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LUBA SNOW DACE
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Pro Per

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LUBA SNOW 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 TOLLING MOTION FOR RECONSIDERATION OF ORDER GRANTING GRIMES DEFENDANTS' SPECIAL MOTION TO DISMISS UNDER NRS 41.660** 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 the above titled Court.

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

Case Number: A-25-922833-C

COMES NOW Plaintiff, LUBA DACE, in proper person, and respectfully moves this Court pursuant to EDCR 2.24(b) and NRCP 59(e) for reconsideration of the Findings of Fact, Conclusions of Law, and Order filed on September 29, 2025 ("Order") granting the Grimes Defendants' Special Motion to Dismiss under NRS 41.660.

This motion is expressly brought under NRCP 59(e) and therefore operates as a tolling motion under NRAP 4(a)(4). The time to file a notice of appeal is tolled until this motion is resolved.

DATED this 10th day of October 2025.

/s/ *Luba Snow Dace*
LUBA SNOW DACE
Plaintiff in Proper Person
[redacted]
Las Vegas NV, 89178
[redacted]

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MEMORANDUM OF POINTS AND AUTHORITIES

I. LEGAL STANDARD

- NRCP 59(e): Authorizes a motion to alter or amend a judgment; such motions toll the time to appeal.
- EDCR 2.24(b): Allows reconsideration when the court overlooked or misapprehended law or fact.
- Nevada's anti-SLAPP statute requires a two-step analysis: (1) whether the claim arises from a protected good-faith communication under NRS 41.637; and (2) whether plaintiff demonstrated a prima facie probability of success. *Coker v. Sassone*, 135 Nev. 8, 432 P.3d 746, 749 (2019); *Delucchi v. Songer*, 133 Nev. 290, 396 P.3d 826, 829 (2017).

II. ARGUMENT

A. The Court Failed to Make Proper Prong One Findings.

NRS 41.660(3)(a) requires the Court to determine whether Defendants established by a preponderance that Plaintiff's claims were based on a "good faith communication" under NRS 41.637.

- At the hearing, the Court never made express Prong One findings.
- The written Order (¶4) states that Grimes's declaration "satisfies prong one," but the judge never mentioned the declaration or found Plaintiff's claims sought to "quell Defendants' speech."
- Reliance on a self-serving declaration is legally insufficient. *Coker*, 432 P.3d at 749.

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B. Ex Parte Messages Are Not Protected "Good Faith Communications."

Plaintiff's allegations concern direct ex parte messages between defense counsel and the judge — not routine docketed ex parte applications, as Defendants' motion characterizes them.

- Ex parte messages (calls, messages, voicemails, or off-record communications) are not truthful communications made without knowledge of falsity under NRS 41.637(4).
- They are not "statements made in direct connection with an issue under consideration" in open proceedings, but instead bypass due process.
- They were not directed to "persons with a legitimate interest in the litigation." *Shapiro v. Welt*, No. 73943, 2018 Nev. Unpub. LEXIS 1202, *8–9 (Nev. S. Ct. Dec. 27, 2018).

Thus, Defendants did not satisfy Prong One.

C. Family Custody Disputes Are Not "Issues of Public Concern."

NRS 41.637 protects communications made in connection with issues of public concern. Custody disputes are private family matters, not public controversies.

Grimes alleged misrepresentations at custody hearings and secret messages to the judge cannot qualify as "public concern" speech.

D. The Court Failed to Make Proper Prong Two Findings.

NRS 41.660(3)(b) requires the Court to determine whether Plaintiff made a prima facie showing of a probability of success.

- The Court made no Prong Two ruling at the hearing.
- Instead, the Order disposes of Plaintiff's claims using defenses (statute of limitations, issue preclusion, double recovery, and litigation privilege).
- Such defenses cannot substitute for a prima facie analysis. *Delucchi*, 396 P.3d at 829.

E. Litigation Privilege Does Not Apply to Ex Parte Messages.

The Order (¶7) invokes absolute litigation privilege, but privilege protects only communications made "to achieve the objects of the litigation." *Greenberg Traurig v. Frias Holding Co.*, 130 Nev. 627, 331 P.3d 901 (2014).

- Misrepresenting stipulations or sending ex parte messages to a judge are outside legitimate advocacy.
- Such conduct undermines due process and falls outside the privilege's scope.

F. Statute of Limitations Was Misapplied.

The Order (¶6) dismisses ex parte claims as time-barred. But Plaintiff did not discover the existence of ex parte messages until July 2024, through transcript and testimony review.

Under Nevada's discovery rule, limitations periods run from the time misconduct was discovered or reasonably could have been discovered. Dismissal at this stage was premature.

G. The Written Order Does Not Match the Record.

Several findings in the written Order were not made at the hearing, violating EDCR 7.21:

- ¶3: No finding Plaintiff sought to quell speech.
- ¶4: Court never mentioned Grimes's declaration.
- ¶5: No ruling on Prong One or Two.
- ¶6: No findings on SOL, double recovery, or issue preclusion.
- ¶7: No findings on litigation privilege.
- ¶9: No finding regarding discovery.
- ¶10: No mention of a $10,000 sanction.

Orders must reflect the Court's actual rulings. *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 689 (1987).

H. Dismissal With Prejudice Was Improper.

Because the Court did not perform the statutory analysis, dismissal "with prejudice" and "on the merits" under NRS 41.660(5) was improper.

III. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court:

1. Vacate or amend its September 29, 2025, Order;
2. Enter an amended order reflecting only what was actually decided on the record;
3. Conduct the required Prong One and Prong Two analysis under NRS 41.660; and
4. Grant such other relief as the Court deems just and proper.

Because this motion is filed under NRCP 59(e), Plaintiff requests the Court recognize it as a tolling motion under NRAP 4(a)(4), so that the time to appeal is stayed until resolution of this motion.

Respectfully submitted this 10th day of October, 2025.

/s/*Luba Snow Dace*
LUBA SNOW DACE
Pro Per Plaintiff
[redacted]

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of October, 2025, I served the foregoing PLAINTIFF'S TOLLING MOTION FOR RECONSIDERATION via the Court's e-file system and by email to all counsel of record.

/s/*Luba Snow Dace*
LUBA SNOW DACE
Pro Per Plaintiff
[redacted]