I am the Plaintiff in the above-entitled action and I am representing myself.
2. I have personal knowledge of the facts stated in the attached **Motion to Preserve and Compel Production of Communications**, except as to those matters stated on information and belief, and as to those matters I believe them to be true.
3. Attached hereto as **Exhibit 1** is a true and correct copy of sworn testimony given by opposing counsel in a separate proceeding. This transcript accurately reflects the testimony wherein counsel admitted receiving an email from **Department P (Defendant Perry's judicial chambers)** instructing him to file an Order to Show Cause and to leave the attorney-fee section blank in Plaintiff's family court case.

4. I verify under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 21st day of August 2025, at Las Vegas, Nevada.

/s/Luba Dace

Luba Dace, Plaintiff Pro Se

Certificate of Service

I hereby certify that on this 21st day of August 2025, I caused a true and correct copy of the foregoing **Motion to Preserve and Compel Production of Communications** to be served upon all parties via [e-service / mail].

/s/Luba Dace

Luba Dace

EXHIBIT 1

have filed your own declaration [U/A] could be, you know, going [U/A] that as well, but I am-, I have allowed you to testify despite the fact that there was no declaration on here. I will, will for efficiency sake allow you to make a statement and then Mr. Burke will respond to that with questions or objections if he has any. So, you may proceed.

Mr. Grimes: So, my initial statement, your honor, is and there has been a lot of questions about this why I didn't stop everything [U/A] notify me by e-mail that she had filed bankruptcy. The problem is that Ms. Snow has been less than honest in the divorce case and even in this current bankruptcy case but at that time I had already been dealing with her for years with deceit. I mean, she-, [U/A] from the Family Court were that she executed [U/A] by, by getting a signature by coercion and faking that signature and attaching it to a quick [U/A] to assert the claim on the [U/A]. I don't trust her. That was my position. That's why I checked PACER. I checked PACER, I, I-, there was no filing. And so, we proceeded to stop-, try to stop her. Now, I subsequently learned that even the TRO would not have stopped her in federal court for filing bankruptcy. But it was my intent. That's what we were trying to do. There is no question of that. So, what happens next is we lose the race, I notify the court, the court continues the hearing. As I have stated I had a hearing that morning. I was at the [U/A] if the court needs that information, I can give it the case number, but I was down there for quite some time. Far more than I expected to.

ex-parte communication

When I returned to my office, I had a message. The message was from Department P and the message said, "Filing motion for order to show cause and living [U/A] blank line on the order for attorney's fees." I had to contact my client because even if the court says that, I can't just spend my client's money. I contacted Enrique. I informed him that we could file a motion for an order to show cause. I drafted an initial order to show cause. I will tell you I was concerned whether or not I'm violating the automatic stay so I do some research, I clearly learn I can't seek attorney's fees, I can't seek sanctions, I, I