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Attorneys for Defendants
Melvin Grimes and Law Offices of Roberts Stoffel

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 **DEFENDANT MELVIN GRIMES'S OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION** **Hearing Date: December 4, 2025** **Hearing Time: 9:00 a.m.**

Defendant MELVIN GRIMES and LAW OFFICE OF ROBERTS STOFFEL (collectively "Grimes Defendants") by and through their counsel of record at Garin Law Group hereby files their Opposition to Plaintiff's Motion for Reconsideration of the Order Granting Grimes Defendants' Special Motion to Dismiss Under NRS 41.660.

This Opposition is based on the Memorandum of Points and Authorities below, the pleadings on record, and any oral argument the Court may allow.

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Case Number: A-25-922833-C

I. INTRODUCTION

Plaintiff's Motion for Reconsideration must be denied. As detailed below, the Motion fails to meet any of the limited and exceptional circumstances under which reconsideration is appropriate under Nevada law. Specifically, Plaintiff does not and cannot demonstrate that the Court's order was clearly erroneous, that substantially different evidence has emerged since the ruling, or that any new and compelling issue of fact or law justifies reversing the Court's sound decision. Instead, Plaintiff merely reasserts arguments that were previously presented, considered, and rejected during extensive briefing, a full hearing, and subsequent submission and approval of proposed findings of fact, conclusions of law, and order (FFCL).

On September 23, 2025, the Court held a hearing on the Grimes Defendants Special Motion to Dismiss pursuant to Nevada's Anti-SLAPP statute, NRS 41.660., at which Plaintiff was present and had the opportunity to be heard. Thereafter, the Court adopted the Grimes Defendants' proposed FFCL, which Plaintiff now improperly seeks to challenge through reconsideration.

Plaintiff's central premise that the FFCL is invalid because the Court did not orally announce its findings on the record, is not supported by Nevada law. Nevada courts have consistently held that the written order is controlling, regardless of whether it originates from a party's proposed findings, so long as the opposing party has had an opportunity to review and respond. Moreover, Plaintiff's assertions of legal error or factual misapplication are belied by binding precedent and the record in this case, including Plaintiff's own exhibits. The FFCL properly applies the Anti-SLAPP framework under NRS 41.660 and correctly concludes that dismissal with prejudice is warranted, both as a matter of law and judicial efficiency.

Ultimately, Plaintiff's Motion for Reconsideration represents a thinly veiled attempt to relitigate issues already resolved. The Court's order reflects thoughtful consideration of the record and prevailing law. No newly discovered facts, manifest injustice, or clear error exists to justify disturbing that final adjudication. As such, the

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Motion must be denied in its entirety.

II. PROCEDURAL HISTORY

On September 23, 2025, a hearing was held on Grimes Defendants' Anti-SLAPP Motion with Plaintiff present and counsel for Grimes Defendants present.

Between the period of September 24-26, 2025, Plaintiff and Counsel for Grimes Defendant's discussed a proposed Findings of Fact, Conclusions of Law and Order, and the potential of a competing order by Plaintiff.[1] See **Exhibit A** attached hereto.

On September 29, 2025, the Court approved the proposed Findings of Fact, Conclusions of Law and Order ("FFCL") from the Grimes Defendants which Plaintiff now seeks Reconsideration.

III. LEGAL STANDARD

The Nevada Supreme Court has held that motions for reconsideration are appropriate when:

1. The decision is clearly erroneous, *Masonry and Tile Contractors v. Jolly Urga & Wirth*, 113 Nev. 737, 741 (1997); *see also*, *Mustafa v. Clark County School District*, 157 F.3d 1169, [redacted] 1998) (leave for reconsideration can be granted upon a showing of the court having committed clear error or manifest injustice);

2. "If substantially different evidence is subsequently introduced." *See Little Earth of United Tribes v. Department of Housing*, [redacted] 1986); *see also Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976); or

3. "In rare instances in which new issues of fact or law are raised supporting a ruling contrary to the ruling already reached." *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976).

III

III

[1] Plaintiff indicated she would submit a competing order. However, the undersigned is unaware if she did or not because Plaintiff did not copy the undersigned on any such submission. Even after informing Plaintiff of how to electronically serve counsel, she still did not electronically serve the instant motion through the Court's e-filing/service system.

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IV. ARGUMENT

A. Plaintiff's Motion Should be Denied Because The Written Order Controls Even If Adopted From a Party's Proposed Order, and Findings Do Not Have to Be Orally Announced at a Hearing.

Plaintiff's primary argument is that the FFCL is not legally valid because the findings were not specifically orally pronounced by this Court and done on the record at the hearing. Plaintiff's argument is not supported by Nevada law. Plaintiff cites to EDCR 7.21, and *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 689 (1987), stating *Rust* supports Orders must reflect the Court's actual rulings. Under Plaintiff's theory the Order is only what is orally pronounced at hearing and the written order is only intended to reflect or recap the hearing. Again, this is legally incorrect.

In *Xinxing Wang v. Cim Grp., L.P.*, 2024 Nev. Unpub. LEXIS 653, *6-7 ("*Wang*"), the Nevada Supreme Court stated: "*Rust* involved the appealability of a district court's oral pronouncements alone, which this court concluded could not be appealed. *Id.* That rule is inapplicable here because Limited Partners are appealing the district court's written orders, which are appealable, and the district court's oral statements during the hearing merely inform our analysis. Beyond that, the district court's written order states it "considered all of the pleadings and papers filed herein, including the Motion, Opposition, Reply, and briefing on the other motions."" As the Nevada Supreme Court points out in *Wang*, *Rust* itself discusses the fact that oral pronouncements are not appealable and what matters is the written order. *Wang*, goes further to state that written findings are what matters and oral statements during the hearing "merely inform" the analysis of those written findings.

Court Rules also support this position. *See* EDCR 1.90(a)(4) (stating "the prevailing party shall submit a written order to the judge"); and EDCR 7.21 (requiring the prevailing party to provide the court with a draft order or judgment). Additionally, EDCR 2.23(c) states that a district court "may consider the motion on its merits at anytime with or without oral argument, and grant or deny it." The Court is not constrained to make oral findings. As indicated in EDCR 2.23(c) the Court can review a Motion outside of

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and without a hearing, grant or deny it, and then issue a minute order directing a proposed order pursuant to EDCR 1.90(a)(4).

The Nevada Court of Appeals reviewed this issue at length in the published decision of *Eivazi v. Eivazi*, 139 Nev., Adv. op. 44, 537 P.3d 476, 484 (Ct. App. 2023). In *Eivazi*, the Court stated: "utilizing a party's proposed order does not in and of itself constitute an abuse of discretion, as the practice of requesting and adopting proposed orders from the parties is both well established and often necessary to the administration of justice." *Id*., at 480. The *Eivazi* Court reviewed EDCR 5.515 ("Proposed orders may include such findings, conclusions, and orders as the submitting party believes relevant to each point in dispute in the proceedings."), because it was a Family Division case to which that rule applied, but the case would not limit EDCR 1.90(a)(4) or EDCR 7.21 applying here to general civil matters.

The *Eivazi* Court went on to state: "the Nevada Supreme Court has recognized that a district court may properly adopt a party's proposed order, provided that the opposing party is apprised of the order and given an opportunity to respond. *See Byford v. State*, 123 Nev. 67, 69, 156 P.3d 691, 692 (2007) (discussing the predecessor to Nevada Code of Judicial Conduct (NCJC) Cannon 2, Rule 2.6(a), [regarding providing an opportunity to be heard], which was substantively identical to the present rule)." *Id*., at 483.[2] Here, Defendants provided Plaintiff the opportunity to review the proposed order, and Plaintiff had the ability to submit a competing order. Exhibit A.

Finally, *Eivazi* provides that "the United States Supreme Court explained that "even when the trial judge adopts proposed findings verbatim, the findings are those of the court and may be reversed only if clearly erroneous." *Eviazi* at 483, quoting *Anderson v. Bessemer City*, 470 U.S. 564, 572, [redacted] 1504, 84 L. Ed. 2d 518 (1985). Therefore, the entered written order controls, even if it was proposed verbatim by a party, and the subsequent appellate review if necessary "will analyze the content

[2] Note the *Eivazi* Court also suggests the subsequent ability to object, amend, or reconsider findings may be enough for an opportunity to be heard. Id., at 484.

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and substance of the proposed order that was adopted by the district court and decide whether any particular findings of fact and conclusions of law were unsupported by the substantial evidence or legally erroneous." *Evizai* at 484. As discussed further below, the order is not clearly erroneous and reconsideration should be denied.

B. <u>Reconsideration Should Be Denied Because The Findings and Conclusions in the Order are Supported by Nevada Law.</u>

1. The Court Correctly Found that Prong One of the Anti-SLAPP Analysis was Satisfied

Nevada's Anti-SLAPP statute requires a two-prong analysis to review the special motion to dismiss that it allows. Under Prong One, the Court must first "[d]etermine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern." Nev. Rev. Stat. § 41.660(3)(a); *see also Coker*, 432 P.3d at 749. There are four categories of speech which constitute "good faith communication[s]" under Nev. Rev. Stat. § 41.637:

1. Communication that is aimed at procuring any governmental or electoral action, result or outcome;
2. Communication of information or a complaint to a Legislator, officer or employee of the Federal Government, this state or a political subdivision of this state, regarding a matter reasonably of concern to the respective governmental entity;
3. Written or oral statement made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law; or
4. Communication made in direct connection with 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.

For a statement to fall within the scope of NRS 41.637(3), "it must (1) relate to the substantive issues in the litigation and (2) be directed to persons having some

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interest in the litigation." *Shapiro v. Welt*, 2018 Nev. Unpub. LEXIS 1202 (2018) (citing *Neville v. Chudacoff*, 160 Cal. App.4th 1255, 73 Cal. Rptr. 3d 383, 391 (Ct. App. 2008)).

The Court may consider evidence in deciding a special motion to dismiss. NRS 41.660(3)(d). Including the moving party's declaration regarding the truthfulness of their statements.

If the moving party meets this burden to show a "good faith communication," under NRS 41.637, then under Prong Two, the court must then "determine whether the plaintiff has demonstrated with prima facie evidence a probability of prevailing on the claim." Nev. Rev. Stat. § 41.660(3)(b); *see also Delucchi v. Songer*, 396 P.3d 826 (Nev., 2017). A dismissal under this section operates as a dismissal on the merits. Nev. Rev. Stat. § 41.660(4).

a. Movant's Declaration is sufficient to Establish truthfulness or that statements were made without knowledge of their falsity.

Here, Plaintiff's dispute to Prong One, primarily deals with findings specifically at the hearing versus the written order as addressed in the section above. As to Prong One, Plaintiff also argues that reliance on a self-serving declaration is legally insufficient. Citing *Coker*, 432 P.3d at 749. However, Plaintiff's use of Coker for this assertion is misplaced.

As argued in the Anti-SLAPP Motion, Plaintiff alleged that Grimes made ex-parte communications in December 2021. This was is in reference to a December 15, 2021, Ex-Parte Application for an Order for a Temporary Restraining Order Pursuant to EDCR 5.520 and a December 17, 2021 Ex-Parte Application for an Order to Show Cause (which were attached to the Anti-SLAPP motion as exhibits). At all times relevant, Grimes made these communications in good faith without knowledge of their falsity, which was supported by the Declaration of Melvin Grimes, attached as Exhibit 1 to the Motion. *See Delucchi v. Songer*, 133 Nev. 290, 300, 396 P.3d 826, 833 (2017) (holding that a defendant demonstrated that his communication was true or made without knowledge of its falsehood when, in a declaration, he stated that the information

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contained in his communication was truthful to the best of his knowledge and he made no statements he knew to be false).

In *Coker*, the Court stated:

> We clarified in *Shapiro v. Welt* that "no communication falls within the purview of NRS 41.660 unless it is 'truthful or is made without knowledge of its falsehood.'" 133 Nev. at 40, 389 P.3d at 268 (quoting NRS 41.637). To satisfy this requirement, Coker relied on his declaration, wherein he swears that he bought the lithographs from a bulk art supplier and never personally created any copies of the artwork. **The issue here, however, is neither creation nor distribution. Rather, Sassone's complaint is based on Coker's representation of the lithographs as originals**. Thus, Coker would need to provide evidence persuading this court that at the time he advertised and sold the lithographs online, he believed that they were originals and, thus, advertised them as such.
>
> Tellingly, Coker has made no such statement. **Nor has he provided this court with any evidence suggesting that he believed that the lithographs were, in fact, originals**.

Coker v. Sassone, 135 Nev. 8, 12-13, (Emphasis Added). Therefore, in Coker, the issue was not reliance on the declaration, but on the contents of the declaration. Specifically, the declaration in Coker was deficient because it did not state that when Coker made the statements, he believed them to be true or stated without knowledge of their falsity. *Id.* at 12-13. Therefore, the holding of *Delucchi v. Songer*, remains good law, which is that a defendant can demonstrate his communication was true or made without knowledge of its falsehood by declaration that addresses the same. Such a declaration was provided here as addressed in the FFCL.

b. Plaintiff is mistaken that custody issues are not matters of public concern.

Plaintiff's next attack to Prong One is an assertion that custody issues are not matters of public concern. In *Falconi v. Eighth Jud. Dist. Ct.*, 543 P.3d 92, 96 (2024), the Nevada Supreme Court has found that there is a constitutional right of access to family court proceedings and similar to other civil proceedings they are presumptively open. The *Falconi* decision stands for the proposition that even custody cases are matters of public concern, are presumptively open, and must undergo the same case by case review in closing proceedings from the public. The Nevada Supreme Court in *Falconi* stated:

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> As the Ninth Circuit has recognized, "[t]he right of access is . . . an essential part of the First Amendment's purpose to ensure that the individual citizen can effectively participate in and contribute to our republican system of self-government." *Planet III*, 947 F.3d at 589 (internal citations and quotations omitted). And as described by the [redacted] of Appeals, "public access to civil trials enhances the quality and safeguards the integrity of the factfinding process, fosters an appearance of fairness, and heightens public respect for the judicial process—an essential component in our structure of self-government." *Westmoreland v. Columbia Broad. Sys., Inc.*, [redacted] 1984) (internal quotations and citations omitted); *see also Del Papa v. Steffen*, 112 Nev. 369, 374, 915 P.2d 245, [redacted] proceedings assure that proceedings are conducted fairly and discourage perjury, misconduct by participants, and biased decision making."). This is especially important in a state where citizens elect their judges because it ensures that the public has the necessary knowledge to serve as a check on the judicial branch on election day. *See Del Papa*, 112 Nev. at 374, 915 P.2d at 249 ("The operations of the courts and the judicial conduct of judges are matters of utmost public concern." (internal quotation marks omitted)). Further, as Falconi argues, and we agree, having open family law proceedings is important because many family law parties appear pro se and open proceedings provide such litigants with examples of what they can expect in their own case. Accordingly, because both portions of the experience and logic test are met, we conclude that civil proceedings, and specifically family law proceedings, are presumptively open.

Falconi at 98-99. The *Falconi* Court also specifically looked at child custody and termination of parental rights proceedings to find all family court matters are presumptively open. *Id*., at 98.

Plaintiff's attack to the findings regarding Prong One fail, and the FFCL appropriately finds Prong One was satisfied.

2. The Court Correctly Found that Prong Two of the Anti-SLAPP Analysis was Satisfied

Plaintiff argues the analysis of Prong Two is deficient because the issues of: statute of limitations, issue preclusion, double recovery, and litigation privilege are defenses that cannot be substituted for a prima facie analysis under Prong Two. However, Prong Two is Plaintiff's burden to demonstrate with prima facie evidence a probability of prevailing her claims. Thus, demonstration of obvious defenses impact

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the probability of prevailing and are part of the appropriate review the Court needs to undertake in Prong Two.

The remainder of Plaintiff's attack on Prong Two is just rehashing arguments already decided by the court that do not amount to clear error. Plaintiff does not assert she is seeking reconsideration for any other reason, and there are no new facts or law presented.

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 in the Motion briefing, 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 as Exhibit 2, to Defendants Reply.

Based on Plaintiff's Opposition to the Anti-SLAPP, 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 in the Anti-SLAPP briefing. 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 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 &*

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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 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. This was supported by Plaintiff's Exhibit O; Plaintiff's Supplemental Briefing on Damages attached as Defendants Exhibit in the Motion briefing; Defendants Exhibit 2 to the Motion Briefing. 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 as Defendants

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Exhibit 4, to the Motion briefing.

Plaintiff presents no new facts or law that demonstrate modifying the decision or clear error, and for these reasons the Motion should be denied.

3. The Court Correctly Dismissed the Claims With Prejudice.

Plaintiff seeks reconsideration of the FFCL for dismissing the claims with prejudice. Nevada's Anti-SLAPP statute states that a dismissal pursuant to a special motion to dismiss under the statute operates as an adjudication upon the merits. Nev. Rev. Stat. § 41.660(5). Generally, Nevada courts dismiss actions with prejudice when granting Anti-SLAPP motions. *See Crowley v. Thyssen*, 122 Nev. 998, 998 (2017) ("Nevada's anti-SLAPP laws provide for a 'special motion to dismiss' that the defendant can file within a short time of receiving the complaint to request the court to dismiss the suit with prejudice); *Las Vegas Resort Holdings, LLC v. Roeben*, 137 Nev. 932, 932, 481 P.3d 874 (Table) (2021) (reviewing district order granting special motion to dismiss that dismissed all claims with prejudice). Conversely, the Nevada Supreme Court has held that a dismissal without prejudice "is not a final adjudication on the merits." *Tr. of Hotel and Rest. Emps. and Bartenders Intern. v. Royco, Inc.*, 101 Nev. 96, 98, 692 P.2d 1308, 1309 (1985).

Further, as an involuntary dismissal and an adjudication on the merits, an Anti-SLAPP dismissal constitutes a final judgment. *See Marshal v. Rodriguez*, 132 Nev. 1003, 1003 (2016) (holding that an involuntary dismissal pursuant to a motion to strike a complaint operated as an adjudication on the merits and constituted a final judgment); *see also Five Star Capital Corp. v. Ruby*, 124 Nev. 1048, 1052, 194 P.3d 709, 711 (2008) (holding that, because NRCP 41(b) designates a dismissal as one that "operates as an adjudication upon the merits," an involuntary dismissal under NRCP 41(b) was a valid final judgment). A final judgment means there are no other matters to adjudicate. That is why a grant or denial of an Anti-SLAPP motion has a direct right of appeal. NRS 41.660(5). Therefore, Nevada case law supports the statutory requirement of "an adjudication on the merits" should be a dismissal with prejudice. Further, for policy

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reasons it would not make sense to provide a dismissal without prejudice and additional opportunity to quell protected speech. For these reasons, the Court correctly dismissed the claims against Defendants with prejudice.

V. CONCLUSION

For the foregoing reasons, the Court's entry of the FFCL was procedurally sound, legally supported, and substantively correct. Plaintiff has failed to demonstrate any grounds that would support reconsideration under Nevada law. The written order reflects the Court's considered judgment and properly grants the Special Motion to Dismiss under the Anti-SLAPP statute.

Accordingly, Defendants respectfully request that the Court deny Plaintiff's Motion for Reconsideration in its entirety.

DATED this 24th day of October, 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

CERTIFICATE OF SERVICE

I hereby certify that on the this 24th day of October, 2025, I served of the foregoing **DEFENDANT MELVIN GRIMES'S OPPOSITION TO PLAINTIFF'S MOTION FOR RECONSIDERATION** 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. 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

EXHIBIT “A”

EXHIBIT “A”

Angela Ochoa

From: Angela Ochoa
Sent: Friday, September 26, 2025 11:25 AM
To: 'Luba Snow'
Subject: RE: order from 9.23 hearing

Ms. Dace,
We need not re-litigate these issues over email. *Rust* does not stand for the proposition that you cite below and I did not seek 12(b)(5) relief. Additionally, *Hewitt* is a case regarding the ripeness of legal malpractice claims. Your pleadings note that no legal malpractice claim has been filed against my clients. My proposed order has been submitted.

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Angela T. Nakamura Ochoa
Attorney
[redacted]
Website: www.garinlawgroup.com

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[redacted]
Sent: Friday, September 26, 2025 10:25 AM
[redacted]
Subject: Re: order from 9.23 hearing

Good afternoon,

Thank you for your email. I will attach the proposed order here for your review.

I do note some points of disagreement:

1. Ripeness is not "subsumed" under privilege, double recovery, or preclusion. Those are merits-based defenses. Ripeness, as recognized in Hewitt v. Allen, 118 Nev. 216 (2002), is a threshold issue that bars reaching the merits until the underlying proceeding is resolved.

2. Although your client is not sued for legal malpractice, ripeness applies to any claim contingent on the outcome of the family court appeal. The Court applied ripeness to Childs, and the same reasoning applies to Grimes.

3. While Harper v. Copperpoint clarifies that some doctrines are prudential, Nevada still treats ripeness as a justiciability bar. It is inconsistent to both dismiss for lack of ripeness and simultaneously adjudicate the merits.

4. Proposed orders must reflect the Court's actual ruling. Under **EDCR 7.21**, the prevailing party is tasked with preparing and circulating an order "as to form and content," which necessarily requires the order to conform to what was actually decided. Nevada law is clear that a district court's **oral pronouncement controls over a written order that materially differs**. *Rust v. Clark Cty. Sch. Dist.*, 103 Nev. 686, 689, 747 P.2d 1380, 1382 (1987). Thus, a proposed order may not introduce new grounds or findings not reached by the Court at hearing.

5. Regarding service, I will ensure that future filings are both e-filed and e-served through the system.

Respectfully,
Luba Dace

On Fri, Sep 26, 2025 at 10:08 AM Angela Ochoa [redacted] wrote:

> Ms. Dace,
>
> Indeed, the parties may submit competing orders and in this case, it is appropriate since we disagree on the fundamental basis for the court's decision and we disagree as to what makes up the record.
>
> You argue that the claim against my clients are not ripe but the argument on ripeness is subsumed under the absolute litigation privilege, double recovery doctrine and issue preclusion. My client is not sued for legal malpractice, thus ripeness does not apply as it does to your claim against Mr. Childs for legal malpractice. Moreover, justiciability does not equal jurisdiction. Harper v. Copperpoint Mut. Ins. Holding Co., 509 P.3d 55 (2022).
>
> As you have referenced in your email below, the record consists of the papers and pleadings on file. The Court is not required to place findings at the time of the hearing. This is why these are proposed orders when they are submitted.
>
> Because we will be submitting competing orders, kindly copy me on any submissions you make to the Court. I will provide you with the same courtesy.

I will also note that to date, I have never received proper service of process by you in this case. If you are e-filing, you must also check the box for e-service when you file.

Thank you for your attention to this matter.

Angela



GARIN LAW GROUP

Angela T. Nakamura Ochoa

Attorney

[redacted]

[redacted]

Website: www.garinlawgroup.com

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[redacted]

Sent: Friday, September 26, 2025 9:25 AM

[redacted]
Subject: Re: order from 9.23 hearing

Counsel,

Thank you for circulating your proposed order. I've reviewed my notes and the hearing recording. My understanding is that the Court resolved the matter on **ripeness** (justiciability). As a jurisdictional disposition, ripeness **does not permit** the Court to reach **merits determinations** (including Anti-SLAPP prongs, prevailing-party status, or fee scheduling).

Accordingly, I do **not** recall the Court making the following rulings contained in your draft. To move this forward, please provide a **pinpoint citation** to the hearing video (timestamp) for each item below:

- That the Court **reached and found prong one satisfied** under NRS 41.660/41.637 ("good-faith communication").
[Video: ::–::]

- That the Court **reached prong two** and found Plaintiff failed to show a **probability of prevailing**.
[Video: ::–::]

- That the Court **dismissed the case with prejudice** on the merits (rather than dismissing without prejudice for ripeness).
[Video: ::–::]

- That the Court **declared Defendants prevailing parties** under NRS 41.670 or otherwise **awarded/entitled** fees or costs.
[Video: ::–::]

- That the Court **set a fee-motion schedule** (e.g., "within 21 days").
[Video: ::–::]

- That the Court **adopted litigation-privilege** (or any other absolute privilege) as a **dispositive merits ground**.
[Video: ::–::]

- That the Court **resolved statute-of-limitations, preclusion, or double-recovery** defenses **on the merits**.
[Video: ::–::]

- That the Court **overruled any request to strike or limit new matter in the reply** (as opposed to finding it moot).
[Video: ::–::]

- That the Court **denied discovery under the Anti-SLAPP discovery provision** on a merits basis (as opposed to finding it unnecessary/moot given ripeness).
[Video: ::–::]

For clarity, these requirements apply equally to self-represented parties: under **EDCR 7.21**, the party preparing

a proposed order must circulate it for approval "as to form and content," and if the parties do not agree, each may submit a competing proposed order so the judge can adopt the version that accurately reflects what was ruled on the record; when there is any dispute about what occurred at the hearing, **NRAP 10(c)** provides the mechanism to settle the record so that the written order conforms to the transcript/video rather than adding findings not made on the record; and Nevada law holds pro se litigants to the same procedural standards as attorneys, see **Edwards v. Emperor's Garden Restaurant, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006)**.

I am **ready to sign** an order that accurately reflects what the judge actually said. If you can point me to the **exact places in the video** where the Court made each of the above rulings, I will promptly conform the order.

If there is **no** record support for these provisions, I cannot approve them. In that event, would you prefer that we submit **competing proposed orders** so the Court can choose the version that best reflects its oral rulings?

Respectfully,

Luba Dace
Plaintiff, in proper person

On Thu, Sep 25, 2025 at 1:36 PM Angela Ochoa [redacted] wrote:

Ms. Dace,

Please see attached proposed FFCL. Please advise if I have your authority to affix your electronic signature.

Angela

GARIN LAW GROUP

Angela T. Nakamura Ochoa

Attorney

[redacted]

Website: www.garinlawgroup.com

****

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[redacted]

Sent: Wednesday, September 24, 2025 8:44 AM

[redacted]

Subject: order from 9.23 hearing

Counsel,

Please send me any proposed orders for yesterday's hearing for review and edits before filing with the Court.

Thank you,

Luba

Angela Ochoa

From: Juan Cerezo
Sent: Friday, September 26, 2025 11:07 AM
[redacted]
Subject: A-25-922833-C-FFCO-Grimes, et al. adv. Dace
Attachments: 2025-09-26 Order Re Anti-SLAPP.doc; 2025-09-26 Order Re Anti-SLAPP.pdf

Good morning. The parties will be submitting competing orders. Please find attached an Order from Defendants Melvin Grimes and Roberts Stoffel Family Law Group. We are submitting it for the Judge's signature.

Thank you.

GARIN LAW GROUP

Juan Cerezo, Legal Assistant
[redacted]
www.garinlawgroup.com

Angela Ochoa

From: Juan Cerezo
Sent: Friday, September 26, 2025 11:06 AM
[redacted]
Subject: A-25-922833-C-FFCO-Grimes, et al. adv. Dace
Attachments: 2025-09-26 Order Re Anti-SLAPP.doc; 2025-09-26 Order Re Anti-SLAPP.pdf; emails re competing orders.pdf

Good morning. The parties will be submitting competing orders in this matter. I have attached a copy of Defendants Melvin Grimes and Roberts Stoffel Family Law Group's competing Order and the emails between the parties.

Thank you.



GARIN LAW GROUP

Juan Cerezo, Legal Assistant
[redacted]
www.garinlawgroup.com