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State Bar # 3946
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BENJAMIN CHILDS
LAW OFFICE OF BENJAMIN B. CHILDS

DISTRICT COURT
CLARK COUNTY, NEVADA

LUBA DACE Plaintiff v. MELVIN GRIMES; BENJAMIN CHILDS; LAW OFFICE OF BENJAMIN B. CHILDS; MARY PERRY Defendants	CASE NO. A-25-922833-C DEPT. NO. 29

NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Take notice that FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER was filed on September 24, 2025. The filed FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER is attached hereto.

/s/ Benjamin B. Childs
BENJAMIN B. CHILDS
Nevada Bar # 3946
Attorney for Defendants
BENJAMIN CHILDS
LAW OFFICE OF BENJAMIN B. CHILDS

CERTIFICATE OF SERVICE

This NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER, with attachment, was served through the electronic filing system to Plaintiff and all parties on the Court's eservice list at filing. Electronic

service is in lieu of mailing.

/s/ Benjamin B. Childs, Sr.
BENJAMIN B. CHILDS, Sr.ESQ.
NEVADA BAR # 3946

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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, ROBERTS STOFFEL FAMILY LAW GROUP, Defendants.	Case No.: A-25-922833-C Dept. No.: 29 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

THIS MATTER came on for hearing on September 23, 2025, on (1) Defendants **Benjamin B. Childs** and **Law Office of Benjamin B. Childs'** Special Motion to Dismiss pursuant to Nevada's Anti-SLAPP statute, **NRS 41.660**, and (2) Motion to Dismiss for Failure to State a Claim under **NRCP 12(b)(5)**. The Honorable **Jacob A. Reynolds** presided. Plaintiff **Luba Dace** appeared in proper person. Defendant **Benjamin B. Childs** appeared pro se and on behalf of Defendant **Law Office of Benjamin B. Childs** (collectively, the "Childs Defendants"). The Court reviewed the written submissions and heard argument from the parties. Having considered the papers, the record, and the arguments of counsel, the Court **FINDS** and **CONCLUDES** as follows:

Case Number: A-25-922833-C

FINDINGS OF FACT

1. Defendant **Benjamin B. Childs** formerly served as Plaintiff's attorney in *Gonzalez v. Velazquez-Gonzalez*, Case No. D-18-575860-D (the "Divorce Case").

2. Plaintiff's causes of action arise, in part, from Mr. Childs's testimony as a witness at the March 19, 2024 trial in the Divorce Case, after his representation of Plaintiff in that matter had concluded.

3. Plaintiff's causes of action also arise, in part, from alleged legal malpractice/professional negligence during the period of Mr. Childs's representation of Plaintiff in the Divorce Case.

4. Issues from the Divorce Case relating to Mr. Childs's representation are the subject of an appeal currently pending before the Nevada Court of Appeals.

CONCLUSIONS OF LAW

A. Anti-SLAPP Framework and Procedural Posture

5. Nevada's Anti-SLAPP statutes, NRS 41.635–.670, provide a procedural mechanism for early dismissal of claims aimed at chilling the constitutional rights of free speech and petition, thereby safeguarding public participation in matters of public concern.

6. Nevada's Anti-SLAPP scheme requires a two-pronged analysis when evaluating a special motion to dismiss. Here, the Court makes no findings under either prong of the Anti-SLAPP test. In light of the Court's ripeness determination below, the Childs Defendants' Special Motion to Dismiss under NRS 41.660 and their NRCP 12(b)(5) motion are **DENIED AS MOOT**; no party is deemed a prevailing party under NRS 41.670 by virtue of this Order.

B. Litigation Privilege—Scope Noted

7. Consistent with *Greenberg Traurig, LLP v. Frias Holding Co.*, 130 Nev. 627, 331 P.3d 901 (2014), the litigation privilege does not bar legal-malpractice/professional-negligence claims between an attorney and client. The Court expresses no view in this Order regarding the privilege's application to any non-malpractice claim premised solely on in-court testimony; the privilege issues are not reached.

C. Ripeness/Accrual for Litigation-Malpractice Claims

8. Under *Hewitt v. Allen*, 118 Nev. 216, 221, 43 P.3d 345, 348 (2002), damages in litigation-related malpractice matters do not accrue until the underlying action has been resolved, because "apparent damage may vanish with successful prosecution of an appeal and ultimate vindication of an attorney's conduct by an appellate court." Any narrow exceptions (e.g., appellate futility) are not adjudicated here.

9. To the extent Plaintiff asserts claims whose alleged injury would be remedied or negated by reversal or modification on appeal of the Divorce Case, those claims are not yet ripe. The Court makes no merits determinations on any claim.

GOOD CAUSE APPEARING, IT IS ORDERED:

Childs' Defendants' Motion to Dismiss pursuant to 12(b)(5) is GRANTED AS FOLLOWS.

1. Plaintiff's causes of action for legal malpractice and/or professional negligence, and any ~~whose~~ which are not ripe because a determination of other claims damages necessarily depend on the outcome of the pending appeal in the Divorce Case, are **DISMISSED WITHOUT PREJUDICE** for lack of ripeness.

2. ~~To the extent Plaintiff asserts claims independent of the appeal's outcome, the Court makes no merits determination at this time, such claims are likewise~~ **DISMISSED**

(2) The gravamen of the Complaint is a malpractice case against Plaintiff's former counsel Mr. Childs. Whether statements made at trial by Mr. Childs were protected by the litigation privilege will be determined at a later date if necessary by a judge presiding over a malpractice case if pursued. The decision over this case regarding Mr. Childs is that it is not ripe and dismissed on that basis.

~~**WITHOUT PREJUDICE** on the present record and pleadings, solely on ripeness grounds.~~

3. The Childs Defendants' Special Motion to Dismiss under NRS 41.660 (Anti-SLAPP) ~~and~~ is therefore ~~their NRCP 12(b)(5) motion are each~~ **DENIED AS MOOT** in light of this dismissal for lack of ripeness. No party is a prevailing party for purposes of NRS 41.670 by virtue of this Order.

4. All future hearings presently set in this matter are VACATED. ~~All other relief not expressly granted is **DENIED WITHOUT PREJUDICE.** This dismissal is without adjudication on the merits.~~

IT IS SO ORDERED.

Dated this 24th day of September, 2025

Jacob A. Reynolds

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Jacob A. Reynolds
District Court Judge

Drafted and submitted by:

/s/*Luba Dace*

Luba Dace, in proper person

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Luba Dace, Plaintiff(s)	CASE NO: A-25-922833-C
vs.	DEPT. NO. Department 29
Melvin Grimes, Defendant(s)	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 9/24/2025

