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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 **DEFENDANTS REPLY IN SUPPORT OF MOTION FOR FEES AND COSTS** **Date of Hearing: December 4, 2025** **Time of Hearing: 9:00 a.m.**

Defendants MELVIN GRIMES and LAW OFFICE OF ROBERTS STOFFEL (collectively "Grimes" or "Defendant") by and through their counsel of record at Garin Law Group hereby submit their Reply in Support of their Motion for Attorney's Fees and Costs and additional amounts permitted by NRS 41.670 (Anti-SLAPP).

This Reply is based on the following Memorandum of Points and Authorities, the pleadings on file with the Court, the separately filed Memorandum of Costs, and any oral argument the Court may permit.

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Case Number: A-25-922833-C

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff's request to delay or avoid adjudication of Defendants' Motion for Attorney's Fees and Costs has no basis in Nevada law. Neither NRCP 54 nor any Nevada authority requires a stay of a properly filed post-judgment fees motion merely because Plaintiff has filed a motion for reconsideration. To the contrary, Nevada courts expressly retain jurisdiction to decide attorney-fee matters while other post-judgment or appellate proceedings remain pending, and fees awards themselves constitute independently appealable orders. Plaintiff's objections therefore reflect only a preference for delay—not a procedural impediment.

On the merits, Defendants are entitled to recover all reasonable attorney's fees and costs incurred in defending against this SLAPP suit under NRS 41.660 and NRS 41.670. The Nevada Supreme Court has made clear that such awards are mandatory and encompass all fees incurred throughout the action, not merely fees tied to the special motion to dismiss. Defendants' requested fees are well supported under the *Brunzell* framework, billed at rates below market, and entirely unchallenged by Plaintiff with any specificity.

In addition, NRS 41.670(1)(b) authorizes an additional award of up to $10,000 per defendant, which is appropriate here given the burdens imposed by Plaintiff's meritless claims. Fees and costs are also independently warranted under NRS 18.010 and NRS 18.020.

Because the relevant statutes and controlling precedent mandate the relief sought, and because Plaintiff offers no valid procedural or substantive basis to deny it, the Court should award Defendants the requested attorney's fees, costs, and statutory damages in full.

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II. LEGAL ARGUMENTS

A. There is No Requirement that Reconsideration Requires a Stay of a Motion for Fees and Costs.

Pursuant to NRCP 54, the notice of entry of judgment starts the time to file a Motion for Fees and Costs. Although not included in the rule, the Nevada Supreme has found that a tolling Motion for reconsideration of a Judgment can also toll the time to file a Motion for Fees and Costs. *See Barbara Ann Hollier Tr. v. Shack*, 131 Nev. 582, 590, 356 P.3d 1085, 1090 (2015). However, the effect of tolling is to extend out and place a deadline on the last day to file. Tolling is not a bar or stay on filing (especially where NRCP 54 already states that jurisdiction remains with the district court to decide a "postjudgment motion for fees despite the existence of a pending appeal"). See NRCP 54(d)(2)(A). See also *Winston Prods. Co. v. DeBoer*, 122 Nev. 517, 525, 134 P.3d 726, 731 (2006) ("An order awarding attorney fees and costs is substantively appealable as a special order after final judgment."). As an appeal does not prevent a separate order for fees and costs, neither does filing for reconsideration, both orders are separately appealable, and what Plaintiff is actually complaining of is an efficiency issue, however, cost of litigation has to be balanced with speedy resolution of the case. This consideration is also part of the Special Motion to Dismiss in the Anti-SLAPP statute, to effectively remove a Defendant from litigation that was frivolously filed against it.

The Court has discretion to control its own calendar. *Hemmer v. Eighth Judicial Dist. Court of Nev.*, 2016 Nev. Unpub. LEXIS 968, *1-2, citing: *Maheu v. Eighth Judicial* [redacted] 89 Nev. 214, 216-17, 510 P.2d 627, 629 (1973) (declining to "interfere with the trial court's calendaring of the pending motions" and explaining that the district courts have "broad discretion in calendaring matters").

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Currently, Reconsideration and the Motion for Fees and Costs is set to be heard the same day, and nothing procedurally prevents the court from deciding these motions at the same hearing, and the Motion for Fees and Costs should remain as scheduled.

B. Defendants are entitled to their Attorney's Fees Pursuant to NRS 41.660, which award is not limited to only fees incurred for the Anti-SLAPP motion to dismiss.

As argued in Defendant's Motion, the clear directive given by Nevada's Legislature is that attorney's fees and costs incurred with respect to the "action" are to be included in the award. The award is not limited to fees and costs incurred on the Special Motion. See *Smith v. Zilverberg*, 137 Nev. Adv. Rep. 7, 481 P. 3d 1222, 1231 (2021) ("[C]onsistent with the Legislature's goals of preventing the chilling effect of SLAPP suits and protecting free speech, we conclude that it intended to permit a prevailing defendant to recover all reasonable fees and costs incurred from the inception of the litigation under NRS 41.670(1)(a)."); *see also Graham-Suit supra,* (finding that awarding all attorney's fees incurred in connection with a case, even if not directly related to the Anti-SLAPP motion, are recoverable if all claims are dismissed); *Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi*, 141 Cal. App. 4th 15, 21 (2006)(finding that fees recoverable under California's anti-SLAPP statute includes all post-motion fees). The award of fees and costs is mandatory and "is intended to compensate a defendant for the expense of responding to the SLAPP suit." *Graham-Sult v. Clainos*, 738 F.3d 1131, 1159 (9th Cir. 2013).

That fees go beyond just the Anti-SLAPP Motion, is evident in that there are several instances in Anti-SLAPP cases where significant awards of attorney's fees and costs have been approved. *See e.g., Century Surety Company v. Prince*, US District Court NV Case No. 2-16-cv-02465-JCM-PAL (Nev Mar 28, 2018) (Trial court permitted defendants' attorney fees and costs totaling $63,474.37 and more than 50% of the fees were approved at an enhanced

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rate.) *affirmed* at 782 Fed. Appx. 553 (2019); *Wynn v. Chanos*, 14-cv-04329-WHO (ND Cal. June 19, 2015) (Court approved award of Anti-SLAPP costs and fees of $422,380.86); *Metabolite Int'l, Inc. v. Wornick*, 213 F. Supp. 2d 1220, [redacted] (S.D. Cal. 2002) (prevailing Anti-SLAPP defendant entitled to recover fees and costs of $318,687.99 incurred for preparation of Anti-SLAPP motion and assertion of alternative legal defenses in response to meritless litigation); *Smith v. Zilverberg*[3], Clark County Eighth Judicial District Court Case No.: A-19-798171-C (Dept. 24 granted $69,002.53 in Anti-SLAPP costs and attorney fees plus $10,000 to each defendant as permitted by NRS 41.670(1)(b)); *Thomson v Helix*, Clark County Eighth Judicial District Court Case No. A-19-789664-B (By Order of September 9, 2020, Dept. 27 granted Anti-SLAPP attorney fees totaling $464,376.38); *Gilman v. Toll*, Storey County First Judicial District Court Case No., 18 TRT 00001 1E, Nev. Dist. LEXIS 592, *11 (By order September 24, 2020, Nevada First District Court Judge awarded $188,840 in attorneys' fees under NRS 41.670).

Here, Defendant's Motion requested that the Court permit an award of attorney's fees actually billed in the amount of $14,898.00. Those are the fees that were incurred through September 30, 2025 and do not even account for work done since, including preparing and filing the Motion for Attorney's Fees and Costs, preparing and filing the Memorandum of Costs, preparing and filing an Opposition to the Plaintiff's Motion for Reconsideration on October 22, 2025, preparing and filing this instant Reply.

C. The Fees Requested are Reasonable, the Fees are Below the Allowable Market Rate, and Plaintiff Fails to Make a Specific Challenge to the *Brunzell* Factors.

The Attorney Fees sought in the Motion are the fees actually billed at Defendant's Counsel predetermined Insurance Defense Rate. That Insurance Rate is well below the prevailing market rate which would be closer to $400 per hour. "The value to be placed on the services rendered by counsel lies in the exercise of sound discretion by the trier of the facts." *Brunzell*, 85 Nev. 345, 350, 455 P.2d 31, 33-34 (1969)-34; Prostack v. Songailo, 623 P.2d 978, 979-80, 97 Nev. 38, 40 (Nev. 1981). Reasonable attorney's fees

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are generally calculated using the traditional "lodestar" method, which involves multiplying "the number of hours reasonably spent on a case by a reasonable hourly rate." *See Camacho v. Bridgeport Financial, Inc*., 523 F.3d 973, 979 (9th Cir. 2008); *see also Shuette*, 124 P.2d at 549 citing: *Herbst v. Humana Health Ins. Of Nevada*, 105 Nev. 586, 590, 781 P.2d 762, 764 (1989); *see also Cunningham v. County of Los Angeles*, 879 F.2d 481, [redacted] presumptively reasonable).

The 'reasonableness' aspect of the lodestar analysis is determined by the specific facts of each case and requires examination of "the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skills, experience, and reputation." *Camacho*, 523 F.3d at 979; see also *Norman v. Housing Authority of City of Montgomery*, 836 F.2d 1292, 1299 [redacted] 1988), citing *Blum v. Stenson*, 465 U.S. 886, 895 n.11, [redacted] 1541, 1547 (1984). Therefore, the attorneys fees sought at the insurance rate actually billed are below the allowable market rate.

Further, while Plaintiff's Opposition suggests the court should reduce an attorney fee award by cutting time on collateral issues or trimming vague or duplicative time under a *Brunzell* Review, Plaintiff does not raise any specific examples where she believes any of those issues occurred. Plaintiff does not challenge any specific billing entry provided. Therefore, the Court Reviewing the *Brunzell* Factors, the arguments in support put forward in Motion (see Motion at pp. 9-13), should award the attorney's fees as requested.

D. The Court Should Award Grimes Defendants the $10,000 each permitted by NRS 41.670.

NRS 41.670 provides in part:

1. If the court grants a special motion to dismiss filed pursuant to NRS 41.660:

(b) The court may award, in addition to reasonable costs and attorney's fees awarded pursuant to paragraph (a), an amount of up to $10,000 to the person against whom the action was brought.

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Therefore, this $10,000 per defendant amount permitted by the statute is an amount above the reasonable costs and fees that are separately mandated. The statute's additional award recognizes that when individuals, businesses, and law firms face SLAPP suits, fees and costs for the suit may not fully compensate them for the resources individuals / businesses divert to manage the litigation. *See Smith v. Zilverberg*, 137 Nev. 65, 75, 481 P.3d 1222, 1232 (2021) (explaining the district court has the discretion to award monetary relief pursuant to NRS 41.670(1)(b) and the "plain language of the statute allows the district court to award up to $10,000 to any individual against whom the action was brought"). There is no specific factor test in awarding this additional amount and no requirement of finding bad faith. *See Sanson v. Lawra Kassee Bulen*, 2022 Nev. Unpub. LEXIS 346, *3. Claims dismissed by anti-SLAPP are inherently frivolous and "designed to impede protected public activities." *Abrams v. Sanson*, 136 Nev. 83, 91(2020).

E. NRS 18.010 and NRS 18.020 also Apply and the Fees and Costs in the Same Amount Should also be Awarded Under Those Statues in Addition to the Anti-SLAPP statute.

Here, Plaintiff sought damages in excess of $2,500. *See* Complaint and Various Amended Complaints. Therefore, NRS 18.020 applies to allow Grimes costs as a matter of course, in addition to the anti-SLAPP statute allowing for the same costs. The order should read that costs are also being awarded pursuant to NRS 18.020. Similarly, Fees for anti-SLAPP motions may be separately recoverable pursuant to NRS 18.010(2) where the prevailing party is "forced to defend claims that lack[] a reasonable legal basis." *Goldman v. Clark County Sch. Dist.*, 2020 Nev. Unpub. LEXIS 879, *15, and NRS18.010(2)(b). The Order should award fees also pursuant to NRS 18.010.

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III. CONCLUSION

Based on the foregoing, Defendants Grimes and the Law Office of Roberts Stoffel respectfully requests this Court enter an award in their favor and against Plaintiff in the amount of **$14,898.00 for fees** and **$278.09 in costs**, for a total amount of **$15,176.09** pursuant to NRS 41.670, NRS 18.010, and NRS 18.020, and **an additional $10,000 as permitted by NRS 41.670(1)(b)** each for Grimes and the Law Office of Roberts Stoffel.

DATED this 25th day of November, 2025.

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By: */s/ Angela Ochoa*
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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of November, 2025, service of the foregoing **DEFENDANTS REPLY IN SUPPORT OF MOTION FOR FEES AND COSTS** 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. [redacted] 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

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