

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

VETERANS IN POLITICS
INTERNATIONAL, INC. AND STEVE W.
SANSON,

Appellant,

vs.

MARSHAL S. WILICK AND WILICK
LAW GROUP,

Respondent.

S.C. NO.
D.C. NO:

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Elizabeth A. Brown
Clerk of Supreme Court

RESPONDENT'S SUPPLEMENT TO ANSWERING BRIEF

RE: RESPONSE TO BRIEF OF AMICUS CURIAE THE REPORTERS

COMMITTEE FOR FREEDOM OF THE PRESS

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NRAP 26.1 DISCLOSURE STATEMENT

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal. In the course of these proceedings leading up to this appeal, Respondent has been represented by the following attorneys:

- a. Marshal S. Willick, Esq., of the law firm WILICK LAW GROUP.
- b. Jennifer V. Abrams, Esq., of the law firm THE ABRAMS AND MAYO LAW FIRM.
- c. Dennis L. Kennedy, Esq., and Joshua Gilmore, Esq., of the law firm BAILEY KENNEDY, LLP.

There are no corporations, entities, or publicly-held companies that own 10% or more of Willick Law Group's stock, or business interests.

DATED this 13th day of November, 2018

Respectfully Submitted By:
THE ABRAMS AND MAYO LAW FIRM

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ARGUMENT

Respondents, Marshal S. Willick and Willick Law Group (together, the “Willick Parties”) respond to the Brief of Amicus Curiae The Reporters Committee for Freedom of the Press, filed October 11, 2018, as follows.

The applicable standard of review from an order denying a special motion to dismiss brought pursuant to NRS 41.660, in which the district court does not reach the second prong of the anti-SLAPP analysis, appears to be an open question in Nevada. In *Shapiro v. Welt*, this Court indicated that it reviews a district court’s order granting an anti-SLAPP motion “for an abuse of discretion.” *See id.*, 133 Nev. ___, Adv. Op. 6, 389 P.3d 262, 266 (2017). Since then, one unpublished Order issued by this Court has reaffirmed that standard in the context of reviewing an order denying an anti-SLAPP motion. *See SPG Artist Media, LLC v. Primesties, Inc.*, No. 69078, 2017 WL 897756, at *1 (Nev. Feb. 28, 2017) (unpublished disp.). But a different unpublished Order issued by this Court has applied a *de novo* standard of review to an order denying an anti-SLAPP motion. *See Goldentree Master Fund, Ltd. v. EB Holdings II, Inc.*, Nos. 72369, 73111, 2018 WL 1634189, at *1 n.3 (Nev. Mar. 30, 2018) (unpublished disp.). Neither *SPG Artist Media* nor *Goldentree Master Fund* establishes binding precedent. *See* NRAP 36(c)(2).

In California, the applicable standard of review is de novo. *See, e.g., Park v. Bd. of Trustees of Cal. State Univ.*, 393 P.3d 905, 911 (Cal. 2017); *see also Winslet v. 1811 27th Ave., LLC*, 237 Cal. Rptr. 3d 25, 32 (Cal. Ct. App. 2018). Pursuant to NRS 41.665(2), Nevada courts consult California case law for guidance when analyzing the *second* prong of the anti-SLAPP analysis (e.g., whether the plaintiff met its burden of proof). *See also John v. Douglas Cty. School Dist.*, 125 Nev. 746, 756, 219 P.3d 1276, 1283 (2009), *superseded by statute*. NRS 41.665(2) is silent in terms of whether Nevada courts consult California case law for guidance when analyzing the first prong of the anti-SLAPP analysis (e.g., whether the defendant met its burden of proof).

Given the above uncertainty in the law, this Court should use this appeal as an opportunity to clarify the applicable standard of review from an order denying an anti-SLAPP motion. Here, the district court (correctly) decided that Appellants, Veterans in Politics International Inc. and Steve W. Sanson (together, the “VIPI Parties”), did not meet their initial burden of proof under NRS 41.660(3)(a), thus warranting denial of their anti-SLAPP motion without further review. (VIII AA 1682-91.) From the Willick Parties’ perspective, whether this Court reviews that decision de novo or for an abuse of discretion, this Court will find that the VIPI

Parties did not meet their burden of proof in seeking dismissal of the Willick Parties’

Complaint pursuant to NRS 41.660.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

☒ This brief has been prepared in a proportionally spaced typeface using Corel WordPerfect Office X13, Standard Edition in font size 14, and the type style of Times New Roman; or

☐ This brief has been prepared in a monospaced typeface using [*state name and version of word processing program*] with [*state number of characters per inch and name of type style*].

2. I further certify that this brief complies with the page or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

☒ Proportionately spaced, has a typeface of 14 points or more and contains _____ words; or

☐ Monospaced, has 10.5 or fewer characters per inch, and contains _____ words or _____ lines of text; or

☐ Does not exceed _____ pages.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 13th day of November, 2018.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the ABRAMS LAW FIRM and that on this 13th day of November, 2018, service of the foregoing *Respondents' Response to Brief of Amicus Curiae the Reporters Committee for Freedom of the Press* was made by electronic service through the Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known addresses:

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