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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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| LUBA SNOW DACE,<br><br>Plaintiff,<br><br>v.<br><br>MELVIN GRIMES,<br>BENJAMIN CHILDS,<br>LAW OFFICE OF BENJAMIN B. CHILDS,<br>ROBERTS STOFFEL FAMILY LAW,<br><br>Defendants. | Case No.: A-25-922833-C<br>Dept. No.: 29<br><br>**PLAINTIFF'S OPPOSITION TO (1) ATTORNEYS' FEES AND COSTS UNDER NRS 41.670(1)(A) AND (2) THE DISCRETIONARY "ADDITIONAL AWARD" UP TO $10,000 UNDER NRS 41.670(1)(B)** |

**Introduction**

Defendants ask for fees/costs and an extra $10,000 under NRS 41.670 following the Court's Anti-SLAPP order. But Plaintiff has a **timely NRCP 59(e) motion for reconsideration** on file—an expressly **tolling** motion under **NRAP 4(a)(4)**—so fee adjudication now risks **piecemeal** proceedings that may be mooted or altered by the reconsideration ruling. Nevada practice recognizes NRCP 59(e) as a tolling motion; the formality required is minimal. *AA Primo Builders, LLC v. Washington*, 126 Nev. 578, 245 P.3d 1190, 1193–94 (2010).

If the Court nevertheless reaches entitlement or amount, the **Order's prong analysis is legally insufficient** under Nevada Anti-SLAPP law. Nevada requires: (1) a proper **good-faith** showing



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at prong one; then (2) a **claim-by-claim** "probability of prevailing" analysis at prong two. *Shapiro v. Welt*, 133 Nev. 35, 389 P.3d 262 (2017); *Rosen v. Tarkanian*, 135 Nev. 436, 453 P.3d 1220 (2019). The Order relies on a **self-interested declaration**, invokes **litigation privilege** in a **conclusory** way, and folds in **SOL/double-recovery/issue-preclusion** without a claim-specific prong-two assessment. That is not enough under *Shapiro/Rosen*. Id.

And even if entitlement were reached, the **amount** proof does not meet Nevada's *Brunzell* reasonableness factors (qualities of counsel, character of the work, work performed, results), warrants **segregation** of non-SLAPP time, and supports **percentage reductions** for vague/duplicative or block-billed entries. *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31, 33 (1969); see also Nevada authorities tying fee reasonableness to *Brunzell*. Finally, the **extra up-to-$10,000** award under **NRS 41.670(1)(b)** is **purely discretionary** and should be **denied**—especially while reconsideration is pending. *Smith v. Zilverberg*, 137 Nev. Adv. Op. 7 (2021).

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. LEGAL STANDARD**

**Anti-SLAPP framework.** Nevada uses a **two-prong** analysis: (1) movant must show a protected **good-faith** communication (NRS 41.637); (2) the burden shifts to plaintiff to show a **probability of prevailing** on the claim(s). *Shapiro v. Welt*, 389 P.3d at 268–69; *Rosen v. Tarkanian*, 453 P.3d at 1223–27 (evaluating "good faith" by the gist/sting of the communication; careful category/audience parsing).

**Fees if granted.** If a special motion to dismiss under NRS 41.660 is granted, **fees and costs are mandatory** under NRS 41.670(1)(a), and the court **may** award an **additional** amount up to

**$10,000** under (1)(b). *Smith v. Zilverberg*, 137 Nev. Adv. Op. 7 (2021) (fees may extend beyond the motion practice; $10k add-on is discretionary).

**Reconsideration/tolling.** A timely NRCP 59(e) motion **tolls** the time to appeal under NRAP 4(a)(4) and signals that merits are still in flux. *AA Primo*, 245 P.3d at 1193–94.

**Litigation privilege.** Nevada recognizes an **absolute litigation privilege**, but its application turns on **pertinence and context**; it is **not** a one-line, all-purpose shield. *Circus Circus Hotels, Inc. v. Witherspoon*, 99 Nev. 56, 657 P.2d 101 (1983).

**Fee amount factors.** Nevada courts evaluate reasonableness under *Brunzell*'s four factors and may reduce fees for vagueness/duplication/block billing and for **failure to segregate** unrelated time. *Brunzell*, 455 P.2d at 33; see also local guidance requiring *Brunzell* analysis.

## II. BECAUSE PLAINTIFF'S TIMELY NRCP 59(e) MOTION IS PENDING (TOLLING UNDER NRAP 4(a)(4)), THE COURT SHOULD DEFER OR DENY FEES WITHOUT PREJUDICE.

Plaintiff's reconsideration motion expressly cites **NRCP 59(e)** and thus **tolls** under **NRAP 4(a)(4)**. Proceeding now invites **piecemeal** adjudication that could be mooted or require revision if the Order changes. Nevada recognizes tolling and keeps formal requirements minimal. *AA Primo*, 245 P.3d at 1193–94. The Court should **defer** fee proceedings—or, at minimum, **deny without prejudice**—pending the reconsideration ruling.

## III. ALTERNATIVELY, THE ORDER'S PRONG FINDINGS ARE CONCLUSORY AND LEGALLY INSUFFICIENT, SO FEE ENTITLEMENT IS NOT YET ESTABLISHED.

### A. Prong One: "Good-faith communication" requires more than a self-serving declaration.

Nevada requires a **good-faith** showing evaluated by the **gist/sting** of the communication and its category/audience—especially where communications are private or quasi-ex parte. *Rosen*, 453

P.3d at 1223–27 (consider the gist as a whole; do not atomize words); *Shapiro*, 389 P.3d at 268–70 (case-specific, fact-intensive inquiry). A bare, self-interested declaration asserting belief in truthfulness does **not** resolve whether the specific communications **qualify** under NRS 41.637.

**B. Prong Two: Nevada requires a claim-by-claim "probability of prevailing" analysis; defenses like SOL, double-recovery, or issue preclusion cannot substitute for it.**

*Shapiro* and *Rosen* require a **claim-specific** look at the evidence supporting each cause of action. Collapsing prong-two into generic defenses or global conclusions falls short of Nevada's framework. *Shapiro*, 389 P.3d at 268–70; *Rosen*, 453 P.3d at 1226–27.

**C. Litigation privilege cannot replace the prong-two analysis; it demands pertinence/context.**

Nevada's **absolute litigation privilege** is robust, but its application is **context-dependent** and does not automatically bar claims without examining **to whom**, **where**, and **why** the statements were made. *Circus Circus*, 657 P.2d at 104–05 (privilege analysis is the court's responsibility; pertinence matters). The Order's single-line reference to privilege is **insufficient** to serve as the entire prong-two analysis.

**Result:** Because **entitlement** hinges on legally adequate prong findings that are not present, no fee award should enter now.

## IV. EVEN IF THE COURT REACHES ENTITLEMENT, THE AMOUNT SHOWING FAILS: APPLY BRUNZELL, SEGREGATE NON-SLAPP TIME, AND TRIM FOR VAGUE/BLOCK-BILLED ENTRIES.

Nevada requires the Court to make findings (or an unmistakable record) on the *Brunzell* factors: (1) **qualities** of the advocate; (2) **character** of the work; (3) **work performed** (time, rates, necessity); and (4) **result**. *Brunzell*, 455 P.2d at 33. Where records are **vague**, **duplicative**, **clerical**, or **block-billed**, courts **reduce** or **percentage-trim**; and courts must **segregate** non-

recoverable tasks (i.e., work **unrelated** to Anti-SLAPP merits). Nevada practice materials and local forms likewise instruct courts to assess fees expressly under *Brunzell*.

**Requested reductions:**

1. **Exclude** time on collateral/non-SLAPP issues (e.g., sealing, transcript/ripeness disputes, service quarrels).
2. **Trim** vague/duplicative/block-billed time entries with an across-the-board reduction where needed.
3. **Costs:** allow only **documented** and **taxable** costs tied to the Anti-SLAPP motion.

## V. THE COURT SHOULD DENY THE DISCRETIONARY "ADDITIONAL AWARD" UP TO $10,000 (NRS 41.670(1)(b)).

The **(1)(b)** award is **discretionary**, not automatic. Factors of fairness and deterrence matter, and Nevada confirms the court's latitude—including whether to award it **at all**. *Smith v. Zilverberg*, 137 Nev. Adv. Op. 7 (2021) (affirming fees and $10k where warranted; recognizing discretion). Here—especially with **reconsideration pending** and prong findings under challenge—the Court should **decline** to exercise that discretion.

## CONCLUSION

Plaintiff respectfully requests that the Court:

1. **Defer** fee proceedings—or **deny without prejudice**—until the Court resolves Plaintiff's **NRCP 59(e)** reconsideration (tolling under **NRAP 4(a)(4)**). *AA Primo*, 245 P.3d at 1193–94.
2. Alternatively, **deny fee entitlement** because the Order's prong findings are **conclusory** and **legally insufficient** under *Shapiro/Rosen* and *Circus Circus*.

3. If the Court reaches **amount**, apply *Brunzell*, **segregate** non-SLAPP time, **trim** vague/duplicative entries, tax only **properly supported** costs, and **deny** the discretionary **$10,000** add-on.

**VERIFICATION**

I, **Luba Snow Dace**, declare under penalty of perjury under the laws of the State of Nevada that the facts stated in this Opposition are true and correct to the best of my knowledge, information, and belief.

Dated: October 22, 2025, at Clark County, Nevada.

/s/*Luba Snow Dace*

**Luba Snow Dace**

Plaintiff in Proper Person

[redacted]

**CERTIFICATE OF SERVICE**

I certify that on October 22, 2025, I served the foregoing via the Court's e-filing system (and by email, where applicable) on all parties/counsel of record.

/s/*Luba Snow Dace*

**Luba Snow Dace**