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Steven D. Grierson
CLERK OF THE COURT

LUBA SNOW DACE
[redacted]
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 REPLY IN SUPPORT OF: (1) MOTION FOR LEAVE TO FILE OPPOSITION OUT OF TIME (NRCP 6(B)(1)(B)); AND (2) OPPOSITION TO DEFENDANTS CHILDS AND LAW OFFICE OF BENJAMIN B. CHILDS' MOTION FOR AWARD OF COSTS; AND RESPONSE TO CHILDS'S OPPOSITION**

**INTRODUCTION**

Childs urges the Court to decide by minute order and to treat Plaintiff's filing as an opposition, effectively conceding no prejudice from timing and inviting a merits ruling now—exactly what NRCP 6(b)(1)(B) and EDCR 2.20(e)/2.23 allow. Plaintiff promptly corrected a one-day calendaring issue; the delay is minimal, pro-per, and harmless. No prejudice exists because Defendants had actual notice: the e-service activity shows Mr. Childs opened the Opposition on October 22, 2025. (Dace Decl. ¶¶ 2–3 & Ex. A.)

On the merits, costs and interest fail: there is no prevailing party after a dismissal without prejudice on ripeness with no Anti-SLAPP findings; interest on "costs" cannot run without a cost judgment.

**LEGAL STANDARD (NRCP 6(b)(1)(B))**

Courts consider (1) prejudice to the opposing party; (2) the length of delay and its impact; (3) the reason for the delay and whether it was within the movant's control; and (4) good faith. Plaintiff's delay was about one court day, promptly corrected, caused no prejudice (actual notice on Oct. 22), and was in good faith.

**ARGUMENT**

**I. Childs's Opposition confirms excusable neglect and supports deciding this now on the merits.**

Childs asks the Court to decide his costs motion "by minute order" and even to treat Plaintiff's motion as an opposition—effectively conceding there is no prejudice from timing and inviting a merits ruling now. This is squarely consistent with NRCP 6(b)(1)(B) and the court's EDCR 2.20(e)/2.23 discretion to decide motions on the papers. Plaintiff already showed the delay was about one court day, pro-per, with immediate corrective action, satisfying the excusable-neglect factors (reason, length, prejudice, good faith). And EDCR permits the Court to consider and resolve the merits "with or without oral argument."

**II. On the merits, there is no basis to award costs or interest.**

**A. No prevailing-party status after a dismissal without prejudice.**

Plaintiff's filing explains the Court dismissed without prejudice on ripeness, expressly "without adjudication on the merits," and made no Anti-SLAPP findings. Under Nevada authority, a dismissal without prejudice does not materially alter the parties' legal relationship and does not create a prevailing party for NRS 18.020 purposes.

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**B. Anti-SLAPP fee-shifting never triggered.**

Because the Court did not grant a special motion or make Anti-SLAPP findings, NRS 41.670 does not apply.

**C. No judgment, no interest (NRS 17.130).** Childs seeks "pre-judgment interest on costs" while simultaneously asking this Court to enter a costs judgment—an implicit admission that no costs judgment exists. Without a judgment, NRS 17.130 does not apply, and interest cannot accrue on a mere memorandum/claim of costs. The absence of any prevailing-party status after a dismissal without prejudice and with no Anti-SLAPP ruling independently defeats any costs judgment, so there is nothing on which interest could run.

**D. The "Notice of Non-Opposition" cannot compel relief and is error-ridden.**

EDCR 2.20(e)/2.23 are discretionary—a non-opposition "may be construed," not must, and the judge may grant or deny on the merits at any time. Childs's "Notice" even misidentified the payee ("SYLVIA BERNSTEIN"), another reason not to rubber-stamp anything.

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**RELIEF REQUESTED**

Plaintiff respectfully asks the Court to:

1. Grant leave under NRCP 6(b)(1)(B) and deem the October 22 filing a timely opposition (or treat it as such and decide now, as Childs suggests).
2. Deny Childs's Motion for Award of Costs and any request for interest for lack of prevailing-party status and absence of a judgment.
3. Clarify that no order entered to date confers prevailing-party status and that no Anti-SLAPP determination has issued;
4. Reject reliance on the "Notice of Non-Opposition" and decide the motion on the merits under EDCR 2.20(e)/2.23.

DATED: November 7, 2025

/s/*Luba Snow Dace*

Luba Snow Dace, in proper person

[redacted]

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**CERTIFICATE OF SERVICE**

I certify that on November 7, 2025, I e-served the foregoing on all parties via the Court's electronic filing system. (Same service method as prior filing.)

**DECLARATION OF LUBA SNOW DACE**

I, Luba Snow Dace, declare:

1. I am the plaintiff. I have personal knowledge of the facts stated.
2. On **October 22, 2025**, my Opposition was e-served through the Court's electronic filing system. The system's activity log shows that **Benjamin B. Childs** opened the served document on **October 22, 2025**.
3. Attached as **Exhibit A** is a true and correct copy of the e-service detail/activity log reflecting service completion and the "opened/viewed" timestamp for Mr. Childs.

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

Dated: November 7, 2025

/s/ Luba Snow Dace

**Exhibit A** – E-Service Detail/Activity Log (showing service completed and **opened** on Oct 22, 2025, for Benjamin B. Childs)

# EXHIBIT A

# Case # A-25-922833-C - Luba Dace, Plaintiff(s)vs.Melvin Grimes, De

## [redacted] Information

| [redacted] Id | Submitted Date | Submitted User Name |
|---|---|---|
| [redacted] | | |

## Case Information

**Location**
Department 29

**Category**
Civil

**Case Type**
Legal Malpractice

**Case Initiation Date**
7/9/2025

**Case #**
A-25-922833-C

**Assigned to Judge**
Reynolds, Jacob A.

## Filings

**Filing Type**
EFileAndServe

**Filing Code**
Opposition - OPPS (CIV)

**Filing Description**
PLAINTIFFS 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)

**Filing Status**
Accepted

**Accepted Date**
10/22/2025 10:58 AM PST

**Accept Comments**
Auto Review Accepted

### Lead Document

| File Name | Security | Download |
|---|---|---|
| PLAINTIFF'S OPPOSITION TO FEES AND COSTS.pdf | Public Filed Document | Original File<br>Court Copy |

Support 's

| Status | Name | Firm | Served | Date Opened |
|---|---|---|---|---|
| Sent | Philip Dace | | Yes | 10/22/2025 11:15 AM PST |
| Sent | Luba Snow Dace | | Yes | 10/22/2025 11:01 AM PST |
| Sent | Angela Nakamura Ochoa | Garin Law Group | Yes | 10/22/2025 10:58 AM PST |
| Sent | Amanda M. Roberts, Esq. | Roberts Stoffel Family Law Group | Yes | 10/22/2025 11:13 AM PST |
| Sent | Juan Cerezo | Garin Law Group | Yes | 10/22/2025 10:57 AM PST |
| Sent | Michele Stones | Garin Law Group | Yes | Not Opened |
| Sent | ONvJ Media | | Yes | Not Opened |
| Sent | Ben Childs | | Yes | 10/22/2025 11:02 AM PST |

# Parties with No eService

**Name**
Law Office of Benjamin B Childs

**Address**

**Name**
Mary Perry

**Address**

**Name**
Benjamin Childs

**Address**

# Fees

### Opposition - OPPS (CIV)

| Description | Amount |
|---|---|
| Filing Fee | $0.00 |
| | **Filing Total:** $0.00 |

| | |
|---|---|
| Total Filing Fee | $0.00 |
| | [redacted] **Total:** $0.00 |
| | *Waiver selected* |

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