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Steven D. Grierson
CLERK OF THE COURT

LUBA DACE
[redacted]
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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,

Defendants.

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

PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S UNTIMELY OPPOSITION; REQUEST TO DEEM THE MOTION UNOPPOSED UNDER EDCR 2.20(E); OR, ALTERNATIVELY, TO STRIKE IMMATERIAL MATTER

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

Case Number: A-25-922833-C

MAY RESULT IN THE COURT GRANTING THE RELIEF REQUESTED IN THE MOTION AGAINST YOU.

Introduction

Defendant's Opposition was filed late, and the only explanation offered is a legal error—counsel "believed Plaintiff withdrew." That is not the standard. After a deadline passes, Nevada law requires a showing of excusable neglect under NRCP 6(b)(1)(B)—not a conclusory "good cause" story, and certainly not a bare misreading of the posture. Because Defendant neither moved under NRCP 6(b) nor carried the excusable-neglect burden, the Court should strike the Opposition and, under EDCR 2.20(e), construe the failure to timely oppose as consent to granting Plaintiff's underlying motion. At minimum, the late-filing narrative should be stricken as immaterial and the Court should disregard it.

Factual background (brief)

- Plaintiff served and filed the Motion.
- Defendant's Opposition was due under **EDCR 2.20(e)** but was filed **one day late**.
- Defendant's only explanation is that counsel **"believed Plaintiff withdrew."** (Opp'n 1:26–28.)

Legal standards

1. **EDCR 2.20(e) – Untimely oppositions.**

   EDCR 2.20(e) sets fixed deadlines for oppositions and expressly authorizes the Court to treat a failure to timely oppose as **consent** to granting the motion. Multiple official sources and practice guides recite the same rule and consequence.

2. **NRCP 6(b)(1)(B) – Post-deadline relief requires excusable neglect.**

   Once a deadline **expires**, a party must seek leave and **prove excusable neglect**. The

Nevada Supreme Court has applied NRCP 6(b) to extend expired time limits **only** upon such a showing.

3. What excusable neglect is—and isn't.

The U.S. Supreme Court's *Pioneer* decision (followed broadly and frequently cited) explains that while excusable neglect is an "elastic" concept, **"inadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute 'excusable' neglect."** Ninth Circuit authority applying Pioneer to **Rule 6(b)** says the same. Nevada decisions, when evaluating excusable neglect, require reasoned findings under recognized factors and do not accept **mere legal error** as enough. **Argument**

I. The Opposition should be stricken as untimely; EDCR 2.20(e) permits the Court to deem the motion unopposed and grant it.

EDCR 2.20(e) requires an opposition **within 14 days** after service (or as otherwise set). It further provides that **failure** to timely file an opposition **"may be construed as an admission that the motion is meritorious and a consent to granting"** it. Defendant filed late and offered no proper NRCP 6(b) motion or evidentiary showing of excusable neglect. The clean remedy is to **strike** the Opposition and **treat the motion as unopposed** under EDCR 2.20(e). This approach enforces the local rule and preserves orderly motion practice.

II. Defendant's "we thought it was withdrawn" is not excusable neglect under NRCP 6(b)(1)(B).

After a deadline passes, the standard is **excusable neglect**. Nevada's high court has confirmed that courts may enlarge expired periods **only** upon that showing. Defendant made **no** NRCP 6(b) request and, even if the Court liberally construes the Opposition as such, the explanation offered is **legal error**—a unilateral assumption that a

filed motion was "withdrawn" without **any stipulation, order, or docket entry**. Under *Pioneer*, mistakes about rules or deadlines **"do not usually constitute 'excusable' neglect,"** and federal courts applying Pioneer to **Rule 6(b)** say the same. Nevada decisions require specific factor findings and a **reasonable basis** for noncompliance; a bare, self-inflicted misreading does not qualify. The Opposition should be stricken on this independent ground.

III. Alternatively, strike the immaterial late-filing narrative and disregard it.

Even if the Court were inclined to consider the late paper, the pages devoted to excusing Defendant's **own** tardiness add nothing to the merits. They are **immaterial** to the issues raised by Plaintiff's underlying motion and risk confusing standards (NRCP 6(b) timing relief vs. the merits of Plaintiff's requested relief). The Court should **strike or disregard** those portions and proceed to decide the underlying motion on its merits. (Courts possess inherent authority to strike improper or immaterial matter in non-pleading papers, especially when it concerns another party's procedural missteps rather than issues joined for decision.) Cf. EDCR 2.20(e) (authorizing the court to treat an untimely or absent opposition as consent and proceed to decision).

Requested relief

Plaintiff respectfully asks the Court to enter an order that:

1. **Strikes** Defendant's Opposition as **untimely**;
2. **Deems** Plaintiff's underlying motion **unopposed** under **EDCR 2.20(e)** and **grants** it; and
3. **Alternatively**, strikes or disregards Defendant's late-filing explanation as **immaterial** and decides the underlying motion on the merits **without** crediting Defendant's timing detour.

VERIFICATION (Unsworn Declaration under NRS 53.045)

I, **Luba Dace**, declare:

1. I am the **Plaintiff** in the above-captioned action.
2. I have read the foregoing PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S UNTIMELY OPPOSITION; REQUEST TO DEEM THE MOTION UNOPPOSED UNDER EDCR 2.20(E); OR, ALTERNATIVELY, TO STRIKE IMMATERIAL MATTER, and know its contents. The factual statements are true and correct of my own personal knowledge, except as to matters stated on information and belief, and as to those matters I believe them to be true.
3. Any attached exhibits are true and correct copies of what they purport to be.

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

Executed on September 10, 2025, at Las Vegas, Nevada.

/s/*Luba Dace*

Luba Dace

Plaintiff, in Proper Person

Affirmation (NRS 239B.030): I affirm this document does not contain the social security number of any person.

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CERTIFICATE OF SERVICE

I certify that on **September 10, 2025**, I served a true and correct copy of the foregoing PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S UNTIMELY OPPOSITION; REQUEST TO DEEM THE MOTION UNOPPOSED UNDER EDCR 2.20(E); OR, ALTERNATIVELY, TO STRIKE IMMATERIAL MATTER as follows:

Electronic Service (NRCP 5(b)(3); EDCR 8.07):

By filing through the Eighth Judicial District Court's Odyssey eFile & Serve system, which effects e-service on registered users in this case, including:

- **Ben B. Childs, Esq.** — *Law Offices of Ben B. Childs*, counsel for **Law Offices of Ben B. Childs**.
- **Angela Ochoa, Esq.** — *Garina Law Group*, counsel for **Melvin Grimes** and **Roberts Stoffel Family Law Group**.

/s/*Luba Dace*

Luba Dace

Plaintiff, in Proper Person

[redacted]