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Steven D. Grierson
CLERK OF THE COURT

LUBA DACE
[redacted]
Pro Per

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LUBA DACE,

Plaintiff,

v.

MELVIN GRIMES, BEN CHILDS, LAW OFFICE OF BENJAMIN B. CHILDS, ROBERTS STOFFEL FAMILY LAW GROUP,

Defendants.

Case No.: A-25-922833-C
Dept. No.: 29

PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT

Introduction and Requested Relief.

Under NRCP 15(a)(2), leave to amend "should [be] freely give[n] when justice so requires." The controlling factors are those identified *in Foman v. Davis*: undue delay, bad faith, repeated failure to cure, futility, and—most importantly—prejudice. Defendants identify none. The Court should (1) grant leave, (2) deem the Fourth Amended Complaint ("4AC") the operative pleading, (3) deny the NRCP 12(f) countermotion, and (4) direct that any Rule 12 challenges be addressed to the 4AC.

Case Number: A-25-922833-C

Governing Standard (NRCP 15(a)(2) / *Foman*).

Nevada applies the *Foman* framework and the liberal amendment policy so cases are resolved on the merits. See *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Steinberg v. District Court*, 97 Nev. 541, 544, 635 P.2d 850, 852 (1981); *Haley v. Eighth Judicial Dist*. Court, 128 Nev. 171, 179, 273 P.3d 855, 860 (2012). The Ninth Circuit similarly stresses that prejudice "carries the greatest weight." *Eminence Capital, LLC v. Aspeon, Inc*., 316 F.3d 1048, 1052 (9th Cir. 2003); *United States v. Webb*, [redacted]1981).

Argument.

1. **No prejudice; early posture; amendment streamlines the case.**

Defendants identify no prejudice. The case is at its earliest stage, no discovery has occurred, and the 4AC consolidates allegations into a single operative pleading, thereby simplifying—not expanding—the litigation. Where, as here, prejudice is absent (and no other *Foman* factor is shown), leave is presumptively appropriate. See *Eminence Capital*, 316 F.3d at 1052; Steinberg, 97 Nev. at 544.

2. **Pro per compliance.**

Defendants contend that self-represented litigants receive no special leniency. Plaintiff agrees: the same rules apply to everyone. But the rule that applies here is NRCP 15(a)(2)'s liberal standard. On this record—early posture, no discovery, no scheduling disruption, and no articulated prejudice—granting leave is consistent with both NRCP 15 and the authorities Defendants cite. Defendants' reliance on *Rodriguez* and *Bonnell* is misplaced; neither case alters the controlling *Foman* framework. (Responds to Opp'n at 2:26-3:3)

3. **No undue delay, bad faith, or repeated failure to cure; no global futility.**

Defendants do not argue undue delay, bad faith, or repeated deficiency. Their only merits-adjacent point is judicial immunity as to one defendant. Even if the Court ultimately limits any claim on immunity grounds, that would not justify denying leave as to all claims or parties. The prudent course is to grant leave and allow any targeted Rule 12 or Rule 56 motion to be directed at the 4AC. To the extent the Court has any concern about the Second and Third Amended Complaints, granting leave and deeming the 4AC operative cures any procedural irregularity. Under Nevada law, an amended complaint supersedes prior pleadings; the earlier versions 'no longer perform any function as pleadings.' See *Las Vegas Network v. Shawcross*, 80 Nev. 405, 409 (1964). The Court may, for docket clarity, deem the prior amendments withdrawn or strike them as superseded—no sanctions are warranted and no prejudice has been shown." (Responds to Opp'n at 3:28-4:4)

4. **Countermotion to Strike Should Be Denied.**

Rule 12(f) addresses "redundant, immaterial, impertinent, or scandalous" matter; it is not a vehicle to strike entire pleadings or adjudicate Rule 15 sequencing. See *Whittlestone, Inc. v. Handi-Craft Co.*, 618 F.3d 970, 973–75 (9th Cir. 2010). Any procedural concern is cured by granting leave and deeming the 4AC operative, with prior amendments withdrawn.

5. **Judge Perry removed; immunity as to her is moot.**

Plaintiff has voluntarily dismissed without prejudice all claims against Judge Mary Perry pursuant to NRCP 41(a)(1)(A)(i). Accordingly, any judicial-immunity issues as to Judge Perry are moot and need not be decided. As to the remaining defendants, leave to amend should be

"freely give[n] when justice so requires," and denial for futility is proper only where futility is clear as to the specific proposed claim. NRCP 15(a)(2); *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (prejudice carries the greatest weight). Any discrete immunity or privilege defenses can be raised by a targeted Rule 12 motion directed to the 4AC.

6. **Inherent-authority rejoinder.**

Defendants' reliance on the Court's 'inherent authority' is misplaced. *Halverson* and *City of Sparks* address sanctions and internal case-management; they do not override NRCP 15's policy of deciding cases on the merits. No litigation abuse is identified. To the contrary, permitting the 4AC will consolidate and clarify the allegations, reducing—not increasing—burden on the parties and the Court." (Responds to Opp'n at 3:7)

7. **Handling the Second and Third Amended.**

To the extent the Court has any concern about the Second and Third Amended Complaints, granting leave and deeming the 4AC operative cures any procedural irregularity. Under Nevada law, an amended complaint supersedes prior pleadings; the earlier versions 'no longer perform any function as pleadings.' See *Las Vegas Network v. Shawcross*, 80 Nev. 405, 409 (1964). The Court may, for docket clarity, deem the prior amendments withdrawn or strike them as superseded—no sanctions are warranted and no prejudice has been shown." (Responds to Opp'n at 3:38-4:4)

Declaratory-judgment statute. NRS 30.040 addresses substantive controversies; it does not govern whether to grant leave under NRCP 15(a)(2). The motion should be resolved under the *Foman*/Rule 15 standard.

Conclusion.

Grant leave under NRCP 15(a)(2), deem the 4AC operative, deny the 12(f) countermotion, and direct that any Rule 12 challenges be addressed to the 4AC. Plaintiff will file the 4AC promptly after the order is granted and treat all prior amendments as withdrawn, thereby mooting the request to strike. (Ex. 2, 4AC)

I declare under penalty of perjury under the laws of the state of Nevada the foregoing reply is true and correct to the best of my knowledge.

/s/Luba Dace

LUBA DACE, Plaintiff, Pro Per

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that on the 2nd day of September 2025, I served a true and correct copy of the foregoing **PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE FOURTH AMENDED COMPLAINT** by e-service.

Dated this 2nd day of September 2025.

/s/Luba Dace

LUBA DACE, Plaintiff, Pro Per

EXHIBIT 2

LUBA DACE
[redacted]
Pro Per

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LUBA DACE, Plaintiff, v. MELVIN GRIMES, BENJAMIN CHILDS, LAW OFFICE OF BENJAMIN B. CHILDS, ROBERTS STOFFEL FAMILY LAW GROUP, Defendants.	Case No.: A-25-922833-C Dept. No.: 29 **FOURTH AMENDED COMPLAINT FOR: (1) PROFESSIONAL NEGLIGENCE/LEGAL MALPRACTICE (AND BREACH OF FIDUCIARY DUTY); (2) FRAUD/INTENTIONAL MISREPRESENTATION (AGAINST CHILDS); (3,4) ABUSE OF PROCESS (AGAINST GRIMES)**

Plaintiff **Luba Dace** alleges:

I. JURISDICTION, VENUE, AND JOINDER

1. This Court has jurisdiction pursuant to Article 6, Section 6 of the Nevada Constitution.

2. Venue is proper in Clark County under NRS 13.010 because material events occurred here and Defendants reside and/or do business here.

3. **Joinder (NRCP 20(a)).** The claims against all Defendants arise out of the same series of transactions and occurrences—namely, the custody litigation and related proceedings—

and present common questions of law and fact, including whether Defendants' acts and omissions unlawfully prejudiced Plaintiff's custody rights and caused an indivisible injury.

4. Keeping the claims together promotes judicial economy and avoids inconsistent results.

5. Plaintiff's claims arise from non-communicative conduct (e.g., issuance and misuse of process) rather than the content of advocacy or testimony.

II. PARTIES

6. Plaintiff **Luba Dace** resides in Clark County, Nevada.

7. Defendant **Benjamin B. Childs** (Mr. Childs) is a Nevada attorney; Defendant **Law Office of Benjamin B. Childs** is his law practice.

8. Defendant **Melvin Grimes** (Mr. Grimes) is a Nevada attorney who represented Plaintiff's ex-husband, Enrique Gonzalez and was employed by **Roberts Stoffel Family Law**.

9. At all relevant times, Judge Mary Perry served as a judge of the Eighth Judicial District Court.

10. Plaintiff does not assert claims against Judge Perry in this action; references to Judge Perry's conduct are included solely as background and context for Plaintiff's claims against Defendants Mr. Grimes and Mr. Childs.

III. GENERAL ALLEGATIONS

A. Custody litigation background; school placement and related events

11. On April 6, 2021 the Eighth Judicial District Court, through Judge Mary Perry, imposed a parallel parenting plan after finding that co-parenting was impracticable.

12. On November 18, 2021, at Defendant Mr. Grimes's request, the Court directed that the child be enrolled at [redacted] School, where Plaintiff's ex-husband's wife was employed.

B. Childs's representation (Dec 2021–June 2023) and advice

13. Mr. Childs appeared for Plaintiff on or about December 21, 2021.

14. Between March 13–15, 2023, Mr. Childs advised Plaintiff to withhold the child from her ex-husband, despite a governing decree regulating travel.

15. He repeated this directive in communications to opposing counsel, Mr. Grimes.

16. In April 2023, Mr. Childs prepared and filed an Order to Show Cause in the family case *Gonzalez v. Velazquez-Gonzalez,* No. D-18-575860-D (Nev. Dist. Ct. Fam. Div.). seeking to change the child's school and make new orders for travel with the child but failed to include required points and authorities resulting in the relief not being granted.

17. The attorney–client relationship ended shortly after in June 2023.

18. Following termination of the representation on March 19, 2024, Mr. Childs used or disclosed Plaintiff's confidential information, including by misusing confidences in subsequent proceedings that Plaintiff acted unilaterally in withholding the child rather than acknowledging his prior advice against the drop-off; such conduct was adverse to Plaintiff and outside any waiver, contrary to his duties as former counsel under NRPC 1.9(c).

C. Grimes's Conduct and Ex Parte Directive

19. On December 16, 2021, outside any noticed proceeding, Judge Perry instructed Defendant Mr. Grimes to prepare and file an OSC and to leave the line for attorney's fees blank.

20. Mr. Grimes accepted and acted on this directive, applying for an OSC on December 17, 2021, that sought to jail Plaintiff for 25 days in connection with her bankruptcy filing.

21. On March 4, 2022, during *In re Luba Snow*, No. 21-15676-NMC (Bankr. D. Nev.), Mr. Grimes stated on the record that he would be paid from the proceeds of Plaintiff's residence.

22. In the same hearing, Mr. Grimes alleged Plaintiff had coerced and falsified a signature, which Plaintiff alleges was false and intended to challenge a valid quitclaim deed to advance his financial interest.

23. The OSC was thereafter used to maintain threats of jail, pressure Plaintiff into bankruptcy concessions, and facilitate the forced sale of her residence for Mr. Grimes's financial benefit.

D. Damages and Discipline

24. As a result of Defendants' acts and omissions, Plaintiff suffered:

(a)increased litigation expenses (over $120,000),

(b)coerced loss of her residence and substitute housing costs (approx. $2,100/month for four years),

(c)adverse custody outcomes culminating in loss of joint physical custody, and severe emotional distress and anxiety.

25. On March 4, 2022, the United States Bankruptcy Court held Defendant Mr. Grimes in contempt for pursuing contempt sanctions against Plaintiff notwithstanding the automatic stay in *In re Luba Snow*, No. 21-15676-NMC (Bankr. D. Nev.).

26. On May 12, 2022, Plaintiff filed a motion to disqualify Judge Mary Perry based on bias.[1]

27. On May 18, 2022, Judge Perry recused herself from Plaintiff's custody case.

28. On March 1, 2024, the State Bar of Nevada publicly admonished Defendant Mr. Grimes for violations of RPC 1.1, 3.1, 3.2, 4.4, and 8.4 arising from his conduct in Plaintiff's custody and bankruptcy matters.

29. On July 18, 2024, the Nevada Commission on Judicial Discipline issued a public censure of Judge Perry for her treatment of Plaintiff in Plaintiff's case.

30. Plaintiff does not assert claims against Judge Perry in this action; the censure is referenced solely as background and context for Defendants' conduct.

IV. CAUSES OF ACTION

COUNT 1 – PROFESSIONAL NEGLIGENCE / LEGAL MALPRACTICE (AND BREACH OF FIDUCIARY DUTY)

(Against Benjamin B. Childs and Law Office of Benjamin B. Childs)

31. Plaintiff incorporates by reference the preceding paragraphs as though fully set forth herein.

32. Plaintiff and Defendant Mr. Childs formed an attorney–client relationship no later than December 2021 under a retainer agreement.

33. Defendant Mr. Childs owed Plaintiff duties to exercise the skill, prudence, and diligence of a reasonably competent Nevada attorney, including compliance with then-operative

[1] Plaintiff only moved to disqualify Judge Perry based on her bias rulings at this time and did not know any ex-parte communication occurred until shortly after Perry's public censure in July 2024.

court orders, proper filing practice, and duties owed to a former client under NRPC 1.9(c).

34. Defendant Mr. Childs breached these duties by, inter alia:

(a) advising between March 8–15, 2023 that Plaintiff could not release the child for cross-border travel despite a governing decree permitting such travel;

(b) filing an April 2023 OSC without required points and authorities, resulting in denial of relief; and

(c) after termination of representation, using or disclosing Plaintiff's confidential information adverse to her interests, outside any waiver.

35. As a direct and proximate result, Plaintiff was forced to defend against an unfounded presumption under NRS 125C.0035(7), was required to go to trial, and ultimately lost joint physical custody of her child.

36. Plaintiff suffered economic and non-economic damages proximately caused by Defendant Childs's malpractice, in amounts to be proven at trial.

COUNT 2 – FRAUD / INTENTIONAL MISREPRESENTATION

(Against Benjamin B. Childs and Law Office of Benjamin B. Childs)

37. On or about March 13, 2023, at approximately 5:00 pm, while serving as Plaintiff's counsel and communicating from within Clark County, Nevada, Defendant Mr.Childs sent Plaintiff a SMS text message from [redacted] to Plaintiff.

38. In that communication Mr. Childs stated, "Obviously you need to talking parents him & just say you're done. He's NOT picking up [the child] on Wed. NO WAY !"

39. Mr. Childs further reiterated these instructions to opposing counsel Defendant Mr. Grimes on March 15 by email, notifying him that, "…no, she cannot provide [the child]

at the exchange point right now for the following reasons…CBX tickets have not been provided."

40. At the time of these statements, a Stipulated Decree of Divorce filed December 8, 2021, governed travel. [2]

41. In reliance on Mr. Childs's March 13–15 advice, Plaintiff withheld the child, which was later used to trigger the abduction presumption under NRS 125C.0035(7).

42. Mr. Childs made these statements knowingly, or at minimum with reckless disregard for whether his advice was consistent with the governing court orders, and with the intent that Plaintiff rely on them.

43. Plaintiff suffered loss of shared physical custody on January 2, 2025, and considerable appeal costs.

44. Mr. Childs knew, or was reckless in not knowing, that his statements were materially incomplete and misleading, omitting the operative order's terms authorizing/conditioning travel, and that his direction to withhold the child, if followed, would violate that order.

45. Defendant Mr. Childs's misrepresentations were a substantial factor in causing Plaintiff's damages, both economic and non-economic.

46. Malice/Intent. The circumstances support a strong inference of intent to induce Plaintiff to act in accordance with Mr. Childs's advice despite the contradictory order.

47. Relief. Plaintiff seeks compensatory and punitive damages, and costs as permitted by law.

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[2] Plaintiff notes that the decree incorporated a stipulation reached and memorialized in March 2023 under which Plaintiff's former spouse was to provide CBX tickets for cross-border travel. The stipulation did not authorize Plaintiff to withhold the child in the absence of such tickets; this background is noted only to clarify context for Defendant Mr. Childs's advice.

COUNT 3 – ABUSE OF PROCESS (2021 Family and Bankruptcy Court Proceedings)

(Against Melvin Grimes and Roberts Stoffel Family Law Group)

48. Plaintiff incorporates the preceding paragraphs.

49. On December 17, 2021, in the civil custody action *Gonzalez*, No. D-18-575860-D. Mr. Grimes applied for and obtained an Order to Show Cause setting a contempt/jail hearing against Plaintiff (the "OSC").

50. The OSC issued on December 17, 2021, and the hearing was set for December 22, 2021.

51. Ex parte predicate (context for intent and misuse). As alleged above (¶19, 20), Defendant Mr. Grimes accepted and acted on an ex parte directive to prepare and file the OSC with the attorney's fees line left blank.

52. Ulterior purpose. Defendant Mr. Grimes pursued and used the OSC not to resolve custody issues, but to coerce collateral bankruptcy concessions, including pressuring Plaintiff to dismiss or limit her bankruptcy protections and threatening incarceration as leverage.

53. As further alleged above (¶21), Mr. Grimes also admitted on March 4, 2022, in *In re Luba Snow*, No. 21-15676-NMC (Bankr. D. Nev.), that he expected to be paid from the proceeds of Plaintiff's residence, confirming his financial motive.

54. These purposes are unrelated to adjudicating best interests under NRS 125C.0035.

55. Improper acts**.** After issuance of the OSC, Defendant Mr. Grimes:

(a) pressed the OSC forward despite notice of the automatic stay;

(b) sought settings and accelerations to maintain the threat of jail;

(c) invoked jail exposure to pressure Plaintiff into bankruptcy concessions unrelated to custody;

(d) relied on the ex parte directive regarding attorney's fees as bargaining leverage;

and

(e) coupled the OSC with efforts to force the sale of Plaintiff's residence and direct compensation to himself from the proceeds.

56. These actions were not proper in the regular conduct of a custody proceeding and intruded upon the bankruptcy court's exclusive authority under 11 U.S.C. § 362.[3]

57. Damages. As a proximate result, Plaintiff suffered economic and non-economic harm, including litigation expenses, housing losses, custody-related injury, and emotional distress, in amounts to be proven at trial.

58. Clarification. This Count seeks liability solely against Defendant Mr. Grimes for misuse of process.

59. References to ex parte communications and to Mr. Grimes's March 4, 2022, admission are pleaded only as evidence of his knowledge, motive, and intent, not to impose liability on any judicial officer.

60. Malice/oppression. The foregoing conduct was willful and in conscious disregard of Plaintiff's rights, supporting punitive damages under NRS 42.005.

COUNT 4 – ABUSE OF PROCESS (2024 Custody Trial Proceedings)

(Against Melvin Grimes and Roberts Stoffel Family Law Group)

61. Plaintiff incorporates the preceding paragraphs.

62. On March 19, 2024, during trial in the civil custody action *Gonzalez v. Velazquez-Gonzalez*, No. D-18-575860-D, Defendant Mr. Grimes misused judicial process by alleging that Plaintiff violated criminal statutes—specifically NRS 200.359 (child

[3] Any reference to the violation of the automatic stay, previously litigated in *In re Snow*, Case No. 21-15676-NMC (Bankr. D. Nev.), is alleged solely as evidence of Defendant's abuse of process, motive, and intent. Plaintiff does not seek to re-litigate or collaterally attack matters already adjudicated in the bankruptcy proceeding.

abduction)—despite the absence of any criminal charge or conviction and despite the family court's prior adjudications.

63. On October 15, 2024, in the same trial, Defendant Mr. Grimes repeated the same tactic, again alleging that Plaintiff's family-law conduct amounted to criminal abduction under NRS Chapter 200, a matter outside the jurisdiction of the family court.

64. Ulterior purpose**.** By injecting criminal allegations into the custody trial, Defendant Grimes sought not to advance a legitimate best-interests analysis under NRS 125C.0035, but to:

(a) manufacture a purported change in circumstances to justify modification of custody;

(b) stigmatize Plaintiff as a criminal without lawful adjudication; and

(c) increase leverage to extract custody concessions unrelated to the actual merits.

65. Improper acts. Defendant Mr. Grimes's conduct included:

(a) knowingly mischaracterizing family-law conduct as criminal abduction under NRS 200.359;

(b) presenting allegations of criminal conduct in a civil custody forum where no such charges existed; and

(c) pressing the court to act on accusations that were legally irrelevant and already adjudicated, in order to prejudice custody determinations.

66. Effect. Plaintiff was compelled to defend against improper accusations of criminality in a civil trial, suffered reputational harm, incurred additional litigation expense, and endured tainted custody determinations.

67. Elements satisfied. Defendant Mr. Grimes's conduct satisfies the Nevada elements of abuse of process:

(a) an ulterior purpose other than adjudicating the best interests of the child; and

(b) willful acts in the use of process not proper in the regular conduct of custody proceedings.

68. Damages. As a proximate result of the March and October 2024 misuse of process, Plaintiff suffered:

(a) increased legal expenses defending against false allegations of criminality;

(b) reputational injury from being branded a criminal in a civil forum;

(c) custody-related injury from a tainted trial record; and

(d) emotional distress and mental suffering. Damages will be proven at trial.

69. Clarification. This Count seeks liability solely against Defendant Grimes for misuse of process.

70. Malice/oppression. Defendant Grimes's repeated misconduct in March and October 2024 was willful, deliberate, and in conscious disregard of Plaintiff's rights, supporting punitive damages under NRS 42.005.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment in her favor and against Defendants, jointly and severally where permitted by law, as follows:

1. **Compensatory Damages:** An award of compensatory damages in an amount not less than $1,000,000, including but not limited to:
    - over **$**120,000 in litigation expenses proximately caused by Defendants' conduct;
    - approximately $100,800 in substitute housing costs (rent) incurred at $2,100 per month over four years following the forced sale of Plaintiff's residence;
    - loss of equity and value from the forced sale of Plaintiff's home;
    - adverse custody outcomes culminating in the loss of joint physical custody; and
    - other economic and non-economic losses to be proven at trial;
2. **Special Damages:** Including, without limitation, appeal-related costs actually incurred, relocation costs, and other out-of-pocket losses proximately caused by Defendants' conduct;
3. **General Damages:** For emotional distress, humiliation, reputational injury, and loss of use and enjoyment of property, in amounts to be determined at trial;
4. **Punitive Damages:** Against those Defendants whose conduct was malicious, oppressive, or in conscious disregard of Plaintiff's rights, in an amount sufficient to punish and deter, and subject to the limitations of **NRS 42.005** and other applicable law;
5. **Interest:** Pre- and post-judgment interest as permitted by law;
6. **Costs and Fees:** Recovery of taxable costs under **NRCP 54(d)(1)** and **NRS 18.005–.110**, and reasonable attorney's fees as permitted by law (including, if Plaintiff becomes represented by counsel, **NRS 18.010**);

7. **Single Satisfaction:** Plaintiff seeks a single satisfaction of overlapping losses and does not seek duplicative recovery across counts; and
8. **Further Relief:** Such other and further relief as the Court deems just and proper.

September 2, 2025

Respectfully submitted,

/s/*Luba Dace* **Luba Dace, Plaintiff Pro Per**

[redacted]

VERIFICATION

I, Luba Dace, declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct. Executed on September 2, 2025, in Clark County, Nevada.

/s/*Luba Dace*

Luba Dace, Plaintiff Pro Per