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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 the Roberts Stoffel Family Law Group

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 AND ROBERTS STOFFEL FAMILY LAW GROUP'S REPLY IN SUPPORT OF THE SPECIAL MOTION TO DISMISS UNDER NRS 41.660 (ANTI-SLAPP)** **Hearing Date: September 23, 2025** **Hearing Time: 9:30 a.m.**

Defendants MELVIN GRIMES and the ROBERTS STOFFEL FAMILY LAW GROUP, erroneously sued as the Law Office of Roberts Stoffel by and through their counsel of record at Garin Law Group, hereby file their Reply in Support of the Special Motion to Dismiss Plaintiff's Complaint under NRS 41.660 (Anti-SLAPP).

DATED this 16th day of September, 2025.

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By: */s/ Angela Ochoa*
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
ANGELA N. OCHOA, ESQ.
Attorneys for Defendant
Melvin Grimes and the
Roberts Stoffel Family Law Group

Case Number: A-25-922833-C

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF ARGUMENT

This is a retaliatory lawsuit filed by Plaintiff Luba Dace ("Plaintiff") against her ex-husband's attorney Defendants Melvin Grimes and Roberts Stoffel Family Law Group (collectively "Defendants") for abuse of process. Plaintiff argues against dismissal, asserting that (1) NRS 41.660 does not protect Mr. Grimes because the complained of actions are non-communicative, (2) Defendants failed to meet their burden in establishing Mr. Grimes's statements were made in good faith, and (3) Mr. Grimes statements were not made in good faith. Plaintiff complains of actions Mr. Grimes made in the case of *Gonzalez v. Gonzalez*, Case No. D-18-575860-D, in which Mr. Grimes represented Plaintiff's ex-husband since 2019. The divorce proceedings were commenced by Plaintiff to address marital property and child custody and remain pending, with an appeal on the matters for which Plaintiff complains in this instant action. Supreme Court Docket, **Exhibit 1.**

Through her Opposition and supporting exhibits, Plaintiff has made clear that this case is indeed nothing more than a complaint against Defendants for Mr. Grimes's good faith communications stated well beyond the abuse of process statute of limitations of two years and protected by the litigation privilege. Plaintiff's exhibits support that she has already been compensated for damages arising out of the December 2021 Ex-Parte Communications and that Plaintiff's argument on child abduction were not an abuse of process. Plaintiff's request to take the deposition of Mr. Grimes must be denied because no amount of discovery can save Plaintiff's claims. Therefore, this Court should grant Defendants' instant Motion to Dismiss as further set forth below:

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II. LEGAL ARGUMENT

A. Plaintiff's Complaint of an alleged Ex-Parte Communication to a Family Court Judge that occurred in December 2021 is Barred by the Statute of Limitations.

Plaintiff asserts that her complaint is about an ex-parte communication that necessarily occured in December 2021 because Mr. Grimes testified before a bankruptcy judge in her bankruptcy court case that he received a voicemail from the Family Court Department P to file a Motion for Order to Show Cause. Plaintiff's Opposition, P.3, ll. 2-7. While Defendants contend that communications to the Court are protected speech, with the right to petition, Plaintiff's own exhibits establish that claims arising out of a December 2021 communication with Family Court Department P or even the filing of the Ex-Parte Motion for Order to Show Cause in December 2021 are barred by the statute of limitations.

According to Plaintiff's Exhibit E, Mr. Grimes testified on March 4, 2022 that he received a voicemail from Department P to file the Motion for Order to Show Cause. The Motion for Order to Show Cause was filed in December 2021. An abuse of process claim is subject to a two year statute of limitations. *See* NRS 11.190(4)(e). *Marx v. St. Paul Fire & Marine Ins. Co.*, No. CV-S-05-0535-PMP (RJJ), 2001 U.S. Dist. LEXIS 27774, at *13-14 (D. Nev. Nov. 25, 2005).

"In determining whether a statute of limitations has run against an action, the time must be computed from the day the cause of action accrued." *State ex rel. Dep't of Transp. v. Pub. Employees' Ret. Sys. of Nev.*, 120 Nev. 19, 83 P.3d 815, 817 (Nev. 2004) (citations omitted). Generally, "a cause of action accrues when the wrong occurs and a party sustains injuries for which [*17] relief could be sought." *Petersen v. Bruen*, 106 Nev. 271, 792 P.2d 18, 20 (Nev. 1990) (citing *Nelson v. A.H. Robbins Co.*, 515 F. Supp. 623, 625 (N.D. Cal. 1981)).

"Under the discovery rule, the statutory period of limitations is tolled until the injured party discovers or reasonably should have discovered facts supporting a cause of action." *Id*. (citations omitted). "'When the plaintiff knew or in the exercise of proper

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diligence should have known of the facts constituting the elements of his cause of action is a question of fact for the trier of fact.'" *Soper ex rel. Soper v. Means*, 111 Nev. 1290, 903 P.2d 222, 224 (Nev. 1995) (quoting *Oak Grove Inv. v. Bell & Gossett Co.*, 99 Nev. 616, 668 P.2d 1075, 1079 (Nev. 1983)). Thus, "[t]he appropriate accrual date for the statute of limitations is a question of law only if the facts are uncontroverted." *Day v. Zubel*, 112 Nev. 972, 922 P.2d 536, 539 (Nev. 1996) (citing *Nev. Power Co. v. Monsanto Co.*, 955 F.2d 1304, 1307 (9th Cir. 1992)). Here, when Plaintiff knew of the facts that gave rise to an alleged claim are uncontroverted.

1. The Discovery Rule for the Two Year Statute of Limitations Commenced on March 4, 2022.

a. *Plaintiff had actual notice of the facts at issue no later than March 4. 2022*.

Plaintiff asserts that she did not know of the fact that Mr. Grimes received a voicemail in and around December 2021 from Department P (and thus likely contacted Department P first), to form the actionable conduct. However, there is no dispute that Plaintiff had ACTUAL notice, triggering the discovery rule as of March 4, 2022 when she heard Mr. Grimes's testimony. According to Plaintiff's Exhibit E, Plaintiff had the March 4, 2022 evidentiary hearing transcribed. In fact, Plaintiff attended the March 4, 2022 evidentiary hearing and was questioned, showing that she knew of the facts of which she now complains over 3 ½ years ago. Complete "Transcript of March 4, 2022 Hearing," filed by Plaintiff as Doc. 87 (and later stricken because it was not prepared by the Court) *In re: Luba Snow*, Case 21-15676-nmc, attached hereto as **Exhibit 2**.

b. *A State Bar Admonition does not Serve as Notice of Civil Liability and is Not Preclusive in any way.*

While Plaintiff appears to argue that she was not aware of any Nevada State Bar admonitions made against Defendants, whether the State Bar enacts disciplinary action or not, does not trigger awareness of a claim. In fact, discipline does not even trigger civil liability. Nevada Rule of Professional Conduct 1.0A(d) states in pertinent part that "Violation of a Rule should not itself give rise to a cuase of action against a lawyer nor

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should it create a presumption in such a case that a legal duty has been breached. . .They are not designed to be a basis for civil liability. The fact that a Rule is a just basis for a laywer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rules."

2. Plaintiff's Claim is Barred By the Double Recovery Doctrine and Issue Preclusion.

Based on Plaintiff's Opposition, it is clear that Plaintiff has already been compensated for the events surrounding the December 2021 Motion for Order to Show Cause. *See* Plaintiff's Exhibit O. According to the Order Granting Debtor [Luba Dace]'s Motion for Violation of the Automatic Stay, Plaintiff was awarded $1,000 in emotional distress damages and $2,000 in punitive damages. Plaintiff surely had inquiry notice of any alleged abuse of process claim in April 2023 when the Order was entered.

At minimum, Plaintiff's current claim for abuse of process is subject to dismissal because Plaintiff's claims are barred by the double recovery doctrine and the doctrine of issue preclusion. Under the double recovery doctrine, a plaintiff can recover only once for a single injury even if the plaintiff asserts multiple legal theories. *Elyousef v. O'Reilly & Ferrario, LLC*, 126 Nev. 441, 245 P.3d 547 (2010). In *Elyousef*, a plaintiff filed claims against an employer's employee for negligence and settled with that employee, then thereafter, sued the employer for the same damages but asserted different causes of actions. *Id.* The Nevada Supreme Court held that even though plaintiff did not recover the entire amount of her damages, she was precluded from seeking additional recovery because she had obtained a judgment for the entire amount of her claimed damages from the employee. *Elyousef*, 126 Nev. at 444, 245 P.3d at 549. Plaintiff's Exhibit O, establishes that Plaintiff was awarded (1) attorney's fees for her Bankruptcy Counsel, (2) attorney's fees for her Family Court Counsel, (3) $1,000 in emotional distress damages and (4) $2,000 in punitive damages. Plaintiff was made whole for the single injury of Defendants' filing an ex-parte motion for an order to show cause to prevent her

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from filing bankruptcy.

The doctrine of issue preclusion also prevents Plaintiff from pursuing the same damages in this case. In *Elyousef*, the Supreme Court also found the doctrine of issue preclusion prevented the plaintiff from relitigating his claims. 126 Nev. at 445, 245 P.3d at 550. The doctrine of issue preclusion bars a subsequent suit when "(1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; . . .(3) the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation; and (4) the issues was actually and necessarily litigated." *Id.* In this case, Plaintiff and Mr. Grimes were parties to the underlying bankruptcy action. The issue of damages arising out of Mr. Grimes filing the Ex-Parte Motion for Order to show Cause in December 2021 was actually and necessarily litigated and is what is at issue in this case as well. See Plaintiff's Exhibit O; Plaintiff's Supplemental Briefing on Damages attached as **Exhibit 3**; and Exhibit 2. Finally, the matter was on its merits and became final as no one appealed the decision and Plaintiff's bankruptcy closed on November 14, 2024. Bankruptcy Docket, attached hereto as **Exhibit 4.**

B. Defendants' Reference to Abduction Statutes is Relevant to Issues of Custody and Were Made in Good Faith.

Plaintiff asserts that she has an actionable claim because Defendants, in representing Mr. Gonzalez in his child custody matters against Plaintiff made reference to abduction statutes in a March 19, 2024 and October 15, 2024 hearing. Based on Plaintiff's Exhibit F, indeed Mr. Grimes made reference to an abduction statute. NRS 200.359 entitled "Detention, concealment or removal of child from person having lawful custody or from jurisdiction of court and relocation of child by parent without written consent of other parent or court permission: Penalties; limitation on issuance of arrest warrant; restitution; exceptions" states as follows:

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1. A person having a limited right of custody to a child by operation of law or pursuant to an order, judgment or decree of any court, including a judgment or decree which grants another person rights to custody or visitation of the child, or any parent having no right of custody to the child, who:

(a) In violation of an order, judgment or decree of any court 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; or

(b) In the case of an order, judgment or decree of any court that does not specify when the right to physical custody or visitation is to be exercised, 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 guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. Except as otherwise provided in this subsection, a parent who has joint legal and physical custody of a child pursuant to NRS 125C.0015 shall not willfully conceal or remove the child from the custody of the other parent with the specific intent to frustrate the efforts of the other parent to establish or maintain a meaningful relationship with the child. A person who violates this subsection shall be punished as provided in subsection 1 unless the person demonstrates to the satisfaction of the court that he or she violated

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lf or herself from an act to NRS 33.018.

imary physical custody pursuant to subsection 2 of NRS 125C.003, the father of the child shall not willfully conceal or remove the child from the physical custody of the mother. If the father of a child has primary physical custody pursuant to subsection 2 of NRS 125C.003, the mother of the child shall not willfully conceal or remove the child from the physical custody of the father. A person who violates this subsection shall be punished as provided in subsection 1.

4. A parent who has joint physical custody of a child pursuant to an order, judgment or decree of a court shall not relocate with the child pursuant to NRS 125C.0065 without the written consent of the non-relocating parent or before the court enters an order granting the parent primary physical custody of the child and permission to relocate with the child, as applicable. A person who violates this subsection shall be punished as provided in subsection 1.

5. A parent who has primary physical custody of a child pursuant to an order, judgment or decree of a court shall not relocate with the child pursuant to NRS 125C.006 without the

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written consent of the non-relocating parent or the permission of the court. A person who violates this subsection shall be punished as provided in subsection 1.

6. Before an arrest warrant may be issued for a violation of this section, the court must find that:

(a) This is the home state of the child, as defined in NRS 125A.085; and

(b) There is cause to believe that the entry of a court order in a civil proceeding brought pursuant to chapter 125, 125A or 125C of NRS will not be effective to enforce the rights of the parties and would not be in the best interests of the child.

7. Upon conviction for a violation of this section, the court shall order the defendant to pay restitution for any expenses incurred in locating or recovering the child.

8. The prosecuting attorney may recommend to the judge that the defendant be sentenced as for a misdemeanor and the judge may impose such a sentence if the judge finds that:

(a) The defendant has no prior conviction for this offense and the child has suffered no substantial harm as a result of the offense; or

(b) The interests of justice require that the defendant be punished as for a misdemeanor.

9. A person who aids or abets any other person to violate this section shall be punished as provided in subsection 1.

10. In addition to the exemption set forth in subsection 11, subsections 4 and 5 do not apply to a person who demonstrates a compelling excuse, to the satisfaction of the court, for relocating with a child in violation of NRS 125C.006 or 125C.0065.

11. This section does not apply to a person who detains, conceals, removes or relocates with a child to protect the child from the imminent danger of abuse or neglect or to protect himself or herself from imminent physical harm, and reported the detention, concealment, removal or relocation to a law enforcement agency or an agency which provides child welfare services within 24 hours after detaining, concealing, removing or relocating with the child, or as soon as the circumstances allowed. As used in this subsection:

(a) “Abuse or neglect” has the meaning ascribed to it in paragraph (a) of subsection 4 of NRS 200.508.

(b) “Agency which provides child welfare services” has the meaning ascribed to it in NRS 432B.030.

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According to Plaintiff's Exhibits A and J, the March 19, 2024 and October 15, 2024 hearing was a two-day non jury trial to adjudicate a modification of child physical custody and an outstanding order to show cause.[1] Based on Plaintiff's Exhibit F, it is clear that both Mr. Grimes and Plaintiff's counsel Alex Ghibaudo argued about how to interpret NRS 125C.0035, which is entitled, "Best interests of child: Joint physical custody; preferences; presumptions when court determines parent or person seeking custody is perpetrator of domestic violence or has committed act of abduction against child or any other child." NRS 125C.0035 references NRS 200.359, just as NRS 200.359 references NRS 125C.0035.

NRS 125C.035 states as follows:

> **NRS 125C.0035 Best interests of child: Joint physical custody; preferences; presumptions when court determines parent or person seeking custody is perpetrator of domestic violence or has committed act of abduction against child or any other child.**
>
> 1. In any action for determining physical custody of a minor child, the sole consideration of the court is the best interest of the child. If it appears to the court that joint physical custody would be in the best interest of the child, the court may grant physical custody to the parties jointly.
>
> 2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.
>
> 3. The court shall award physical custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:
>
> (a) To both parents jointly pursuant to NRS 125C.0025 or to either parent pursuant to NRS 125C.003. If the court does not enter an order awarding joint physical custody of a child after either parent has applied for joint physical custody, the court shall state in its decision the reason for its denial of the parent's application.
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> (b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.
>
> (c) To any person related within the fifth degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

[1] See also Defendants' Motion, Exhibit 1, *Docket of Gonzalez v. Gonzalez*.

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(d) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

4. In determining the best interest of the child, the court shall consider and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody.

(b) Any nomination of a guardian for the child by a parent.

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(d) The level of conflict between the parents.

(e) The ability of the parents to cooperate to meet the needs of the child.

(f) The mental and physical health of the parents.

(g) The physical, developmental and emotional needs of the child.

(h) The nature of the relationship of the child with each parent.

(i) The ability of the child to maintain a relationship with any sibling.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

(k) Whether either parent or any other person seeking physical custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

(l) Whether either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child.

5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint physical custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

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(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving either party;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

(c) The likelihood of future injury;

(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors which the court deems relevant to the determination.

Ê In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. A determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child creates a rebuttable presumption that sole or joint physical custody or unsupervised visitation of the child by the perpetrator of the abduction is not in the best interest of the child. If the parent or other person seeking physical custody does not rebut the presumption, the court shall not enter an order for sole or joint physical custody or unsupervised visitation of the child by the perpetrator and the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of abduction occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other person from whom the child was abducted.

8. For the purposes of subsection 7, any of the following acts constitute conclusive evidence that an act of abduction occurred:

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(a) A conviction of the defendant of any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct;

(b) A plea of guilty or nolo contendere by the defendant to any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct; or

(c) An admission by the defendant to the court of the facts contained in the charging document alleging a violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

9. If, after a court enters a final order concerning physical custody of the child, a magistrate determines there is probable cause to believe that an act of abduction has been committed against the child or any other child and that a person who has been awarded sole or joint physical custody or unsupervised visitation of the child has committed the act, the court shall, upon a motion to modify the order concerning physical custody, reconsider the previous order concerning physical custody pursuant to subsections 7 and 8.

10. As used in this section:

(a) "Abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

(b) "Domestic violence" means the commission of any act described in NRS 33.018.

As attorneys are allowed to do, it is clear, Mr. Grimes looks to other statutes for definitions and means to argue for different presumptions and standards of review. Plaintiff's Exhibit F. As NRS 125C.0035 references NRS 200.359, Mr. Grimes was well within his rights to argue and reference NRS 200.359 to support his position.

Even Family Court Judge Heidi Almase who presided over Plaintiff's 2 day non-jury trial found NRS 200.359 to be relevant to the hearings at hand as she made reference to it in her Findings of Fact, Conclusions of Law. Findings of Facts and Conclusions of Law, attached hereto as **Exhibit 5**; *see also* Defendant Benjamin Child's and the Law Office of Benjamin B. Childs' (1) Anti-SLAPP Motion and (2) Motion to Dismiss for Failure to State a Claim Upon which Relief can be Granted, Exhibit D (FFCL). In Judge Almase's January 2, 2025, Findings of Fact and Conclusions of Law and Order (Post-Judgment), Judge Almase was persuaded by Defendants' argument

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regarding presumptions in relation to NRS 200.359, as she cited to it twice within her order, which led in part to a modification of custody. Ultimately, Judge Almase ordered that Mr. Gonzalez shall have primary physical custody and that Mr. Gonzalez was awarded his fees and costs. This is the Order that Plaintiff appeals and it remains pending before the Nevada Supreme Court. *See* Defendant Benjamin Child's and the Law Office of Benjamin B. Childs' (1) Anti-SLAPP Motion and (2) Motion to Dismiss for Failure to State a Claim Upon which Relief can be Granted, Exhibit E (Notice of Appeal).

C. Defendants have met their Burden in Establishing Good Faith Communications.

Plaintiff asserts that Defendants have failed to meet the first prong to their Motion to Dismiss and cites to "*Club Vista Fin. Servs., LLC v. Eighth Jud. Dist. Ct.*, 128 Nev. 222, 228, 276 P.3d 246, 249 (2012)" for the proposition that self-serving affidavits are not admissible evidence to be disregarded, but no such citation exists. Nothing within *Club Vista* is concerned with declarations or self-serving affidavits. Rather, the case holds that a "party seeking to take the deposition of an opposing party's counsel has the burden of proving that '(1) no other means exist to obtain the information than to depose opposing counsel; (2) the information sought is relevant and nonprivileged; and (3) the information is crucial to the preparation of the case.'" 128 Nev. at 230.

While Defendants contend that no declaration is even necessary when the category of good faith communications falls under a communication to the Court, see NRS 41.637(3) as opposed to NRS 41.637(4) (statements made on an issue of public interest in a place open to the public or in a public forum, which is truthful or is made without knowledge of its falsehood), this Court has found that the threshold to meet the first prong of an anti-slapp motion to be low. In *Delucchi v. Songer*, 133 Nev. 290, 300, 396 P.3d 826, 833 (2017), the Court held that the moving party met his burden with respect to establishing NRS 41.637(2)(a communication made to a state or a political subdivision on a matter of reasonable concern to a governmental entity), when he

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stated in his declaration that "[t]he information contained in [his] reports was truthful to the best of [his] knowledge, and [he] made no statements [he] knew to be false." In *Stark v. Lackey,* the Nevada Supreme Court held that it is clearly erroneous to hold that a party has failed to meet her burden "because her affidavit did not specifically address the individual factual allegations in each comment." *Stark v. Lackey*, 136 Nev. 38, 43, 458 P.3d 342, 346-47 (2020).

D. Plaintiff Has Failed to Meet Prong 2 of the Anti-SLAPP analysis.

In this case, Plaintiff claims that Mr. Grimes's alleged ex-parte communication with Department P that led Department P to leave a voicemail to submit a Motion for an Order to Show Cause was not done in good faith. However, Plaintiff has failed to establish how such an act and statements made to the Court were in bad faith or were untruthful when made. On March 4, 2023, the U.S. Bankruptcy Court issued its Order Awarding Damages in favor of Plaintiff and against Defendants for a Violation of the Automatic Stay Pursuant to 11 USC §362(a). Plaintiff's Exhibit O. Nothing within Plaintiff's Exhibit O refutes Mr. Grimes's contention that he acted in good faith, and even if an arbiter of facts had determined that Plaintiff had acted in bad faith, Plaintiff was fully compensated for the conduct that led to an Order of damages being entered against Defendants and Plaintiff's claims would be barred under issue preclusion and the doctrine against double recovery.

Plaintiff also claims that the declaration is insufficient because it relies on the litigation privilege. It doesn't. But even if it had, the litigation privilege is vast. To that end, "a court determining whether the privilege applies should resolve any doubt in favor of a broad application." *Clark County School Dist.* at 382, 213 P.3d at 502 (internal citations omitted). "The privilege applies as long as the statements are in some way pertinent to the subject of the controversy." *Greenberg Traurig v. Frias Holding Co.*, 130 Nev. 627, 630, P.3d 901, 903 (2014).

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Plaintiff has failed to show how her attorney Mr. Child's emails are evidence to Mr. Grimes violating any court orders or stipulations. In fact, Plaintiff's Exhibit P, is indicative that there were no stipulations in place between counsel. Additionally, Plaintiff has failed to establish how the *Noerr Pennington doctrine* is applicable in this case not involving state action.

Finally, Plaintiff claims that an abuse of process claim is not subject to NRS 41.660 because she complains of Defendants' mal-intent, not actually what was communicated or filed in court. However, narrow this view of the claim, Plaintiff still has not alleged and cannot established the elements of an abuse of process claim, which 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). As exemplified in *Dutt*, an abuse of process claim cannot be supported as a matter of law, so long as there was a legitimate legal dispute at issue. *Id.* Whether Defendants had mal-intent or an ulterior purpose when allegedly engaging in improper or regular conduct in litigation is irrelevant because there was an actual legal dispute pending. It is undisputed that Plaintiff initiated the divorce seeking division of the marital home and custody of the Gonzalez's minor child. Defendants' Supplement, Exhibit 1 (Complaint). More importantly, nothing within Plaintiff's proposed Fourth Amended Complaint even alleges an ulterior purpose.

E. Discovery will not Resuscitate Plaintiff's Stale and Barred Claims.

Plaintiff has failed to establish how discovery would yield facts to support that she will ultimately prevail on her claim for abuse of process. As established in Plaintiff's Exhibit E and Exhibit 2 (for a complete transcript), Plaintiff has, by and through counsel, already questioned Mr. Grimes about the circumstances surrounding the December 2021 Ex-Parte Motion for an Order to Show Cause. Similarly, Plaintiff's Exhibit H and the Findings of Fact and Conclusions of Law establish that a violation of NRS 200.359 bears directly on the presumptions in determining child physical custody pursuant to NRS 125C.0035. No amount of discovery is necessary to establish that Defendants'

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conduct was for the purpose of resolving the marital property and child custody issues that Plaintiff placed at issue when she filed for divorce. Finally, Plaintiff has failed to establish that taking the deposition of her adversary's attorney is appropriate as set forth in *Club Vista Fin. Servs., LLC v. Eighth Jud. Dist. Ct.*.

III. CONCLUSION

Plaintiff's Third Amended Complaint alleges civil conspiracy, fraud/intentional misrepresentation and concert of action against Defendants for their ex-parte communications and filings with in Department P and for Defendants questioning and arguments made in a March 2024 and October 2024 non-jury trial regarding child custody. Plaintiff's proposed Fourth Amended Complaint is nothing more than a repackage of the same facts, but instead, seek to assert that these statements caused Plaintiff to be damaged because they were an abuse of process.

Plaintiff cannot support a claim for abuse of process on allegations that Defendants made improper ex-parte communications with Department P to get her to relinquish the marital home in December 2021 because (1) she already recovered for this injury, barring her from suit under the (a) the double recovery doctrine and (b) issue preclusion, (2) the statute of limitations has passed on this claim and (3) as a matter of law, she cannot support a claim for abuse of process due to it being undisputed that at all times relevant the marital property and child custody was at issue.

Defendants have met their threshold of establishing that any communications they made in the Family Court was done in good faith and without knowledge of the falsity therein. Plaintiff on the other hand has provided no admissible evidence to refute the same. Nothing within Plaintiff's Exhibit O refutes that Defendants made good faith statements and State Bar Admonitions are not preclusive or even evidence of wrongful conduct. Accordingly, Plaintiff's claims in this regard should be dismissed pursuant to NRS 41.660, or at minimum, pursuant to NRCP 56.

Defendants have also met their threshold in establishing that questioning and argument made in the March 2024 and October 2024 non-jury trial on child custody was

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appropriate. Evidenced by Plaintiff's own exhibit, NRS 200.359 is relevant to NRS 125C as the two statutes reference eachother, requiring analysis of both statutes. Family Court Judge Heidi Almase confirmed that it was appropriate to argue NRS 200.359 on parental abduction as ultimately, the Court modified child custody in favor of Defendants' client based on the same. This decision remains pending before the Supreme Court, with an award of attorney's fees in favor of Mr. Gonzalez outstanding before Judge Almase.

These facts alone support that this instant matter is nothing more than a collateral attack on the jurisdiction of other courts and their decisions. Clearly Plaintiff's acts are done to harass and are frivolous in nature. Based thereon, Grimes respectfully requests this Court issue an order granting this instant Motion to Dismiss and award Melvin Grimes and the Roberts Stoffel Family Law Group $10,000 plus reasonable attorney's fees and costs.

DATED this 16th day of September, 2025.

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

Attorneys for Defendant
Melvin Grimes and the
Roberts Stoffel Family Law Group

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CERTIFICATE OF SERVICE

I hereby certify that on the this 16th day of September, 2025, I served of the foregoing **MELVIN GRIMES AND ROBERTS STOFFEL FAMILY LAW GROUP'S REPLY IN SUPPORT OF THE SPECIAL MOTION TO DISMISS UNDER NRS 41.660 (ANTI-SLAPP)** 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. [redacted] 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

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