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8 IN THE SUPREME COURT OF THE STATE OF NEVADA

9 JENNIFER V. ABRAMS; and THE
10 ABRAMS & MAYO LAW FIRM,

Appellants,

11 vs.

12 STEVE W. SANSON; and
13 VETERANS IN POLITICS
INTERNATIONAL, INC.,

14 Respondents.

Electronically Filed
May 07 2018 03:09 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court No. 73838

District Court No. A749318

APPELLANTS' RESPONSE TO
THE ORDER TO SHOW
CAUSE

APPELLANTS' RESPONSE TO THE ORDER TO SHOW CAUSE

Appellants Jennifer V. Abrams and The Abrams & Mayo Law Firm (together, the "Abrams Parties"), by and through their counsel, respond to this Court's April 5, 2018 Order to Show Cause (the "Show Cause Order"). For the following reasons, this Court should retain this appeal.

The Abrams Parties instituted this action against three groups of Defendants: (1) Louis C. Schneider and Law Offices of Louis C. Schneider, LLC (together, the "Schneider Parties"); (2) Steve W. Sanson and Veterans In Politics International, Inc. (together, the "Sanson Parties"); and (3) Heidi J. Hanusa, Christina Ortiz, Johnny Spicer, Don Woolbright, Sanson Corporation, and Karen Steelmon (collectively, the "Hanusa Parties"). Each group of Defendants filed a Special Motion to Dismiss the First Amended Complaint pursuant to NRS 41.660 ("Anti-SLAPP Motion").

On June 5, 2017, the District Court heard argument on the Anti-SLAPP Motions filed by the Schneider Parties and the Sanson Parties.¹ The District

¹ On June 2, 2017, a settlement was reached by and between the Abrams Parties and the Hanusa Parties, which settlement was noted on the record at the outset of the June 5, 2017 hearing. As a result, the District Court did not consider the Hanusa Parties' Anti-SLAPP Motion.

1 Court took both Anti-SLAPP Motions under advisement. Following entry of
2 its June 22, 2017 minute order granting the Anti-SLAPP Motions, on July 24,
3 2017, the District Court entered an Order granting the Sanson Parties' Anti-
4 SLAPP Motion.² Because the Abrams Parties did not want to potentially lose
5 their right to appeal from the July 24, 2017 Order, and anticipating that
6 separate Orders would soon be entered by the District Court granting the
7 Schneider Parties' Anti-SLAPP Motion and dismissing all claims against the
8 Hanusa Parties, on August 21, 2017, the Abrams Parties filed their Notice of
9 Appeal from the July 24, 2017 Order.

10 On October 13, 2017, pursuant to stipulation of the parties, the District
11 Court entered an Order dismissing with prejudice all claims by the Abrams
12 Parties against the Hanusa Parties.³

13 Likely due to the change in counsel for the Schneider Parties, no
14 proposed Order was thereafter submitted to the District Court related to the
15 Schneider Parties' Anti-SLAPP Motion. Following entry of this Court's Show

16 ² Notice of entry of Order occurred on July 24, 2017, a copy of which is
17 attached as Exhibit 1.

18 ³ Notice of entry of Order occurred on October 16, 2017, a copy of which
is attached as Exhibit 2.

1 Cause Order, the Abrams Parties submitted a proposed Order to the District
2 Court related to the Schneider Parties' Anti-SLAPP Motion, which, upon
3 receipt of approval as to form and content from the Schneider Parties' counsel,
4 was entered by the District Court on April 20, 2018.⁴ The Abrams Parties are
5 concurrently filing a Notice of Appeal from the April 20, 2018 Order, and
6 anticipate moving to consolidate both appeals at the appropriate time.

7 Following entry of the April 20, 2018 Order by the District Court, no
8 claim remains pending for future consideration by or against any party.

9 Accordingly, the jurisdictional defect giving rise to this Court's Show Cause
10 Order has been cured. NRAP 3A(b)(1) (permitting an appeal from a "final
11 judgment entered in an action"); NRAP 4(a)(6) ("If . . . a written order. . . is
12 entered before dismissal of the premature appeal, the notice of appeal shall be
13 considered filed on the date of and after entry of the order . . ."); *see also*
14 *Smith v. Half Hollow Hills Cent. Sch. Dist.*, 298 F.3d 168, 171-72 (2d Cir.
15 2002) (retaining jurisdiction of an appeal taken from entry of an order granting
16 partial summary judgment where the district court dismissed the sole

17
18 ⁴ Notice of entry of Order occurred on April 24, 2018, a copy of which is
attached as Exhibit 3.

1 remaining claim pending below before the appellate court heard the appeal on
2 the merits); *Equip. Finance Group, Inc. v. Traverse Computer Brokers*, 973
3 F.2d 345, 347-48 (4th Cir. 1992) (“[W]e join those circuits recognizing
4 cumulative finality where all joint claims or all multiple parties are dismissed
5 prior to the consideration of the appeal.”); *Lewis v. B.F. Goodrich Co.*, 850
6 F.2d 641, 645 (10th Cir. 1988) (“Thus, when a district court has adjudicated all
7 remaining outstanding claims before this appellate court acts to dismiss the
8 appeal, we will consider the appeal on its merits rather than dismiss for lack of
9 jurisdiction . . .”).

10 There being no prejudice to the Sanson Parties arising from the
11 premature notice of appeal filed by the Abrams Parties, this Court should retain
12 jurisdiction over this appeal.

13 DATED this 7th day of May, 2018.

14 BAILEY ♦ KENNEDY

15 By:  2513
for

DENNIS L. KENNEDY
JOSHUA P. GILMORE

16
17 *Co-Counsel for Appellants*
Jennifer V. Abrams; and
The Abrams & May Law Firm
18

CERTIFICATE OF SERVICE

I certify that I am an employee of the Willick Law Group and that on the 7th day of May, 2018, service of the foregoing APPELLANTS' RESPONSE TO THE ORDER TO SHOW CAUSE 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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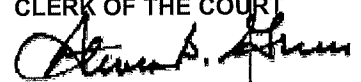


Employee of the Willick Law Group

EXHIBIT “1”

EXHIBIT “1”

EXHIBIT “1”



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10 *Veterans in Politics International, Inc.*

11 **EIGHTH JUDICIAL DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 JENNIFER V. ABRAMS AND THE
14 ABRAMS & MAYO LAW FIRM,

15 Plaintiffs,

16 vs.

17 LOUIS C. SCHNEIDER; LAW OFFICE OF
18 LOUIS C. SCHNEIDER, LLC; STEVE W.
19 SANSON; HEIDI J. HANSUSA;
20 CHRISTINA ORTIZ; JOHNNY SPICER;
21 DON WOOLBRIGHT; VETERANS IN
22 POLITICS INTERNATIONAL, INC.;
23 SANSON CORPORATION; KAREN
24 STEELMON; AND DOES I THROUGH X;

25 Defendants.

Case No.: A-17-749318-C

Dept. No.: XII

NOTICE OF ENTRY OF ORDER

26 YOU ARE HEREBY NOTICED that an Order Granting VIPI Defendants' Special
27 Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-SLAPP) was entered on July
28 24, 2017.

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1 A copy of the Order Granting VIPI Defendants' Special Motion to Dismiss Pursuant
2 to Nev. Rev. Stat. § 41.660 (Anti-SLAPP) is attached hereto as Exhibit 1.

3 DATED this 24th day of July, 2017.

4
5 /s/ Margaret A. McLetchie

6 MARGARET A. MCLEATCHIE, Nevada Bar No. 10931

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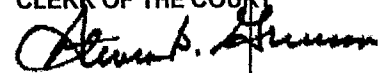
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14 *Attorneys for Defendants Steve W. Sanson and*

15 *Veterans in Politics International, Inc.*

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EXHIBIT 1



1 **ORDR**

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8 **EIGHTH JUDICIAL DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 JENNIFER V. ABRAMS AND THE
11 ABRAMS & MAYO LAW FIRM,

12 Plaintiffs,

13 vs.

14 LOUIS C. SCHNEIDER; LAW OFFICE OF
15 LOUIS C. SCHNEIDER, LLC; STEVE W.
16 SANSON; HEIDI J. HANUSA; CHRISTINA
17 ORTIZ; JOHNNY SPICER; DON
18 WOOLBRIGHT; VETERANS IN POLITICS
19 INTERNATIONAL, INC.; SANSON
20 CORPORATION; KAREN STEELMON;
21 AND DOES I THROUGH X;

22 Defendants.

Case No.: A-17-749318-C

Dept. No.: XII

[PROPOSED] ORDER GRANTING
VIPI DEFENDANTS' SPECIAL
MOTION TO DISMISS PURSUANT
TO NEV. REV. STAT. § 41.660
(ANTI-SLAPP)

22 Defendants Steve W. Sanson ("Sanson") and Veterans in Politics International's
23 ("VIPI") Special Motion to Dismiss Pursuant to Nev. Rev. Stat. § 41.660 (Anti-SLAPP)¹
24 (the "Special Motion to Dismiss") having come on for hearing on June 5, 2017, the
25 Honorable Michelle Leavitt presiding, Plaintiffs Jennifer V. Abrams ("Ms. Abrams") and
26 The Abrams & Mayo Law Firm (together, the "Abrams Parties"), appearing by and through
27

28 ¹ "SLAPP" is an acronym for "strategic lawsuit against public participation."

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1 their attorneys, Joshua P. Gilmore, of Bailey Kennedy and Marshal S. Willick of Willick
2 Law Group, and Defendants Sanson and VIPI (together, the "VIPI Defendants"), appearing
3 by and through their attorneys, Margaret A. McLetchie, and Alina M. Shell, of McLetchie
4 Shell LLC, and the Court, having read and considered all of the papers and pleadings on file,
5 and heard argument of counsel, and being fully advised, and good cause appearing therefor,
6 hereby makes the following Findings of Fact, Conclusions of Law, and Order granting the
7 VIPI Defendants' Special Motion to Dismiss:

8 I.

9 **PROCEDURAL HISTORY AND FINDINGS OF FACT**

10 **A. Background on Sanson and VIPI**

11 1. Defendant Steve W. Sanson is the President of Defendant Veterans in
12 Politics International, Inc. ("VIPI"), a non-profit corporation that advocates on behalf of
13 veterans and works to expose public corruption and wrongdoing.

14 2. VIPI routinely publishes and distributes articles, and hosts a "weekly
15 online" talk show which features public officials and others who discuss veterans' political,
16 judicial, and other issues of public concerns.

17 **B. Family Court Issues**

18 3. On October 5, 2016, acting in his capacity as President of VIPI, Mr. Sanson
19 posted an article on the publicly-accessible website <veteransinpolitics.org> entitled
20 "Nevada Attorney attacks a Clark County Family Court Judge in Open Court," containing
21 the court video transcript of a September 29, 2016 hearing in the case entitled *Saiter v. Saiter*,
22 Eighth Judicial District Court, Family Division, Clark County, Nevada, Case No. D-15-
23 521372 (the "*Saiter* Hearing"). The *Saiter* Hearing involved a heated exchange between Ms.
24 Abrams and Judge Jennifer L. Elliot.

25 4. The article that accompanied the video posting contained both written
26 excerpts of said exchange and Mr. Sanson's opinions of Plaintiff Abrams' and Judge Elliot's
27 behavior during the *Saiter* Hearing.

28 ///

1 5. On October 5, 2016, Ms. Abrams sent the Honorable Jennifer L. Elliot
2 Judge Elliot an email about the article in which she complained that the article placed her in
3 a bad light, and requesting that Judge Elliot force VIPI to take the article down.

4 6. Because Mr. Sanson believed that VIPI was within its rights to publish a
5 video of a court proceeding, Mr. Sanson did not remove either the article or video.

6 7. On October 8, 2016, Mr. Sanson was personally served with an October 6,
7 2016 Court Order Prohibiting Dissemination of Case Materials issued by Judge Elliot in the
8 *Saiter* case. This order purported to seal all the documents and proceedings in the *Saiter* case
9 on a retroactive basis.

10 8. Despite disagreeing with Judge Elliot's order, Mr. Sanson temporarily took
11 the video down. On October 9, 2016, Mr. Sanson reposted the video to, among other
12 websites, <veteransinpolitics.org> together with an article entitled "District Court Judge
13 Bullied by Family Attorney Jennifer Abrams." The article contained a report on what had
14 taken place and criticism of the practice of sealing court documents.

15 9. On November 6, 2016, Mr. Sanson posted another ~~an~~ article to
16 <veteransinpolitics.org> entitled "Law Frowns on Nevada Attorney Jennifer Abrams' 'Seal-
17 Happy' Practices." This article was critical of Ms. Abrams' practice of sealing the records
18 in many of her cases.

19 10. On November 14, 2016, Mr. Sanson posted an article to
20 <veteransinpolitics.org> entitled "Lawyers acting badly in a Clark County Family Court."

21 11. On November 14, 2016, Mr. Sanson posted a video of the *Saiter* Hearing to
22 the video-hosting website YouTube. In the description of said video, Mr. Sanson stated his
23 opinion that Ms. Abrams' conduct in open court constituted "bullying." In this article, Mr.
24 Sanson states his belief in the importance of public access to court proceedings.

25 12. On November 16, 2016, Mr. Sanson posted an article to
26 <veteransinpolitics.org> criticizing Judge Rena Hughes for making a misleading statement
27 to an unrepresented child in Family Court. Like the others, this article reflects a core VIPI
28 mission—exposing to the public and criticizing the behavior of officials.

1 13. On December 21, 2016, the VIPI Defendants posted three videos to
2 YouTube entitled "The Abrams Law Firm 10 05 15," "The Abrams Law Firm Inspection
3 part 1," and "The Abrams Law Firm Practices p 2."

4 14. In addition to being published on the VIPI website, all of the above-listed
5 articles were also simultaneously sent to VIPI email subscribers.

6 15. On December 22, 2016, Mr. Sanson allegedly had a conversation with
7 David J. Schoen, and employee of the Abrams & Mayo Law Firm. In this conversation, Mr.
8 Sanson allegedly made several unflattering comments about Plaintiff Abrams.

9 **C. The Abrams Parties' Lawsuit, Attempt to Hold Mr. Sanson In**
10 **Contempt, and Other Efforts.**

11 16. On January 9, 2017, the Abrams Parties filed a Verified Complaint against
12 the VIPI Defendants, as well as several other Defendants. The Complaint included purported
13 causes of action for defamation, intentional infliction of emotional distress, negligent
14 infliction of emotional distress, false light, business disparagement, harassment, concert of
15 action, civil conspiracy, RICO, and injunctive relief.

16 17. Besides the VIPI Defendants, the Abrams Parties sued a long list of other
17 defendants.

18 18. On January 27, 2017, the Abrams Parties filed a First Amended Verified
19 Complaint, adding copyright infringement as a cause of action.

20 19. On February 13, 2017, Ms. Abrams filed a Motion for an Order to Show
21 Cause in *Saiter v. Saiter*, No. D-15-521372-D, ("OSC Motion") In that Motion, Ms. Abrams
22 suggested that the Family Court hold Mr. Sanson in contempt and incarcerate him for over
23 seven years.

24 20. The Honorable Judge Elliot denied Ms. Abrams' motion, and vacated the
25 Order Prohibiting Dissemination, holding that it was facially overbroad and not narrowly
26 drawn.

27 21. On January 30, 2017, the VIPI Defendants filed a Motion to Dismiss
28 Plaintiffs' First Amended Complaint Pursuant to Nev. R. Civ. P. 12(b)(5) (the "12(b)(5)

1 Motion to Dismiss”).

2 22. On February 17, 2017, the VIPI Defendants filed a Motion to Strike.

3 23. On March 6, 2017, the Abrams Parties filed an Opposition to the VIPI
4 Defendants’ 12(b)(5) Motion to Dismiss and Countermotion for Attorney’s Fees and Costs.
5 On March 9, 2017, the Abrams Parties filed an Errata to their Opposition and Countermotion.

6 24. On March 6, 2017, the Abrams Parties filed an Opposition to the VIPI
7 Defendants’ Motion to Strike and Countermotion for Attorney’s Fees and Costs.

8 25. On March 28, 2017, the VIPI Defendants filed the Special Motion to
9 Dismiss.

10 26. On April 28, 2017, the Abrams Parties filed an Omnibus Opposition to the
11 VIPI Defendants’ Special Motion to Dismiss (and to the special Anti-SLAPP motions to
12 dismiss filed by the other Defendants in this case).

13 27. On May 30, 2017, the VIPI Defendants filed an Omnibus Reply in Support
14 of their 12(b)(5) Motion to Dismiss and Special Motion to Dismiss.

15 28. On May 30, 2017, the VIPI Defendants filed a Reply in Support of their
16 Motion to Strike and Opposition to the Abrams Parties’ Countermotion for Attorney’s Fees.

17 29. On June 5, 2017, the Court heard oral argument on the VIPI Defendants’
18 Special Motion to Dismiss.

19 30. On June 6, 2017, the Abrams Parties filed a Supplement to their Omnibus
20 Opposition to the VIPI Defendants’ Special Motion to Dismiss.

21 31. On June 9, 2017, the Abrams Parties filed a Supplement to their Omnibus
22 Reply in Support of their 12(b)(5) Motion to Dismiss and Special Motion to Dismiss.

23 32. On June 22, 2017, the Court entered a minute order granting the VIPI
24 Defendants’ Special Motion to Dismiss.

25 **II.**

26 **CONCLUSIONS OF LAW**

27 33. Nevada’s Anti-SLAPP statute, Nev. Rev. Stat. § 41.635 *et seq.*, provides
28 that if “an action is brought against a person based upon a good faith communication in

1 furtherance of ... the right to free speech in direct connection with an issue of public concern,
2 [t]he person against whom the action is brought may file a special motion to dismiss.” Nev.
3 Rev. Stat. § 41.660(1)(a).

4 34. Courts must evaluate a special Anti-SLAPP motion to dismiss using a two-
5 step process. First, the moving party must establish by a preponderance of the evidence “that
6 the claim is based upon a good faith communication in furtherance of the right to petition or
7 the right to free speech in direct connection with an issue of public concern.” Nev. Rev. Stat.
8 § 41.660(3)(a).

9 35. Second, if the defendant satisfies that threshold showing, a court must then
10 “determine whether the plaintiff has demonstrated with prima facie evidence a probability of
11 prevailing on the claim[s].” Nev. Rev. Stat. § 41.660(3)(b).

12 36. Nev. Rev. Stat. § 41.637 defines a “good faith communication in
13 furtherance of the right to petition or the right to free speech in direct connection with an
14 issue of public concern,” as follows:

15 Written or oral statement made in direct connection with an issue under
16 consideration by a legislative, executive or judicial body, or any other
17 official proceeding authorized by law; or

18 Communication made in direct connection with an issue of public interest
19 in a place open to the public or in a public forum, which is truthful or is
made without knowledge of its falsehood.

20 Nev. Rev. Stat. § 41.637(3) and (4).

21 37. In *Shapiro v. Welt*, 133 Nev., Adv. Op. 6, 389 P.3d 262 (2017), the Nevada
22 Supreme Court identified the following guiding principles for determining what constitutes
23 “public interest” for purposes of Nev. Rev. Stat. § 41.637(3) and (4).

24 (1) “public interest” does not equate with mere curiosity;

25 (2) a matter of public interest should be something of concern to a
26 substantial number of people; a matter of concern to a speaker and a
relatively small specific audience is not a matter of public interest;

27 (3) there should be some degree of closeness between the challenged
28 statements and the asserted public interest—the assertion of a broad and
amorphous public interest is not sufficient;

1 (4) the focus of the speaker's conduct should be the public interest rather
2 than a mere effort to gather ammunition for another round of private
3 controversy; and

4 (5) a person cannot turn otherwise private information into a matter of
5 public interest simply by communicating it to a large number of people.

6 *Shapiro*, 389 P.3d at 268.

7 ***The VIPI Defendants Met Their Initial Burden***

8 38. Having reviewed the articles at issue in this case, the Court finds that the
9 VIPI Defendants have met their burden, and that the statements at issue concern matters of
10 public interest and were made in a public forum.

11 39. Courts have held that criticism of a professional's on-the-job performance
12 is a matter of public interest. *See, e.g., Piping Rock Partners, Inc. v. David Lerner Assocs.,*
13 *Inc.*, 946 F. Supp. 2d 957, 968 (N.D. Cal. 2013).

14 40. Additionally, the United States Supreme Court has provided guidance
15 regarding whether speech involves a matter of public concern. In *Snyder v. Phelps*, 562 U.S.
16 443 (2011), the Court explained that "[s]peech deals with matters of public concern when it
17 can 'be fairly considered as relating to any matter of political, social, or other concern to the
18 community,' ... or when it 'is a subject of legitimate news'." *Id.* at 453 (internal citations
19 omitted).

20 41. The Ninth Circuit Court of Appeals has extended the principles set forth by
21 the Supreme Court in *Snyder*, broadening the category of speech that touches on a matter of
22 public concern. *See Obsidian Finance Group, LLC v. Cox*, 740 F.3d 1284, 1292 (9th Cir.
23 2014) (blog posts accusing plaintiff of financial crimes in relation to bankruptcy involve a
24 matter of public concern); *see also Gardner v. Martino*, 563 F.3d 981, 989 (9th Cir. 2009)
25 (business owner's refusal to give a refund to a customer who bought an allegedly defective
26 product is a matter of public concern); *Manufactured Home Cmty's, Inc. v. Cnty. Of San*
27 *Diego*, 544 F.3d 959, 965 (9th Cir. 2008) (claim that mobile home park operator charged
28 excessive rent is a matter of public concern).

42. In addition, the common law has long recognized that the public has a vital
and ongoing interest in observing judicial proceedings. The United States Supreme Court has

1 explained that “[t]he early history of open trials in part reflects the widespread
2 acknowledgment, long before there were behavioral scientists, that public trials had
3 significant community therapeutic value.” *Richmond Newspapers, Inc. v. Virginia*, 448 U.S.
4 555, 570–71, 100 S.Ct. 2814, 2824 (1980). The Nevada Supreme Court has recognized that
5 the operation of Nevada’s courtrooms is a matter of great public concern *See Lubin v. Kunin*,
6 117 Nev. 107, 114, 17 P.3d 422, 427 (2001) (“‘fair, accurate and impartial’ reporting of
7 judicial proceedings is privileged and nonactionable, thus affirming the policy that Nevada
8 citizens have a right to know what transpires in public and official legal proceedings”).

9 43. “[C]ourts of this country recognize a general right to inspect and copy
10 public records and documents, including judicial records and documents.” *Nixon v. Warner*
11 *Communications*, 435 U.S. 589, 597, 98 S.Ct. 1306, 1312 (1978). This right, which includes
12 access to records and documents in judicial proceedings, is anchored in the value of keeping
13 “a watchful eye on the workings of public agencies,” and in publishing “information
14 concerning the operation of government.” *Id.* at 597-98.

15 44. The common law right of access is based on the need for courts to “have a
16 measure of accountability and for the public to have confidence in the administration of
17 justice.” *United States v. Amodio*, 71 F.3d 1044, 1048 (2nd Cir. 1995); *see also Stephens*
18 *Media LLC v. Eighth Judicial District Court*, 125 Nev. 849, 860, 221 P.3d 1240, 1248 (2009)
19 (“Public access inherently promotes public scrutiny of the judicial process, which enhances
20 both the fairness of criminal proceedings and the public confidence in the criminal justice
21 system.”)

22 45. The public’s interest in observing the administration of justice is also rooted
23 in the First Amendment. *See Mills v. Alabama*, 384 U.S. 214, 218, 86 S.Ct. 1434, 1437 (1966)
24 (“Whatever differences may exist about interpretations of the First Amendment, there is
25 practically universal agreement that a major purpose of that Amendment was to protect the
26 free discussion of governmental affairs.”); *accord Del Papa v. Steffen*, 112 Nev. 369, 374,
27 915 P.2d 245, 249 (1996) (citing *Landmark Communications, Inc. v. Virginia*, 435 U.S. 829,
28 838 (1978)).

1 46. Courts addressing various states' anti-SLAPP statutes have found that
2 criticizing attorneys is protected activity for anti-SLAPP purposes. *See, e.g., Davis v. Avvo,*
3 *Inc.*, No. C11-1571RSM, 2012 WL 1067640, at *3 (W.D. Wash. Mar. 28, 2012) ("The Court
4 has no difficulty finding that the Avvo.com website is 'an action involving public
5 participation,' in that it provides information to the general public which may be helpful to
6 them in choosing a doctor, dentist, or lawyer"). A California Court, applying the test outlined
7 in *Weinberg v. Feisel*, 110 Cal.App.4th 1122, 2 Cal.Rptr.3d 385, 392-93 (2003) and recently
8 adopted in Nevada,² found "statements that an attorney has embezzled from clients, and is
9 being prosecuted for doing so, relate to an issue of public interest." *Choyce v. SF Bay Area*
10 *Indep. Media Ctr.*, No. 13-CV-01842-JST, 2013 WL 6234628, at *8 (N.D. Cal. Dec. 2,
11 2013).

12 47. The statements by the VIPI Defendants in this case pertained to Plaintiff
13 Abrams' legal practices and courtroom behavior, topics which the above-precedent establish
14 are matters of public interest. Accordingly, the Court finds the VIPI Defendants have met
15 their burden of showing that the instant matter arises from good faith communications in
16 furtherance of the right to free speech in direct connection with an issue of public concern.

17 48. Nevada's Anti-SLAPP statute requires that the communications giving rise
18 to the suit must be made "in a place open to the public or in a public forum." Nev. Rev. Stat.
19 § 41.637.

20 49. As discussed above, the articles at issue in this matter were published on
21 VIPI's website and simultaneously sent to VIPI email subscribers.

22 50. The Abrams Parties argue that Nevada's anti-SLAPP statutes do not protect
23 speech that is republished via "email blasts" to thousands of members of the public.

24 51. However, the Abrams Parties conflate the test that pertains to evaluating
25 whether a forum is a public forum for the purposes of establishing which level of First
26 Amendment scrutiny applies with the test for application of the anti-SLAPP law, which is

27
28 ² *See Shapiro v. Welt*, 133 Nev. Adv. Op. 6, 389 P.3d 262, 268 (2017).

1 instead concerned with whether a statement is made in public or in private.

2 52. The fact that a communication is made via email, in addition to being made
3 on a publicly-accessible website, does not make it a private communication or remove it from
4 the public forum. Indeed, as held in *Moreau v. Daily Indep.*, 2013 WL 85362 at *4 (E.D.
5 Cal., 2013), “the plain language of [California’s anti-SLAPP statutes applies] to statements
6 made ‘in a place open to the public or a public forum, indicat[ing] that a **public forum need**
7 **not be open to the public.**” (emphasis added). Nevada’s statute parallels California’s. Nev.
8 Rev. Stat. § 41.637(4).

9 53. In *Am. Broad. Companies, Inc. v. Aereo, Inc.*, 134 S. Ct. 2498, 2503, 2507-
10 2508, 189 L. Ed. 2d 476 (2014), the United States Supreme Court evaluated whether Aereo,
11 a company that transmits television programming via the internet, performs the transmitted
12 works “publicly.” The Court rejected the argument that because each individual transmission
13 was to only one subscriber, the transmissions were not “to the public.” *Id.* at 2508. Instead,
14 the Supreme Court found, an entity may transmit to the public through a set of actions. *Id.*
15 The Court further found that—much like the subscribers to VIPI’s email list—the subscribers
16 to whom Aereo transmits television programs constitute “the public.” It noted that “Aereo
17 communicates the same contemporaneously perceptible images and sounds to a large number
18 of people who are unrelated and unknown to each other.” *Id.* at 2509–10.

19 54. Accordingly, communications are still made in the “public forum” even
20 though they are sent via email blasts to members of the public and land in a place not open
21 to the public—the individual email boxes of the recipients. VIPI’s email blasts were therefore
22 public communications, and are protected by Nevada’s anti-SLAPP statute.

23 ***The VIPI Defendants’ Statement Are Not False Statements of Fact***

24 55. Nevada’s Anti-SLAPP statute requires that a good faith communication is
25 “truthful or made without knowledge of its falsehood.” Nev. Rev. Stat. § 41.637. The Court
26 also finds that the statements at issue are not false statements of fact.

27 56. Statements of opinion cannot be made with knowledge of their falsehood
28 because there is no such thing as a false idea. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev.

1 706, 714, 57 P.3d 82, 87 (Nev. 2002) (internal quotation omitted). However pernicious
2 opinions may seem, courts depend on the competition of other ideas, rather than judges and
3 juries, to correct them. *Id.* The court must therefore ask “whether a reasonable person would
4 be likely to understand the remark as an expression of the source’s opinion or as a statement
5 of existing fact.” *Id.* at 715.

6 57. All the statements identified by the Abrams Parties in their First Amended
7 Complaint as being false and defamatory were either true statements of fact, or were
8 statements of opinion which were incapable of being false.

9 58. Additionally, the October 5, 2016 YouTube video of the September 16,
10 2016 courtroom proceedings in the *Saiter* matter cannot be considered defamatory because
11 it is a real video of an actual proceeding. *Kegel v. Brown & Williamson Tobacco Corp.*, No.
12 306-CV-00093-LRH-VPC, 2009 WL 656372, at *17 (D. Nev. Mar. 10, 2009), *on*
13 *reconsideration in part*, No. 3:06-CV-00093LRHVPC, 2009 WL 3125482 (D. Nev. Sept.
14 24, 2009) (“the truthful statements relating to the admittedly accurate contents of the video
15 cannot form the basis of Plaintiff’s defamation claim”).

16 ***Closing a Hearing Pursuant to EDCR 5.02 Does Not Involve Any Determination of***
17 ***“Public Interest.”***

18 59. Following the June 5, 2017 hearing on this matter, the Abrams Parties filed
19 a supplement to their opposition to Defendants’ Special Motion to Dismiss asserting that
20 because Judge Elliot temporarily closed the September 26, 2016 hearing in *Saiter v. Saiter*
21 pursuant to EDCR 5.02, the hearing suddenly and permanently no longer involved “an issue
22 of public interest” under Nev. Rev. Stat. § 41.637(4).

23 60. Pursuant to EDCR 5.02(a), “the court **must**, upon demand of either party,
24 direct that the trial or hearing(s) on any issue(s) of fact joined therein be private and upon
25 such direction, all persons shall be excluded from the court or chambers wherein the action
26 is heard, except officers of the court, the parties, their witnesses while testifying, and
27 counsel.” EDCR 5.02(a) (emphasis added).

28 ///

1 61. That a hearing is “closed” or sealed does not change the fact that it is
2 conducted in a publicly-funded courtroom and presided over by a taxpayer-paid and citizen-
3 elected judge, nor does it alter the fact that members of the public have a vested interest in
4 access to information about court proceedings and access to justice.

5 62. The Abrams Parties contend that “[i]f Mr. Sanson wanted access to the
6 video from a closed hearing, he had to make a formal request for it so that the parties would
7 have an opportunity to be heard in response to his request.” (Supp. Opp., p. 2:10-12.)
8 However, neither sealing a transcript nor closing a hearing transforms court proceedings to
9 wholly private matters outside the protection of the anti-SLAPP statute.

10 63. In any case, closing a hearing pursuant to EDCR 5.02 does not seal it. This
11 fact is also clear from Ms. Abrams’ own actions. Specifically, on October 6, 2016—seven
12 days after the hearing—Abrams prepared a separate order sealing the court records pursuant
13 to Nev. Rev. Stat. § 125.110(2). Further, Judge Elliot’s findings in her order vacating the
14 October 6, 2016 sealing order indicate that the video transcript of the hearing was never truly
15 “private.” In that order, Judge Elliot found that the order was unconstitutionally overbroad.
16 (October 6, 2016 Order in Saiter Matter (“Order”) at p. 18:19-23 (Exh. 2 to First Amended
17 Complaint (article containing screenshot of Order)).) Moreover, Judge Elliot noted that
18 although she would not enforce the sealing of the video even though it was circulated after
19 the date of the sealing order because Nev. Rev. Stat. § 125.110(2) “reads as if it is limited to
20 *documents only* and does not give proper notice to anyone as to the prohibitory use of a
21 hearing video as a hearing transcript.” (Order at p. 20:15-22.)

22 64. Finally, Judge Elliot noted that it is “unquestionably vague as to *how the*
23 *parties were . . .* harmed by the posting of the information online. (*Id.* at pp. 20:23-21:1.)
24 Although Judge Elliot did note that she personally believed it was not “appropriate to . . .
25 post the video on the internet” where the parties’ children might have access to it, she
26 acknowledge “there is nothing this Court can do in this case to enforce this viewpoint.” (*Id.*
27 at p. 19:3-10.)

28 ///

1 65. In short, Judge Elliot did not make a determination that the hearing was
2 “private” and any findings or decisions it did make have no bearing on whether Mr. Sanson’s
3 statements at issue are protected by Nevada’s robust anti-SLAPP law.

4 66. All the statements at issue are squarely within its protections—and this
5 litigation is exactly what anti-SLAPP laws are designed to protect against. *See John v.*
6 *Douglas Cnty. Sch. Dist.*, 125 Nev. 746, 758, 219 P. 3d 1276, 1284 (2009) (“the statutes
7 create a procedural mechanism to prevent wasteful and abusive litigation...”).

8 67. Ms. Abrams has asserted that the discussion of the *Saiter* matter has caused
9 her extreme emotional distress. Ms. Abrams’ embarrassment, however, does not overcome
10 the strong presumption in favor of public access. The Nevada Supreme Court has recognized
11 that court proceedings are presumptively public, and can sealed from public review “only
12 where the public’s right to access is outweighed by competing interests.” *Howard v. State*,
13 128 Nev. Adv. Op. 67, 291 P.3d 137, 141 (2012). Moreover, the Nevada Supreme Court has
14 also made clear that “the desire to avoid unnecessary embarrassment ... alone is insufficient
15 to warrant sealing court records from public inspection.” *Id.* at 144.

16 68. Matters such as courtroom administration and document sealing are not
17 “private” or matters of “mere curiosity” (*Shapiro v. Welt*, 133 Nev. Adv. Op. 6, 389 P.3d
18 262, 268 (2017) (citation omitted)) within the meaning of anti-SLAPP statutes. Instead, such
19 matters are “of concern to a substantial number of people.” *Id.* The comments made directly
20 pertain to the asserted public interest—courtroom proceedings. There is no “private
21 controversy” (*id.*) between Ms. Abrams and Mr. Sanson—their dispute is entirely related to
22 her conduct in court and his comments on it; they have no personal relationship.

23 69. That Judge Elliot closed the hearing pursuant to EDCR 5.02(a) does not
24 change this analysis. Closing a hearing under EDCR 5.02(a) does not take the hearing out of
25 the well-established realm of public access to court proceedings. Nor does it reflect that Judge
26 Elliot made any determination that the interest in privacy outweighed the interest in
27 disclosure, let alone that there was no public interest implicated by the hearing. Indeed, Judge
28 Elliot made no determination of any sort whatsoever—consistent with EDCR 5.02(a), she

1 simply automatically closed the hearing upon Ms. Abrams' request.

2 ***The Abrams Parties Failed to Demonstrate a Probability of Success on Their Claims***

3 70. Because the VIPI Defendants met their burden, the burden shifted to the
4 Abrams Parties to demonstrate "with prima facie evidence a probability of prevailing on the
5 claims." Nev. Rev. Stat. § 41.660(3)(b).

6 71. The Abrams Parties have failed to meet their burden, as they cannot show a
7 probability of success on their claims.

8 72. Indeed, at the June 5, 2017 hearing on Defendants' Special Motion to
9 Dismiss, the Abrams Parties acknowledged that their causes of action for RICO, copyright
10 infringement, injunctive relief, and harassment should be dismissed. The Abrams Parties'
11 concession that these claims lack merit further demonstrates The Abrams Parties cannot
12 satisfy their burden of demonstrating a probability of prevailing on their claims.

13 **Defamation**

14 73. In Nevada, the elements of a defamation claim are: (1) a false and
15 defamatory statement by a defendant concerning the plaintiff; (2) an unprivileged publication
16 of this statement to a third person; (3) fault of the Defendant, amounting to at least
17 negligence; and (4) actual or presumed damages. *Pegasus*, 118 Nev. 706 at 718.

18 74. The VIPI Defendants' alleged speech consists of opinions or facts, none of
19 which satisfy the first element of a defamation claim. Thus, the Abrams Parties have not
20 established a probability of success on their defamation claim.

21 **Intentional Infliction of Emotional Distress ("IIED")**

22 75. The elements of a cause of action for intentional infliction of emotional
23 distress ("IIED") are: "(1) extreme and outrageous conduct with either the intention of, or
24 reckless disregard for, causing emotional distress, (2) the plaintiff's having suffered severe
25 or extreme emotional distress and (3) actual or proximate causation." *Dillard Dep't Stores,*
26 *Inc. v. Beckwith*, 115 Nev. 372, 378, 989 P.2d 882, 886 (1999) (quoting *Star v. Rabello*, 97
27 Nev. 124, 125, 625 P.2d 90, 92 (1981)).

28 ///

1 76. Further, while the Abrams Parties brought all their claims on behalf of Ms.
2 Abrams as well as her law firm, only a natural human person can bring a claim such as,
3 intentional infliction of emotional distress for the obvious reason that a law firm cannot suffer
4 mental distress. *See, e.g., Patel v. AT&T*, No. 94-B-49, 1997 WL 39907, at *2 (Ohio Ct. App.
5 Jan. 30, 1997).

6 77. The Abrams Parties fail to allege facts sufficient to show that the VIPI
7 Defendants' conduct was "extreme and outrageous" or that the Abrams Parties suffered
8 emotional distress, much less the "severe or extreme" emotional distress required to prevail
9 on a claim of IIED. Thus, the Abrams Parties have not established a probability of success
10 on their IIED claim.

11 **Negligent Infliction of Emotional Distress ("NIED")**

12 78. Nevada courts recognize that "the negligent infliction of emotional distress
13 can be an element of the damage sustained by the negligent acts committed directly against
14 the victim-plaintiff." *Shoen v. Amerco, Inc.*, 111 Nev. 735, 748, 896 P.2d 469, 477 (1995).
15 Thus, a cause of action for NIED has essentially the same elements as a cause of action for
16 negligence: (1) duty owed by defendant to plaintiff, (2) breach of said duty by defendant, (3)
17 said breach is the direct and proximate cause of plaintiff's emotional distress, and (4)
18 damages (i.e., emotional distress).

19 79. The Abrams Parties fail to allege facts sufficient to show that the VIPI
20 Defendants owed Ms. Abrams or her law firm any duty of care. The Abrams Parties also fail
21 to allege facts sufficient to show that they suffered emotional distress. Thus, the Abrams
22 Parties have not established a probability of success on their NIED claim.

23 **False Light**

24 80. The false light tort requires that "(a) the false light in which the other was
25 placed would be highly offensive to a reasonable person, and (b) the actor had knowledge of
26 or acted in reckless disregard as to the falsity of the publicized matter and the false light in
27 which the other would be placed." *Franchise Tax Bd. of Cal. v. Hyatt*, 130 Nev. Adv. Op.
28 71, 335 P.3d 125, 141 (2014) (quoting Restatement (Second) of Torts § 652E (1977)).

1 Nevada courts require that plaintiffs suffer mental distress resulting from publicizing private
2 matters: “the injury in [false light] privacy actions is mental distress from having been
3 exposed to public views.” *Dobson v. Sprint Nextel Corp.*, 2014 WL 553314 at *5 (D. Nev.
4 Feb. 10, 2017.)

5 81. The Abrams Parties fail to allege facts sufficient to show that the VIPI
6 Defendants placed them in a false light that would be “highly offensive to a reasonable
7 person.” Furthermore, the Abrams Parties fail to allege facts sufficient to show that they
8 have suffered emotional distress from any of the VIPI Defendants’ actions, much less as a
9 result of being placed in a “false light.” Thus, the Abrams Parties have not established a
10 probability of success on their false light claim.

11 **Business Disparagement**

12 82. The elements of a business disparagement cause of action are: “(1) a false
13 and disparaging statement, (2) the unprivileged publication by the defendant, (3) malice, and
14 (4) special damages.” *Clark Cty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374,
15 386, 213 P.3d 496, 504 (2009) (citing *Hurlbut v. Gulf Atlantic Life Ins. Co.*, 749 S.W.2d 762,
16 766 (Tex. 1987)).

17 83. The Abrams Parties cannot prevail on their business disparagement claim
18 for the same reasons that their defamation claim fails. Additionally, the Abrams Parties fail
19 to specifically allege special damages as required by Rule 9(g) of the Nevada Rules of Civil
20 Procedure. This is particularly fatal to the Abrams Parties’ business disparagement claim, as
21 “[p]roof of special damages is an essential element of business disparagement.” *CCSD v.*
22 *Virtual Ed. Software*, 125 Nev. at 87. The Abrams Parties have failed to allege any facts
23 which demonstrate that Defendants’ communications have caused them any economic harm.
24 Thus, the Abrams Parties have not established a probability of success on their business
25 disparagement claim.

26 ///

27 ///

1 **Harassment**

2 84. “Harassment” is not a cause of action in Nevada. The Abrams Parties cannot
3 prevail on a non-existent cause of action. As discussed *supra* at ¶ 65, the Abrams Parties
4 have acknowledged this claim should be dismissed.

5 **Concert of Action**

6 85. The elements of a cause of action for concert of action are that two
7 defendants commit a tort while acting in concert with one another or pursuant to a common
8 design. *Dow Chemical Co. v. Mahlum*, 114 Nev. 1468, 1488, 970 P.2d 98, 111 (1998). The
9 plaintiff must also show that the defendants “agreed to engage in conduct that is inherently
10 dangerous or poses a substantial risk of harm to others.” *Tai-Si Kim v. Kearney*, 838 F. Supp.
11 2d 1077, 1092 (D. Nev. 2012) (quoting *GES, Inc. v. Corbitt*, 117 Nev. 265, 270-71, 21 P.3d
12 11, 14-15 (Nev. 2001)).

13 86. The conduct alleged in this case is not inherently dangerous. Further,
14 because the other tort claims fail, so does this one. Thus, the Abrams Parties have not
15 established a probability of success on their concert of action claim.

16 **Civil Conspiracy**

17 87. The elements of a cause of action for civil conspiracy are: (1) defendants,
18 “by some concerted action, intend to accomplish an unlawful objective for the purpose of
19 harming another; and (2) damage resulting from the act or acts.” *Consol. Generator-Nevada,*
20 *Inc. v. Cummins Engine Co.*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1255 (Nev. 1999)
21 (quoting *Hilton Hotels v. Butch Lewis Productions*, 109 Nev. 1043, 1048, 862 P.2d 1207,
22 1210 (1993)).

23 88. The Abrams Parties’ conspiracy claim is apparently predicated on their
24 allegations that the VIPI Defendants disparaged them, placed them in a false light, inflicted
25 emotional distress upon them, and harassed them.

26 89. Because the other tort claims fail, so does this one. Thus, the Abrams
27 Parties have not established a probability of success on their civil conspiracy claim.

28 ///

1 **RICO**

2 90. The elements of a civil RICO claim are: (1) defendant violated a predicate
3 racketeering act; (2) plaintiff suffered injury in her business or property by reason of
4 defendant's violation of the predicate racketeering act; (3) defendant's violation proximately
5 caused plaintiff's injury; (4) plaintiff did not participate in the racketeering violation. Nev.
6 Rev. Stat. § 207.470, Nev. Rev. Stat. § 207.400; *Allum v. Valley Bank of Nevada*, 109 Nev.
7 280, 283, 849 P.2d 297, 299 (1993).

8 91. The Nevada Supreme Court has held that civil racketeering claims must be
9 pled not merely with specificity, but with the specificity required of a criminal indictment or
10 information. *Hale v. Burkhardt*, 104 Nev. 632, 637-38, 764 P.2d 866, 869-70 (1988). The
11 complaint must provide adequate information as to "when, where [and] how" the alleged
12 criminal acts occurred. *Id.* at 637.

13 92. The Abrams Parties allege in their First Amended Complaint that
14 Defendants "either committed, conspired to commit, or have attempted to commit" twelve
15 separate offenses. (*See* FAC at ¶ 118.) However, the bulk of the named offenses are not
16 among the predicate racketeering acts enumerated in Nev. Rev. Stat. § 207.360. In addition,
17 of the remaining five named offenses, the Abrams Parties fail to allege with sufficient
18 specificity or provide adequate information as to "when, where and how" these alleged
19 criminal acts occurred. The Abrams Parties therefore fail to allege a prima facie civil RICO
20 claim, a fact which the Abrams Parties acknowledged at the June 5, 2017 hearing. (*See supra*,
21 ¶ 65.)

22 **Copyright Infringement**

23 93. The Abrams Parties make a claim for copyright violation pursuant to 17
24 USC § 501 et seq. for Defendants' use of photos allegedly belonging to the Abrams Parties.
25 (*See* FAC at ¶¶ 141-147.) However, claims for copyright violations arising under federal law
26 are subject to the exclusive original jurisdiction of the federal courts. *See* 28 U.S.C. §
27 1338(a).

28 ///

1 94. This Court lacks jurisdiction over federal copyright claims, thus the Abrams
2 Parties cannot raise a federal copyright claim, much less prevail on one. Even assuming this
3 Court did have jurisdiction to hear the Abrams Parties' copyright claims, such claims would
4 fail because the Abrams Parties have not proven (or even alleged) ownership or registration
5 of the copyrights of the pictures appearing on <veteransinpolitics.org>.

6 95. Additionally, Defendants' use of publicly available pictures of the Abrams
7 Parties falls under the "fair use" exception to the Copyright Act. The Abrams Parties have
8 therefore failed to demonstrate any probability of succeeding on this claim, a fact which the
9 Abrams Parties acknowledged at the June 5, 2017 hearing. (*See supra*, ¶ 72.)

10 **Injunctive Relief**

11 96. The Abrams Parties incorrectly allege that "injunctive relief" is a cause of
12 action. (FAC at ¶¶ 148-49.) However, "an injunction is a remedy, not a separate claim or
13 cause of action ... a separately pled claim or cause of action for injunctive relief is
14 inappropriate." *Jensen v. Quality Loan Serv. Corp.*, 702 F. Supp. 2d 1183, 1201 (E.D. Cal.
15 2010). Because injunctive relief is not a cause of action, the Abrams Parties cannot prevail
16 on such a claim, a fact which the Abrams Parties acknowledged at the June 5, 2017 hearing.
17 (*See supra*, ¶ 72.)

18 97. Accordingly, for the reasons stated above, the VIPI Defendants' Special
19 Motion to Dismiss is GRANTED.

20 98. If a Court grants a special Anti-SLAPP motion to dismiss, the defendants
21 are entitled to an award of reasonable costs and attorneys' fees. Nev. Rev. Stat. §
22 41.670(1)(a). The Court may also award an amount of up to \$10,000.00. Nev. Rev. Stat. §
23 41.670(1)(a)-(b).

24 99. Additionally, upon the granting of a special Anti-SLAPP motion to dismiss,
25 the defendants may bring a separate action against the Abrams Parties for compensatory
26 damages, punitive damages, and attorney's fees and costs of bringing the separate action.
27 Nev. Rev. Stat. § 41.670(c).

28 ///

1 100. The VIPI Defendants may file any additional motions pursuant to Nev. Rev.
2 Stat. § 41.670 on or before July 24, 2017.

3
4 IT IS SO ORDERED this 20 day of July, 2017.

5
6 
7 _____
HONORABLE JUDGE MICHELLE LEAVITT

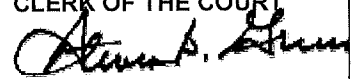
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9
10 
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21
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28

EXHIBIT “2”

EXHIBIT “2”

EXHIBIT “2”



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DISTRICT COURT

CLARK COUNTY, NEVADA

JENNIFER V. ABRAMS and THE ABRAMS &
MAYO LAW FIRM,

Plaintiffs,

vs.

LOUIS C. SCHNEIDER; LAW OFFICES OF
LOUIS C. SCHNEIDER, LLC; STEVE W.
SANSON; HEIDI J. HANUSA; CHRISTINA
ORTIZ; JOHNNY SPICER; DON
WOOLBRIGHT; VETERANS IN POLITICS
INTERNATIONAL, INC; SANSON
CORPORATION; KAREN STEELMON; and
DOES I through X,

Defendants.

Case No. A-17-749318-C
Dept. No. XII

**NOTICE OF ENTRY OF STIPULATION
AND ORDER TO DISMISS WITH
PREJUDICE ALL CLAIMS AGAINST
HANUSA PARTIES**

NOTICE OF ENTRY OF STIPULATION AND ORDER TO DISMISS WITH PREJUDICE
ALL CLAIMS AGAINST HANUSA PARTIES

PLEASE TAKE NOTICE that a Stipulation and Order to Dismiss With Prejudice All Claims
Against Hanusa Parties was entered on October 13, 2017, a true and correct copy of which is
attached hereto.

DATED this 16th day of October, 2017.

BAILEY ♦ KENNEDY

By: /s/ Joshua P. Gilmore
DENNIS L. KENNEDY
JOSHUA P. GILMORE

AND

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Attorneys for Plaintiffs
Jennifer V. Abrams and The Abrams &
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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 16th day of October, 2017, service of the foregoing Notice of Entry of Stipulation and Order to Dismiss With Prejudice All Claims Against Hanusa Parties was made by mandatory electronic service through the Eighth Judicial District 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 address:

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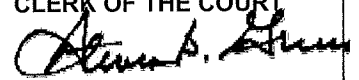
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DISTRICT COURT

CLARK COUNTY, NEVADA

18 JENNIFER V. ABRAMS and THE ABRAMS &
19 MAYO LAW FIRM,

20 Plaintiffs,

21 vs.

22 LOUIS C. SCHNEIDER; LAW OFFICES OF
LOUIS C. SCHNEIDER, LLC; STEVE W.
23 SANSON; HEIDI J. HANUSA; CHRISTINA
ORTIZ; JOHNNY SPICER; DON
24 WOOLBRIGHT; VETERANS IN POLITICS
INTERNATIONAL, INC; SANSON
25 CORPORATION; KAREN STEELMON; and
DOES I through X,

26 Defendants.

Case No. A-17-749318-C
Dept. No. XII

**STIPULATION AND ORDER TO
DISMISS WITH PREJUDICE ALL
CLAIMS AGAINST HANUSA PARTIES**

RECEIVED

OCT 05 2017

DEPT. 12

1 The parties, Plaintiffs Jennifer V. Abrams (“Ms. Abrams”) and The Abrams & Mayo Law
2 Firm (“Abrams Law”) (together, the “Abrams Parties”); and Defendants Heidi J. Hanusa (“Ms.
3 Hanusa”), Christina Ortiz (“Ms. Ortiz”), Johnny Spicer (“Mr. Spicer”), Don Woolbright (“Mr.
4 Woolbright”), Sanson Corporation (“Sanson Corp.”), and Karen Steelmon (“Ms. Steelmon”)
5 (collectively, the “Hanusa Parties”), by and through their respective counsel, stipulate and agree as
6 follows:

7 1. Pursuant to an agreement reached on June 2, 2017, and as indicated by counsel for the
8 Abrams Parties at the June 5, 2017 hearing, all claims made by the Abrams Parties in their Amended
9 Complaint for Damages, filed January 27, 2017, against the Hanusa Parties shall be dismissed with
10 prejudice, with each party to bear his/her/its own attorney’s fees and costs. The parties’ agreement
11 rendered moot the Hanusa Parties’ Special Motion to Dismiss Under Nevada’s Anti-SLAPP Statute,
12 NRS 41.660, filed March 31, 2017.

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2. This Stipulation does not apply to and does not affect any of the claims made in this matter by the Abrams Parties against Defendants Louis C. Schneider, Law Offices of Louis C. Schneider, LLC, Steve W. Sanson, and Veterans In Politics International, Inc.

DATED this 5th day of October, 2017.

DATED this 4th day of October, 2017.

BAILEY ♦ KENNEDY

G LAW

By: [Signature]
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JOHNNY SPICER, DON WOOLBRIGHT,
SANSON CORPORATION, and KAREN
STEELMON

ORDER

The above Stipulation **IS SO ORDERED**. All claims made by the Abrams Parties in their Amended Complaint for Damages, filed January 27, 2017, against the Hanusa Parties are DISMISSED WITH PREJUDICE, with each party to bear his/her/its own attorney's fees and costs.

DATED this 9 day of October, 2017.

[Signature]
DISTRICT COURT JUDGE

Submitted by:

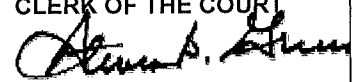
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EXHIBIT “3”

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28 **DISTRICT COURT**

CLARK COUNTY, NEVADA

JENNIFER V. ABRAMS and THE ABRAMS &
MAYO LAW FIRM,

Plaintiffs,

vs.

LOUIS C. SCHNEIDER; LAW OFFICES OF
LOUIS C. SCHNEIDER, LLC; STEVE W.
SANSON; HEIDI J. HANUSA; CHRISTINA
ORTIZ; JOHNNY SPICER; DON
WOOLBRIGHT; VETERANS IN POLITICS
INTERNATIONAL, INC; SANSON
CORPORATION; KAREN STEELMON; and
DOES I through X,

Defendants.

Case No. A-17-749318-C
Dept. No. SENIOR JUDGE PROGRAM

NOTICE OF ENTRY OF ORDER
GRANTING SCHNEIDER
DEFENDANTS' SPECIAL MOTION TO
DISMISS PLAINTIFFS' SLAPP SUIT
PURSUANT TO NRS 41.660 AND
REQUEST FOR ATTORNEY'S FEES,
COSTS, AND DAMAGES PURSUANT
TO NRS 41.670

1 PLEASE TAKE NOTICE that an Order Granting Schneider Defendants' Special Motion to
2 Dismiss Plaintiffs' SLAPP Suit Pursuant to NRS 41.660 and Request for Attorney's Fees, Costs, and
3 Damages Pursuant to NRS 41.670 was entered on April 24, 2018; a true and correct copy of which is
4 attached hereto.

5 DATED this 24th day of April, 2018.

6 BAILEY ♦ KENNEDY

7
8 By: /s/ Joshua P. Gilmore

9 DENNIS L. KENNEDY

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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 24th day of April, 2018, service of the foregoing Notice of Entry of Order Granting Schneider Defendants' Special Motion to Dismiss Plaintiffs' SLAPP Suit Pursuant to NRS 41.660 and Request for Attorney's Fees, Costs, and Damages Pursuant to NRS 41.670 was made by mandatory electronic service through the Eighth Judicial District 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 address:

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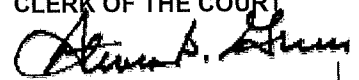
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DISTRICT COURT

CLARK COUNTY, NEVADA

18 JENNIFER V. ABRAMS and THE ABRAMS
19 & MAYO LAW FIRM,

20 Plaintiffs,

21 vs.

22 LOUIS C. SCHNEIDER; LAW OFFICES OF
LOUIS C. SCHNEIDER, LLC; STEVE W.
23 SANSON; HEIDI J. HANUSA; CHRISTINA
ORTIZ; JOHNNY SPICER; DON
24 WOOLBRIGHT; VETERANS IN POLITICS
INTERNATIONAL, INC; SANSON
25 CORPORATION; KAREN STEELMON; and
DOES I through X,

26 Defendants.
27
28

Case No. A-17-749318-C
Dept. No. SENIOR JUDGE PROGRAM

**ORDER GRANTING SCHNEIDER
DEFENDANTS' SPECIAL MOTION
TO DISMISS PLAINTIFFS' SLAPP
SUIT PURSUANT TO NRS 41.660 AND
REQUEST FOR ATTORNEY'S FEES,
COSTS, AND DAMAGES PURSUANT
TO NRS 41.670**

Schneider Defendants' Special Motion to Dismiss Plaintiffs' SLAPP¹ Suit Pursuant to NRS 41.660 and Request for Attorney's Fees, Costs, and Damages Pursuant to NRS 41.670 (the "Special Motion to Dismiss") having come on for hearing on June 5, 2017, the Honorable Michelle Leavitt presiding;² Plaintiffs Jennifer V. Abrams ("Ms. Abrams") and the Abrams & Mayo Law Firm (together, the "Abrams Parties"), appearing by and through their attorneys, Joshua P. Gilmore, Esq. of Bailey ♦ Kennedy and Marshal S. Willick, Esq. of Willick Law Group; Defendants Steve W. Sanson ("Sanson") and Veterans in Politics International, Inc. ("VIP") (collectively, the "VIP Defendants"), appearing by and through their attorneys, Margaret A. McLetchie, Esq. and Alina M. Shell, Esq. of McLetchie Shell LLC; and Defendants Louis C. Schneider, Esq. ("Schneider") and Law Office of Louis C. Schneider (together, the "Schneider Defendants"), appearing by and through their attorney, Cal Potter, Esq. of Potter Law Offices; and the Court, having read and considered all of the papers and pleadings on file, including the transcript from the June 5, 2017 hearing, and being fully advised, and good cause appearing therefor, hereby makes the following findings of fact and conclusions of law, and order granting the Schneider Defendants' Special Motion to Dismiss:

I.

FINDINGS OF FACT

1. Schneider is a licensed attorney in Las Vegas, Nevada.
2. On January 9, 2017, the Abrams Parties filed a Verified Complaint against the Schneider Defendants, as well as several other Defendants. The original Complaint included causes of action for defamation, intentional infliction of emotional distress, negligent infliction of emotional distress, false light, business disparagement, harassment, concert of action, civil conspiracy, RICO, and injunctive relief.
3. On January 27, 2017, the Abrams Parties filed a First Amended Verified Complaint, adding copyright infringement as a cause of action.

¹ "SLAPP" is an acronym for "strategic lawsuit against public participation."

² This matter was reassigned to the undersigned Senior Judge pursuant to the March 5, 2018 Notice of Department Reassignment.

1 4. On January 30, 2017, the Schneider Defendants filed a Motion to Dismiss Plaintiffs'
2 Complaint Pursuant to NRCP 12(b)(5) (the "12(b)(5) Motion to Dismiss").

5 6. On March 29, 2017, the Schneider Defendants filed the Special Motion to Dismiss.

8. On June 5, 2017, the Court heard oral arguments on the Defendants' anti-SLAPP motions to dismiss, including the Special Motion to Dismiss filed by the Schneider Defendants.

During the hearing, the Abrams Parties' counsel stated that the Schneider Defendants are alleged to be responsible for all acts committed by the VIPI Defendants based on the civil conspiracy claim. The Abrams Parties' counsel separately agreed to dismiss the harassment, RICO, injunctive relief, and copyright infringement claims pursuant to N.R.C.P. 12(b)(5). With that in mind, the Court considered whether the Abrams Parties met their burden (for purposes of the Schneider Defendants' Special Motion to Dismiss) with regard to the remaining claims in the First Amended Complaint (i.e., defamation, intentional infliction of emotional distress, negligent infliction of emotional distress, false light, business disparagement, concert of action, and civil conspiracy).

10. On June 22, 2017, the Court entered a minute order granting the Schneider' Defendants' Special Motion to Dismiss.

CONCLUSIONS OF LAW

11. Nevada's Anti-SLAPP statute provides that if "an action is brought against a person based upon a good faith communication in furtherance of ... the right to free speech in direct connection with an issue of public concern, [t]he person against whom the action is brought may file a special motion to dismiss." NRS 41.660(1)(a).

1 12. Courts must evaluate a special anti-SLAPP motion to dismiss using a two-step
2 process. First, the defendant bears the burdens of persuasion and production: He must show by a
3 preponderance of the evidence that each of the plaintiff's claim "is based upon a good faith
4 communication in furtherance of the right to petition or the right to free speech in direct connection
5 with an issue of public concern." NRS 41.660(3)(a); *see also John v. Douglas County Sch. Dist.*,
6 125 Nev. 746, 754, 219 P.3d 1276, 1282 (2009).

7 13. Second, assuming that the defendant satisfies the aforementioned threshold
8 showing, a court must then "determine whether the plaintiff has demonstrated with prima facie
9 evidence a probability of prevailing on the claim[s]." NRS 41.660(3)(b).

10 14. NRS Section 41.637 defines a "good faith communication in furtherance of the right
11 to petition or the right to free speech in direct connection with an issue of public concern" in
12 pertinent part as follows:

13 Written or oral statement made in direct connection with an issue under consideration
14 by a legislative, executive or judicial body, or any other official proceeding
authorized by law; or

15 Communication made in direct connection with an issue of public interest in a place
16 open to the public or in a public forum,

17 ↳ which is truthful or is made without knowledge of its falsehood.

18 NRS 41.637(4).

19 15. In *Shapiro v. Well*, 133 Nev., Adv. Op. 6, 389 P.3d 262 (2017), the Nevada
20 Supreme Court outlined the following guiding principles for determining what constitutes "public
21 interest" for purposes of NRS Section 41.637(4):

22 (1) "public interest" does not equate with mere curiosity;

23 (2) a matter of public interest should be something of concern to a substantial number
24 of people; a matter of concern to a speaker and a relatively small specific audience is
not a matter of public interest;

25 (3) there should be some degree of closeness between the challenged statements and
26 the asserted public interest—the assertion of a broad and amorphous public interest is
not sufficient;

27 (4) the focus of the speaker's conduct should be the public interest rather than a mere
28 effort to gather ammunition for another round of private controversy; and

1 (5) a person cannot turn otherwise private information into a matter of public interest
2 simply by communicating it to a large number of people.

3 *Shapiro*, 389 P.3d at 268.

4 ***The Schneider Defendants Met Their Initial Burden***

5 16. The Court finds that no statement at issue in this case was directly made by Mr.
6 Schneider. As noted above, the Abrams Parties seek to hold the Schneider Defendants liable for
7 statements made by the VIPI Defendants.

8 17. Having reviewed the communications at issue in the First Amended Verified
9 Complaint, the Court finds that the VIPI Defendants' statements concerning the Abrams Parties
10 arise from good faith communications in furtherance of the right to free speech in direct connection
11 with an issue of public concern.

12 18. Moreover, the Court finds that a majority of the statements at issue in this case took
13 place on the public forum of the internet – e.g., they were published on VIPI's website.

14 19. Finally, the Court finds that the statements at issue in this case were made without
15 knowledge of falsehood, or were statements of opinion which are incapable of being true or false.

16 ***The Abrams Parties Have Failed to Demonstrate a Probability of Success on Their Claims***

17 20. Because the Schneider Defendants met their burden, the burden now shifts to the
18 Abrams Parties to demonstrate "with prima facie evidence a probability of prevailing on the[ir]
19 remaining] claims." NRS 41.660(3)(b).

20 21. The Abrams Parties have failed to meet their burden, as they cannot show a
21 probability of success on their remaining claims.

22 **Defamation**

23 22. In Nevada, the elements of a defamation claim are: (1) a false and defamatory
24 statement by a defendant concerning the plaintiff; (2) an unprivileged publication of this statement
25 to a third person; (3) fault of the defendant, amounting to at least negligence; and (4) actual or
26 presumed damages. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 718, 57 P.3d 82, 90 (2002).

23. The Schneider Defendants made none of the statements at issue in this case, and the VIPI Defendants' statements consist of either opinions or facts. Thus, the Abrams Parties have not established a probability of success on their defamation claim.

Intentional Infliction of Emotional Distress

24. The elements of a cause of action for intentional infliction of emotional distress ("IIED") are: "(1) extreme and outrageous conduct with either the intention of, or reckless disregard for, causing emotional distress, (2) the plaintiff's [sic] having suffered severe or extreme emotional distress and (3) actual or proximate causation." *Dillard Dep't Stores, Inc. v. Beckwith*, 115 Nev. 372, 378, 989 P.2d 882, 886 (1999) (quoting *Star v. Rabello*, 97 Nev. 124, 125, 625 P.2d 90, 92 (1981)).

25. The Abrams Parties fail to allege facts sufficient to show that the Schneider Defendants' conduct was "extreme and outrageous" or that the Abrams Parties suffered emotional distress. Thus, the Abrams Parties have not established a probability of success on their IIED claim.

Negligent Infliction of Emotional Distress

26. Nevada courts recognize that "the negligent infliction of emotional distress can be an element of the damage sustained by the negligent acts committed directly against the victim-plaintiff." *Shoen v. Amerco, Inc.*, 111 Nev. 735, 748, 896 P.2d 469, 477 (1995). Thus, a cause of action for negligent infliction of emotional distress ("NIED") has essentially the same elements as a cause of action for negligence: (1) duty owed by defendant to plaintiff, (2) breach of said duty by defendant, (3) said breach is the direct and proximate cause of plaintiff's emotional distress, and (4) damages (i.e., emotional distress).

27. The Abrams Parties fail to allege facts sufficient to show that the Schneider Defendants owed Ms. Abrams or her law firm any duty of care. The Abrams Parties also fail to allege facts sufficient to show that they suffered emotional distress. Thus, the Abrams Parties have not established a probability of success on their NIED claim.

False Light

28. The false light tort requires that “(a) the false light in which the other was placed would be highly offensive to a reasonable person, and (b) the actor had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which the other would be placed.” *Franchise Tax Bd. of Cal. v. Hyatt*, 130 Nev., Adv. Op. 71, 335 P.3d 125, 141 (2014) (quoting RESTATEMENT (SECOND) OF TORTS § 652E (1977)).

29. The Abrams Parties fail to allege facts sufficient to show that the Schneider Defendants (or the VIPI Defendants) placed them in a false light that would be “highly offensive to a reasonable person.” Furthermore, the Abrams Parties fail to allege facts sufficient to show that they have suffered emotional distress from any of the Schneider Defendants’ actions, much less as a result of being placed in a “false light.” Thus, the Abrams Parties have not established a probability of success on their false light claim.

Business Disparagement

30. The elements of a business disparagement cause of action are: “(1) a false and disparaging statement, (2) the unprivileged publication by the defendant, (3) malice, and (4) special damages.” *Clark Cty. Sch. Dist. v. Virtual Educ. Software, Inc.*, 125 Nev. 374, 386, 213 P.3d 496, 504 (2009) (citing *Hurlbut v. Gulf Atlantic Life Ins. Co.*, 749 S.W.2d 762, 766 (Tex. 1987)).

31. The Abrams Parties cannot prevail on their business disparagement claim for the same reason that their defamation claim fails. Thus, the Abrams Parties have not established a probability of success on their business disparagement claim.

Concert of Action

32. The elements of a cause of action for concert of action are that two defendants commit a tort while acting in concert or pursuant to a common design. *Dow Chemical Co. v. Mahlum*, 114 Nev. 1468, 1488, 970 P.2d 98, 111 (1998). The plaintiff must also show that the defendants “agreed to engage in conduct that is inherently dangerous or poses a substantial risk of harm to others.” *Tai-Si Kim v. Kearney*, 838 F. Supp. 2d 1077, 1092 (D. Nev. 2012) (quoting *GES, Inc. v. Corbitt*, 117 Nev. 265, 270-71, 21 P.3d 11, 14-15 (2001)).

1 33. The conduct alleged in this case is not inherently dangerous. Further, because the
2 other tort claims fail, so does this one.

3 **Civil Conspiracy**

4 34. The elements of a cause of action for civil conspiracy are: (1) defendants, "by some
5 concerted action, intend to accomplish an unlawful objective for the purpose of harming another;
6 and (2) damage resulting from the act(s). *Consol. Generator-Nevada, Inc. v. Cummins Engine Co.*,
7 114 Nev. 1304, 1311, 971 P.2d 1251, 1255 (1999) (quoting *Hilton Hotels v. Butch Lewis*
8 *Productions*, 109 Nev. 1043, 1048, 862 P.2d 1207, 1210 (1993)).

9 35. Because the other tort claims fail, so does this one.

10 **III.**

11 **ORDER**

12 36. Accordingly, for the reasons stated above, the Schneider Defendants' Special
13 Motion to Dismiss is GRANTED.

14 37. If a Court grants a special anti-SLAPP motion to dismiss, the defendants are entitled
15 to an award of reasonable costs and attorneys' fees. NRS 41.670(1)(a). A Court may also award
16 up to \$10,000.00. NRS 41.670(1)(b).

17 38. Additionally, upon the granting of a special anti-SLAPP motion to dismiss, the
18 defendants can bring a separate cause of action against the plaintiffs for compensatory damages,
19 punitive damages, and attorney's fees and costs of bringing the separate action. NRS 41.670(c).

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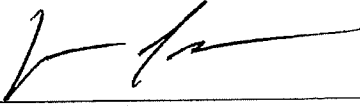
39. The Schneider Defendants may file any additional motions pursuant to NRS 41.670 on or before July 24, 2017 (subsequently extended to September 12, 2017 by Order dated August 31, 2017).

IT IS SO ORDERED this 20 day of April, 2018.

Chief Judge 
DISTRICT COURT JUDGE (fn)

Submitted by:

BAILEY ♦ KENNEDY

By: 

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(fn) The Chief Judge signs this for Sr. Judge K. Hardcastle pending decision by the parties related to the disclosure made on 20 April 2018