Electronically Filed
9/3/2025 5:01 PM
Steven D. Grierson
CLERK OF THE COURT

OPPS
GARIN LAW GROUP
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA N. OCHOA, ESQ.
Nevada Bar No. 10164
[redacted]

Attorneys for Defendants
Melvin Grimes and Law Offices of Roberts Stoffel

DISTRICT COURT

CLARK COUNTY, NEVADA

LUBA DACE, Plaintiffs, vs. MELVIN GRIMES, BENJAMIN CHILDS, LAW OFFICE OF BENJAMIN B. CHILDS, MARY PERRY Defendants.	Case No: A-25-922833-C Dept. No.: 29 **MELVIN GRIMES'S OPPOSITION TO THE MOTION FOR LEAVE TO FILE A FOURTH AMENDED COMPLAINT** **Hearing Date: October 9, 2025** **Hearing Time: 9:00 a.m.**

Defendants MELVIN GRIMES and LAW OFFICE OF ROBERTS STOFFEL (collectively "Grimes" or "Defendant") by and through their counsel of record at Garin Law Group hereby file their Opposition to Plaintiff's Motion for Leave to File a Fourth Amended Complaint.

1. Based on Plaintiff's numerous filings, including her August 22, 2025, Notice of Withdrawal, the undersigned believed Plaintiff filed a Notice of Withdrawing her Motion for Leave to File a Fourth Amende Complaint. There is good cause in the one day delay in filing this instant Opposition as a Reply to the Motion for Leave is not due until October 2, 2025 (approximately one month away).

2. Leave should not be granted when a claim is futile. *Halcrow, Inc. v. Eighth Jud. Dist. Ct.,* 129 Nev. 394, 398, 302 P.3d 1148, 1152 (2013).

3. In this case, Plaintiff's proposed Fourth Amended Complaint is futile.

4. Grimes filed their Motion to Dismiss Pursuant to NRS 41.660 prior to any order granting Plaintiff leave to amend. Defendant Benjamin Childs filed his Opposition to the Motion for Leave to File Amended Complaint and Motion to Dismiss Pursuant to NRS 41.660 and NRCP 12(b)(5) on August 25, 2025, also before entry of any order granting Plaintiff leave to amend.

5. When a Motion Pursuant to NRS 41.660 is filed, Plaintiff shall not be granted leave to amend. *See Vannah v. Law Office of Daniel S. Simon*, No. 82058, 2022 WL 986138 (March 31, 2022) (Holding that an amended complaint filed while an anti-SLAPP motion is pending cannot be used as the operative complaint); *Salma v. Capon*, 74 Cal. Rptr. 3d 873, 888-89 (Ct. App. 2008) (holding that a plaintiff cannot amend a complaint after an anti-SLAPP motion to dismiss has been filed).

6. Moreoever, Plaintiff's Claim for "Abuse of Process" against Grimes set forth in her Proposed Fourth Amended Complaint is futile because the facts alleged therein establish that in fact, Grimes filed pleadings and took part in process that was in response to resolving a legal dispute.

7. The Nevada Supreme Court has established that the elements of an abuse of process claim are "(1) an ulterior purpose other than resolving a legal dispute, and (2) a willful act in the use of process not proper in the regular conduct of the proceeding." *Dutt v. Kremp*, 111 Nev. 567, 575, 894 P.2d 354, 359 (1995). In *Dutt*, the Nevada Supreme Court held that the attorney who filed suit against a doctor on behalf of a client with a claim for professional malpractice was entitled to judgment as a matter of law. *Id.*

8. Plaintiff's proposed Fourth Amended Complaint ("PFAC") fails in that it does not support facts to establish an ulterior purpose. The Plaintiff recites the "general objective," which include "coercing Plaintiff to relinquish property rights to 7260 Sunny

GARIN LAW GROUP

Countryside; procuring testimony from teachers at a school where the child's stepmother was employed for use in custody proceedings." PFAC ¶ 80. Whether true or not, Plaintiff's recitation of Grimes' objection establish appropriate litigation purpose in this divorce case, which by its very nature, revolves around custody and marital property. Plaintiff's own Divorce Complaint puts the home at [redacted] and child custody at issue. Divorce Complaint, attached hereto as **Exhibit 1**.

9. Plaintiff's proposed Fourth Amended Complaint is futile, thus leave to amend should be denied.

DATED this 3rd day of September, 2025.

GARIN LAW GROUP

By: */s/ Angela Ochoa*
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA N. OCHOA, ESQ.
Nevada Bar No. 10164

[redacted]

efendant

GARIN LAW GROUP

CERTIFICATE OF SERVICE

I hereby certify that on the this 3rd day of September, 2025, I served of the foregoing **MELVIN GRIMES'S OPPOSITION TO THE MOTION FOR LEAVE TO FILE A FOURTH AMENDED COMPLAINT** was made pursuant to NRCP 5(b) to the following parties utilizing the Court's E-File/ServeNV System:

Luba Dace [redacted] Las Vegas NV, 89178	Benjamin B. Childs, Sr., Esq. BENJAMIN B. CHILDS, LTD. [redacted] Attorney for Defendants Benjamin Childs and Law Office of Benjamin B. Childs

/s/ Juan Cerezo
An Employee of GARIN LAW GROUP

GARIN LAW GROUP [redacted]

“EXHIBIT 1”

“EXHIBIT 1”

Electronically Filed
8/20/2018 12:29 PM
Steven D. Grierson
CLERK OF THE COURT

Luba Gonzalez
[redacted]
In Proper Person

DISTRICT COURT

CLARK COUNTY, NEVADA

Luba Gonzalez, Plaintiff, vs. Enrique Ivan Velazquez-Gonzalez, Defendant.	Case No.: D-18-575860-D Dept No.: Department I

COMPLAINT FOR DIVORCE AND UCCJEA DECLARATION (With Children)

COMES NOW, Plaintiff, Luba Gonzalez in Proper Person as and for a Complaint for Divorce against Defendant, and alleges as follows:

1. That Luba Gonzalez for a period of more than six weeks immediately preceding the filing of this action, has been and now is an actual and bona fide resident of the State of Nevada, County of Clark, and has been actually physically present and domiciled in Nevada for more than six (6) weeks prior to the filing of this action.

2. That Plaintiff and Defendant were married on 03/30/2013 in Las Vegas, Nevada, and have been and still are husband and wife.

3. That during the course of said marriage, the tastes, mental disposition, views, likes and dislikes of Plaintiff and Defendant have become so widely divergent that the parties have become incompatible in marriage to such an extent that it is impossible for them to live together as husband and wife; that the incompatibility between Plaintiff and Defendant is so great that there is no possibility of reconciliation between them.

4. Wife is not **pregnant** at this time.

5. That there is one minor child born in this union:

NAME	AGE	DATE OF BIRTH
[redacted] Gonzalez	2	[redacted]

The State of Nevada is the habitual residence of the minor child.

6. The child has lived in the State of Nevada since [redacted] The name and current address of each non-parent the children lived with during the last five years are: None

7. The child has lived with the following persons in the following places within the last five years: [redacted]

I **have not** participated as a party or witness or in some other capacity in any other case involving the child.

I **do not** know of a different case that could affect the current case.

I **do not** know of anyone other than the parent who has physical custody of the child or who claims custody/visitation rights to the child.

8. The Court should consider the following issues in determining custody: None.

9. Luba Gonzalez is a fit and proper person to be awarded primary physical custody of the minor child.

10. Luba Gonzalez and Enrique Velazquez-Gonzalez are fit and proper persons to be awarded joint legal custody of the minor child.

11. Enrique Velazquez-Gonzalez will have visitation with the minor child every 1st and 3rd Saturday at 8am to Sunday at 8pm.

12. That all visitations shall remain in the State of Nevada. In the event the parties mutually agree the child may travel outside the State of Nevada, Enrique Velazquez-Gonzalez shall provide an airplane ticket for both Luba Gonzalez and the minor child to and from the visitation.

If Luba Gonzalez has to miss work then Enrique Velazquez-Gonzalez will be responsible to reimburse Luba Gonzalez the amount lost during the missed work time.

13. That no holiday schedule is being implemented.

14. Mother will claim the minor child every year for income tax reporting.

15. Enrique Ivan Velazquez-Gonzalez should pay child support in the amount of $100 per month. The child support is in compliance with NRS 125B.080. Father earns $0.00 per month.

16. Both husband and wife may request a review of the Child Support Order every three years.

17. That the minor child's name shall be changed to read [redacted] Snow-Gonzalez.

18. The child is presently covered by Luba Gonzalez insurance and Luba Gonzalez is responsible to maintain health insurance coverage.

19. 30/30 Rule: Any parent incurring an out-of-pocket medical expense relating to the minor child will provide to the other parent a copy of all paperwork relating to that expense within thirty (30) days of incurring said expense, along with a request for contribution for one-half (½) of the out-of-pocket expense actually incurred. Upon receipt of a request for contribution for one-half (½) of an out-of-pocket expense incurred by a parent on behalf of the minor child, the other parent will reimburse the requesting parent in the amount requested within thirty (30) days of receipt of said request for contribution. Upon receipt of reimbursement from any insurance carrier by either parent, and if the other parent previously paid a portion of the payment resulting in that reimbursement, the parent receiving the reimbursement shall equally divide said reimbursement with the other parent within seven (7) days of receipt of same. Both parents have the authority to contact the insurance provider directly in order to determine the status of any individual claim. The parties ask the court to adopt the 30/30 Rule.

Any expenses not covered by insurance should be paid equally by both parties.

20. That Defendant cannot modify child support/custody without completing the mandatory COPE class.

21. That Wife wishes to return to her maiden name of Luba Snow.

22. That there is community property to be divided by the Court, as follows: Luba Gonzalez will retain the property located at [redacted] Las Vegas, Nevada 89179, 2014 Mazda cx5, as her sole and separate property.

23. That there is community debt to be divided by the Court, as follows: Luba Gonzalez will assume the mortgage on the property, student loans in her name, and any debts incurred solely in her name, as her sole and separate debt; Enrique Ivan Velazquez-Gonzalez will assume any debts incurred solely in his name, 2017 Mazda 6 outstanding lease balance, as his sole and separate debt.

24. That neither party is entitled to alimony/spousal support and waive that right.

IT IS FURTHER ORDERED that each party shall submit the information required in NRS 125B.055, NRS 125.130 and NRS 125.230 on a separate form to the Court and the Welfare Division of the Department of Human Resources within ten days from the date this Decree is filed. Such information shall be maintained by the Clerk in a confidential manner and not part of the public record. The parties shall update the information filed with the Court and the Welfare Division of the Department of Human Resources within ten days should any of that information become inaccurate.

NOTICE IS HEREBY GIVEN of the following provision of NRS 125C.0045(6): PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

NOTICE IS HEREBY GIVEN that the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country. The parties are also put on notice

of the following provision of NRS 125C.0045(8): If a parent of the child lives in a foreign country or has significant commitments in a foreign country: (a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7. (b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning him to his habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

NOTICE IS HEREBY GIVEN that the parties are subject to the relocation requirements of NRS 125C.006 & NRS 125C.0065. If joint or primary physical custody has been established pursuant to an order, judgment or decree of a court and one parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the relocating parent desires to take the child with him or her, the relocating parent shall, before relocating: (a) attempt to obtain the written consent of the non-relocating parent to relocate with the child; and (b) if the non-relocating parent refuses to give that consent, petition the court for permission to move and/or for primary physical custody for the purpose of relocating. A parent who desires to relocate with a child has the burden of proving that relocating with the child is in the best interest of the child. The court may award reasonable attorney's fees and costs to the relocating parent if the court finds that the nonrelocating parent refused to consent to the relocating parent's relocation with the child without having reasonable grounds for such refusal, or for the purpose of harassing the relocating parent. A parent who relocates with a child pursuant to this section without the written consent of the other parent or the permission of the court is subject to the provisions of NRS 200.359.

NOTICE IS HEREBY GIVEN that the parties are subject to the provisions of NRS 31A and 125.007 regarding the collection of delinquent child support payments. NOTICE IS HEREBY GIVEN that either party may request a review of child support every three years pursuant to NRS 125B.145.

WHEREFORE, Plaintiff prays for a Divorce as follows:

1. That the marriage existing between Plaintiff and Defendant be dissolved and that Plaintiff be granted an absolute Decree of Divorce and that each of the parties be restored to the status of a single, unmarried person.

2. That the Court grant the relief requested in this Complaint;

3. That Defendant for all costs and legal fees associated with this filing; and

4. For such other relief as the Court finds to be just and proper.

DATED this 20 day of AUGUST, 2018.

Luba Gonzalez

[redacted]

In Proper Person

MAGGIE STRICKLAND
NVDP20143424
[redacted]
(702) 439-5333

VERIFICATION

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

Under penalties or perjury, I declare that I am the Plaintiff in the above-entitled action that I have the foregoing Complaint and know the contents thereof, that the pleading is true of my own knowledge, except for those matters therein contained stated upon information and belief, and that as to those matters, I believe them to be true.

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

DATED this 20 day of AUGUST, 2018.

Submitted By:
Luba Gonzalez

[redacted]

In Proper Person

MAGGIE STRICKLAND
NVDP20143424
[redacted]