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Steven D. Grierson
CLERK OF THE COURT

LUBA SNOW DACE
[redacted]
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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 (1) MOTION FOR LEAVE TO FILE OPPOSITION OUT OF TIME (NRCP 6(B)(1)(B)); (2) OPPOSITION TO DEFENDANTS CHILDS AND LAW OFFICE OF BENJAMIN B. CHILDS' MOTION FOR AWARD OF COSTS; AND (3) RESPONSE TO "NOTICE OF NON-OPPOSITION"; MEMORANDUM OF POINTS & AUTHORITIES

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

INTRODUCTION

Childs asks for $267.50 in "prevailing party" costs (plus pre-judgment interest on costs) based on a case the Court dismissed without prejudice on ripeness, expressly without any Anti-SLAPP ruling and without adjudication on the merits. Childs then filed a Notice of Non-Opposition the very next morning—which even misnames the intended judgment creditor ("SYLVIA BERNSTEIN")—and asks the Court to summarily grant his motion.

EDCR 2.20(e) and 2.23 are discretionary, not self-executing; the Court may decide the motion on the merits and grant or deny it without argument. See also the EDCR practice summary confirming the same timing and chambers-calendar mechanics. And under NRCP 6(b)(1)(B), a brief, harmless delay by a pro-per litigant is excusable where (as here) there's no prejudice and the Court can promptly resolve the merits. See *Scrimer v. Dist. Ct. and Moseley v. Dist. Ct.* (Rule 6(b) authorizes post-deadline enlargements for excusable neglect); *Yochum v. Davis/Stoecklein* (factors and the strong merits preference).

On the merits, costs fail because there is no prevailing party on a dismissal without prejudice—that type of dismissal does not materially alter the parties' legal relationship and does not confer prevailing-party status under NRS 18.020. See *145 E. Harmon II Tr. v. Residences at MGM Grand* (contrasting dismissals with prejudice—which may confer status—with dismissals without prejudice, which do not). The Order here underscores that (i) the Court made no Anti-SLAPP findings, and (ii) the dismissal was without prejudice and without adjudication on the

merits. Interest fails too: NRS 17.130 governs judgments; Childs admits he's asking to reduce costs to a judgment—confirming there is none yet.

RELIEF REQUESTED

1. Grant leave under NRCP 6(b)(1)(B) to file this Opposition one court day late;
2. Deny the Motion for Award of Costs (and any interest) on the merits;
3. Reject the Notice of Non-Opposition and decline to summarily grant relief; and
4. In the alternative only, deny interest and retax any non-allowable items, expressly stating no prevailing-party status is conferred.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Good cause & excusable neglect justify a brief late filing (NRCP 6(b)(1)(B))

Nevada courts routinely allow post-deadline enlargements upon excusable neglect. *Scrimer*: "even if the [deadline] has expired, a party may obtain an extension under NRCP 6(b) upon a showing of excusable neglect." *Moseley* confirms Rule 6(b) extends time limits in procedural rules when excusable neglect exists. And *Yochum/Stoecklein* emphasize the merits-first policy in applying excusable neglect. Nevada's Supreme Court has repeatedly recognized a strong preference to decide on the merits (balanced with docket control). *The Power Co. v. Henry*, 130 Nev. 182, 208 (2014).

Showing: Luba is pro per; the delay was about one day (Childs filed his notice Oct. 22 after a Oct. 21 due date), there's no prejudice, and she moved immediately upon learning of the notice. That satisfies the excusable-neglect factors (reason, length, prejudice, good faith).

II. "Notice of Non-Opposition" doesn't compel relief; EDCR 2.20(e)/2.23 are discretionary

EDCR 2.20(e) says a failure to oppose "may be construed" as an admission—not must. EDCR 2.23(c) likewise provides the judge may consider a motion on the merits at any time, with or

without oral argument, and grant or deny it. (The practice summary likewise confirms the timeline and chambers-calendar practice) The clerical error in Childs's notice—seeking judgment for "SYLVIA BERNSTEIN"—is yet another reason not to rubber-stamp anything.

III. Even absent excusable neglect, the motion fails on the merits

A. No "prevailing party" under NRS 18.020.

The Court dismissed without prejudice on ripeness, made no Anti-SLAPP findings, and stated the dismissal was "without adjudication on the merits." Under *145 E. Harmon*, a dismissal without prejudice does not alter the parties' legal relationship and does not confer prevailing-party status; by contrast, with prejudice dismissals can, depending on circumstances. That alone defeats NRS 18.020.

B. Anti-SLAPP fee-shifting never triggered.

The Court did not grant the special motion; it expressly made no findings under either Anti-SLAPP prong and dismissed on ripeness. Therefore NRS 41.670 is inapplicable.

C. No interest on "costs" without a cost judgment.

Childs invokes NRS 17.130 (judgment interest) and simultaneously asks to reduce costs to a judgment, acknowledging none exists yet. Without a judgment, no interest can accrue. See also his own math beginning Aug. 25, 2025, premised on a judgment that doesn't exist.

D. Waiver/retaxing arguments don't create entitlement.

Whether or not a "motion to retax" was filed, entitlement still turns on prevailing-party status and a judgment. Because those are absent, the Court should deny the motion in full.

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CONCLUSION

For these reasons, Luba asks the Court to (1) grant leave to file this Opposition out of time under NRCP 6(b)(1)(B); (2) deny Childs's Motion for Award of Costs and interest; and (3) reject the "Notice of Non-Opposition." In the alternative only, deny any request for interest, retax any disputed items, and clarify that no order confers prevailing-party status or precludes refiling once ripeness is cured (as the Order contemplated).

DATED: October 22, 2025

Respectfully submitted,

/s/ *Luba Snow Dace*

Luba Snow Dace, in proper person

VERIFICATION / DECLARATION OF LUBA DACE

I, **Luba Snow Dace**, declare:

1. I am the plaintiff in this action and am self-represented. I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.
2. I have read the foregoing **(1) Motion for Leave to File Opposition Out of Time (NRCP 6(b)(1)(B)); (2) Opposition to Defendants Childs and Law Office of Benjamin B. Childs' Motion for Award of Costs; and (3) Response to "Notice of Non-Opposition"** (collectively, the "Filing").
3. The factual statements in the Filing that concern my actions, knowledge, and communications (including dates of filings, receipt of papers, and my pro-per status and efforts) are **true and correct** of my own personal knowledge.

   The remaining factual statements that are stated on information and belief (including

descriptions of court docket entries and attached exhibits from the case file) I **believe to be true**, and that belief is based on my review of the court's docket and the documents attached as exhibits.

4. True and correct copies of the documents cited in the Filing and attached as exhibits are included, to the best of my knowledge and belief, and are what they purport to be.

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

Executed on: October 22, 2025 at Clark County, Nevada.

Luba Snow Dace, in proper person
[redacted]
Las Vegas NV, 89178
[redacted]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON OCTOBER 22, 2025, I SERVED THE FOREGOING **PLAINTIFF'S (1) MOTION FOR LEAVE TO FILE OPPOSITION OUT OF TIME (NRCP 6(B)(1)(B)); (2) OPPOSITION TO DEFENDANTS CHILDS AND LAW OFFICE OF BENJAMIN B. CHILDS' MOTION FOR AWARD OF COSTS; AND (3) RESPONSE TO "NOTICE OF NON-OPPOSITION"; MEMORANDUM OF POINTS & AUTHORITIES** VIA THE COURT'S E-FILING SYSTEM (AND BY EMAIL, WHERE APPLICABLE) ON ALL COUNSEL AND PARTIES OF RECORD.

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