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Steven D. Grierson
CLERK OF THE COURT

LUBA SNOW DACE
[redacted]
[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

MOTION TO CONSTRUE PLAINTIFF'S OCTOBER 22, 2025 OPPOSITION AS A MOTION TO RETAX COSTS AND FOR RELATED RELIEF

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 SNOW DACE, in proper person, and respectfully moves this Court for an order construing her previously filed "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)" (filed October 22, 2025) as a motion to retax and/or reduce Defendants' requested costs (and any related fee items) pursuant to NRS 18.110, NRCP 54(d), and applicable Nevada authority.

This motion is based on the following Memorandum of Points and Authorities, the pleadings and papers on file, and any argument the Court may permit.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION AND RELIEF REQUESTED

On October 9, 2025, Defendants filed their motion seeking attorneys' fees and costs under NRS 41.670(1)(a) and an additional discretionary award under NRS 41.670(1)(b). Plaintiff filed her written response on October 22, 2025, captioned as an "Opposition," but substantively challenging both (a) Defendants' entitlement to fees and costs and (b) the reasonableness and taxability of the amounts claimed, including under *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 455 P.2d 31 (1969).

Nevada courts construe judicial filings by their substance rather than by their captions or titles. *State v. Shade*, 110 Nev. 57, 63, 867 P.2d 393, 396 (1994) ("It is the substance of an order, rather than its caption, which is determinative of whether the order is appealable."). For the same reason, a filing that in substance functions as a motion to retax costs and to reduce a fee request may be treated as such, even if miscaptioned.

Because Plaintiff's October 22, 2025 filing squarely contests the claimed costs and fee entries and requests their reduction or denial, Plaintiff respectfully asks the Court to:

1. Construe the October 22, 2025 Opposition as including a timely motion to retax and/or reduce costs and to disallow non-taxable items;
2. Consider and adjudicate the specific cost and fee challenges raised in that Opposition as if they were pleaded in a separately captioned motion to retax and motion to reduce fees; and
3. Grant such further relief as the Court deems just and proper, including reduction or denial of improper, unsupported, or unreasonable fee and cost items.

II. PROCEDURAL BACKGROUND

1. On October 9, 2025, Defendants filed a motion for attorneys' fees and costs under NRS 41.670(1)(a) and for an additional discretionary award up to $10,000 under NRS 41.670(1)(b), supported by billing records and claimed costs.
2. On October 22, 2025, Plaintiff filed "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)" (the "October 22 Opposition"). The October 22 Opposition:

   a. Challenges Defendants' entitlement to any fee or cost award in light of the pending NRCP 59(e) motion and the Anti-SLAPP prong analysis; and

   b. Specifically contests the amount and reasonableness of the requested fees and costs under *Brunzell*, and requests exclusion, segregation, and/or reduction of non-SLAPP time, vague or block-billed entries, collateral work, and non-taxable costs.
3. The October 22 Opposition thus functionally serves as a motion to retax and reduce costs and as a motion to reduce or deny the requested fee amount, notwithstanding that it was captioned as an "Opposition" rather than "Motion to Retax."

III. LEGAL STANDARD: PLEADINGS ARE CONSTRUED BY SUBSTANCE, AND COST CHALLENGES ARE RAISED BY MOTION TO RETAX

Nevada law looks to the substance of a filing, not merely its caption, in determining its nature and effect. In *State v. Shade*, the Nevada Supreme Court held that "[i]t is the substance of an order, rather than its caption, which is determinative of whether the order is appealable." 110 Nev. at 63, 867 P.2d at 396. While *Shade* arose in the context of appellate jurisdiction, the rule it states is general: courts do not elevate form over substance where the actual effect of a filing is clear.

Challenges to the taxability or reasonableness of costs are properly raised by motion to retax under NRS 18.110, and challenges to fees must be evaluated under *Brunzell*'s four factors. NRS 18.110(4) expressly provides that an adverse party "may move the court…to retax and settle the costs," and that the court shall "settle the costs" upon hearing such a motion. NRS 18.005 defines what "costs" may be recovered, including only those items specifically enumerated or those that qualify as "any other reasonable and necessary expense incurred in connection with the action." The Nevada Supreme Court has recognized that a motion to retax under NRS 18.110 is the proper procedural mechanism to challenge specific cost items. In *Gibellini v. Klindt*, 110 Nev. 1201, 1202–03, 885 P.2d 540, 541–42 (1994), the losing party filed a motion to retax costs under NRS 18.110, contesting individual items such as a percentage-based "overhead" charge and computer research costs. The Court held that cost statutes are in derogation of the common law and must be strictly construed, and that "reasonable costs" under NRS 18.005 and 18.110 mean **actual, documented costs that are also reasonable**, not estimates or lump-sum percentages. See id. at 1205–06, 885 P.2d at 543–44.

Courts also afford some leeway to self-represented litigants and do not deny substantive rights based on captioning defects where the opposing party has notice of the issues being raised and an opportunity to respond. Here, Defendants have had full notice since October 22, 2025, of

Plaintiff's detailed objections to their claimed fees and costs. Construing the Opposition according to its substance is consistent with *Shade*, NRS 18.110, *Gibellini*, and the judicial preference for resolving disputes on their merits.

IV. PLAINTIFF'S OCTOBER 22, 2025 OPPOSITION SATISFIES THE FUNCTION OF A MOTION TO RETAX AND SHOULD BE SO CONSTRUED

Plaintiff's October 22 Opposition does far more than merely express disagreement with Defendants' fee and cost request. It:

1. **Challenges entitlement:**

   – Argues that, because a timely NRCP 59(e) motion is pending, the underlying Anti-SLAPP order is not final and fee adjudication is premature; and

   – Asserts that the Anti-SLAPP prong findings are legally insufficient under controlling Nevada precedent, so entitlement has not been established.

2. **Challenges the amount and taxability of fees and costs:**

   – Invokes *Brunzell* and requests application of all four factors—(1) the qualities of the advocate; (2) the character of the work; (3) the work actually performed; and (4) the result. *Brunzell*, 85 Nev. at 349–50, 455 P.2d at 33.

   – Requests segregation of non-SLAPP and collateral work (e.g., sealing issues, transcript/ripeness disputes, service disputes, and other procedural matters) from any recoverable Anti-SLAPP time.

   – Seeks reductions for vague, duplicative, or block-billed entries, and for tasks that appear clerical or unrelated to the Anti-SLAPP motion.

   – Contests any undocumented or non-taxable costs and requests that only properly supported, statutorily taxable costs directly tied to the Anti-SLAPP motion be allowed, consistent with NRS 18.005, NRS 18.110, and *Gibellini*.

This is precisely the substance of a motion to retax and reduce costs and a motion to reduce fees. Under *Shade*, the Court should look to what the filing **actually does**, rather than to its label. Under *Gibellini* and NRS 18.110, the Court has clear authority—indeed, an obligation—to "retax and settle" costs when such objections are raised.

The fact that the document is captioned as an "Opposition" should not deprive Plaintiff of the ability to have those objections treated as a formal motion to retax, particularly where:

– Defendants' motion for attorneys' fees and costs was filed on October 9, 2025; and

– Plaintiff's Opposition was filed on October 22, 2025, within the same overall timeframe as contemplated by NRS 18.110 for cost challenges; and

– Defendants have suffered no prejudice, as they have been on notice since October 22, 2025, that Plaintiff contests both entitlement and the amount of fees and costs and are fully able to respond as they would to a separately captioned motion to retax and motion to reduce fees.

Treating the October 22 Opposition as a motion to retax and to reduce fees is therefore consistent with *Shade*, *Gibellini*, NRS 18.110, NRS 18.005, and the general preference for deciding issues on their substantive merits rather than on captioning technicalities.

V. REQUESTED ORDER

For the foregoing reasons, Plaintiff respectfully requests that the Court enter an order providing that:

1. Plaintiff's October 22, 2025 "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)" shall be construed and treated, in substance, as including a motion to retax costs and to reduce any fee award pursuant to NRS 18.110 and NRCP 54(d);

2. The Court will consider and adjudicate all objections and arguments contained in that Opposition as if they had been presented in a separately captioned motion to retax and motion to reduce fees; and
3. Upon such consideration, the Court will (a) deny or defer fee entitlement pending resolution of Plaintiff's NRCP 59(e) motion, and/or (b) in the alternative, reduce or deny the requested fees and costs consistent with *Brunzell*, NRS 18.110, NRCP 54(d), and the arguments set forth in Plaintiff's October 22, 2025, Opposition.

DATED: November 16, 2025.

Respectfully submitted,

/s/Luba Snow Dace

Luba Snow Dace
Plaintiff in Proper Person
[redacted]

CERTIFICATE OF SERVICE

I certify that on November 16, 2025, I served the foregoing **MOTION TO CONSTRUE PLAINTIFF'S OCTOBER 22, 2025 OPPOSITION AS A MOTION TO RETAX COSTS AND FOR RELATED RELIEF** via the Court's electronic filing system (and by email or mail where required) on all parties and/or counsel of record.

/s/Luba Snow Dace

Luba Snow Dace

Plaintiff in Proper Person

EXHIBIT 1

Electronically Filed
10/22/2025 10:56 AM
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 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]

[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